

## **Responses to ORR's 30 May 2025 consultation on Accessible Travel Policy (ATP) Guidance redress requirements**

Link to consultation webpage: [Consultation on Accessible Travel Policy \(ATP\) Guidance redress requirements | Office of Rail and Road](#)

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## 1. Chiltern Railways

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

We support this decision as this ensures that all train operators policies will align. Chiltern Railways already follows the best practice guide and advises customers that all redress claims are reviewed on a case by case basis.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

From the policy change itself, we expect no impact as we already state redress is on a case by case basis however, we feel if there is a lot of publicity around this, we may see increased numbers of claims across the industry, impacting us and all TOCs. Where there is publicity on this, I think it needs making clear that redress is not about financial compensation and may come in a range of things, such as complimentary journeys or apologies as well as financial compensation.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

I understand as a result of this consultation, RDG are looking to run an exercise where a compensation framework is created for TOCs to follow. I believe this would contradict the case by case statement.

## 2. Disabled Persons Transport Advisory Committee (DPTAC)

Thank you for the opportunity to respond to the Office of Rail and Road's (ORR) consultation on proposed amendments to the Accessible Travel Policy (ATP) Guidance concerning redress for failed passenger assistance.

The Disabled Persons Transport Advisory Committee (DPTAC) supports the objective of improving the consistency, fairness, and transparency of redress where assistance is not delivered as booked. We welcome this proposed change as a timely and necessary step to address current inconsistencies and to rebuild trust with disabled passengers.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

DPTAC welcomes ORR's proposal to amend the ATP Guidance to make clear that all Train Operating Companies (ToCs) must assess redress claims on a case-by-case basis. We support the change that would prevent ATPs from stating or implying that the form or value of redress is limited solely to the ticket price or a multiple thereof.

This approach better reflects the diversity of passenger experience and ensures that redress is proportionate to the individual impact of the service failure. It also aligns with operators' legal duties under the Equality Act 2010 and strengthens public confidence in the redress framework.

While redress may take a variety of forms—including apologies or gestures of goodwill—this change affirms the importance of tailoring responses to the nature and consequences of the incident. A one-size-fits-all approach risks failing those who have experienced serious harm, distress or financial loss due to failed assistance.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

**1. Inclusion of illustrative examples in the ATP Guidance**

To help ensure consistent and thoughtful application across operators, the Committee suggests that ORR include non-exhaustive examples of the types of factors operators should consider when assessing appropriate redress. These could include:

- **Financial implications**

Beyond refunding the ticket, this may include consequential losses such as missed theatre or event tickets, alternative transport costs, or other disrupted bookings. Where appropriate, consideration might also be given to the impact on accompanying travellers who were similarly affected, although we

recognise this may raise questions of scope.

- **Physical injury and related costs**

Where assistance failures result in injury—such as falls while boarding or disembarking—redress should take account of medical costs or other associated consequences.

- **Impact on confidence and independence**

For many disabled passengers, a failed assistance experience can significantly undermine their confidence to travel, affecting future mobility and autonomy. While difficult to quantify, this impact should be acknowledged in the redress process.

- **Ensuring consistency whilst allowing for variation**

Whilst we believe that it is appropriate that the outcome should depend on the specifics of the case, we are concerned that the outcome might also become dependent on other things such as the approach the operator takes to resolving redress cases, the degree of assertiveness of the disabled person etc? Therefore, it could be useful for ORR to look at developing some kind of rubric for different

types of case, to allow cases to be dealt with according to the specifics of each case but also to ensure some consistency.

## **2. Understanding why redress claims are low**

The Committee notes the finding that only around one quarter of passengers who experienced failed assistance submitted a redress claim. While the proposed guidance change may go some way to rebuilding trust, we recommend that ORR consider further research with this cohort to explore potential barriers to claiming redress.

It may be that passengers perceive the redress process to be complex or ineffective, despite guidance requiring it to be “simple and straightforward.” A better understanding of these barriers could inform future improvements in how redress systems are communicated, delivered and evaluated.

### **Conclusion**

DPTAC supports the proposed change to require all operators to determine redress claims on a case-by-case basis and to remove any perceived or actual caps based on ticket value. We believe this will help ensure passengers are treated fairly, and that the impact of service failure is meaningfully acknowledged.

We would be pleased to support further discussion or development of these proposals, including how best to promote awareness, simplify claims, and improve sector-wide learning from redress cases.

### 3. The Equality and Human Rights Commission (EHRC)

1. We are Britain's national equality body and a National Human Rights Institution, established to promote and uphold equality and human rights laws and standards across Britain. We have a statutory mandate to advise government, Parliament and public authorities on matters relating to equality and human rights. In Scotland, we have a human rights mandate in relation to matters that are reserved to the UK Parliament.

2. We promote and uphold domestic equality and human rights legislation. We also promote implementation of the international human rights treaties that the UK government has agreed to follow, including the UN Convention on the Rights of Persons with Disabilities (CRPD).

3. We recognise that older and disabled people face serious barriers to using public transport and receiving redress. In 2019–20, our legal support project for transport assisted disabled people to get access to justice when they experienced discriminatory service on public transport. The scheme covered failures to provide assistance on rail journeys, which can significantly affect people's ability to travel.

4. Following on from this project, we used our enforcement powers to drive service improvements through legal agreements with transport providers. This regulatory action included requirements over 2020–23 for London North Eastern Railway (LNER) to improve its assisted travel service and for Network Rail to make appropriate reasonable adjustments for disabled people during refurbishment projects.

5. Addressing barriers to key public services is a priority in our new strategic plan 2025 to 2028. Access to transport for older and disabled people is part of our work focused on complex and persistent equality and human rights challenges.

Consultation Response

6. We welcome the opportunity to respond to the consultation on Accessible Travel Policy (ATP) Guidance redress requirements.

7. We have focused our response on equality and human rights considerations relevant to question 1.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

8. We welcome the proposal to require all operators to determine redress on a case-by-case basis for failed assistance where it has not been delivered as booked. We note the [Draft Equality and Regulatory Impact Assessment](#), which suggests that the proposal will contribute to reducing discrimination, advancing equality of opportunity and fostering good relations for older and disabled people under the Public Sector Equality Duty (PSED).

9. Using public transport can be a difficult and distressing experience for certain older and disabled people. For example, the UK Parliamentary Transport Committee's [Access Denied report](#) (2025) highlights the effects that barriers to using public transport have on disabled people, including rail assistance schemes that fail. The report notes that a 'lack of confidence in services to function correctly and staff to assist appropriately causes wearying anxiety, stress and frustration'. As a result,

this 'stops many disabled people travelling at all'.

10. Problems with redress following failures in service and assistance can also negatively affect people's trust in public transport providers. Older and disabled passengers can face limited and unclear access to complaints procedures and legal support, preventing appropriate resolution.

11. The importance of equal access to services such as transport is reflected in the legal framework. Article 9 CRPD requires States Parties to take appropriate measures to ensure disabled people have equal access to transportation. Other rights are also dependent on equal access to transportation. For example, under Article 19 CRPD, disabled people have the right to live independently as part of the community. Transport is a key part of ensuring that disabled people have choice and control over their lives to enable independent living. Effective complaints and redress procedures are important to protect these rights.

12. If rail transport service providers apply blanket compensation policies, such as those based on the cost of the complainant's rail ticket alone, they will not consider the effect failed assistance may have had on the person. This will also not address the potential discrimination under the Equality Act 2010, for example, if the failure to provide assistance amounts to a failure to make reasonable adjustments under Section 20 of the Act.

13. In relation to failures of booked train accessibility assistance, the courts have already treated the matter according to Vento principles for injury to feeling. They have awarded amounts of compensation that are much higher than the cost of a ticket, for example, in *Paulley v Network Rail* (2024).

14. More widely, we consider that a determination of redress related to the specific failure and its effect on the individual would provide an opportunity for train operators to engage meaningfully with the barriers faced by older and disabled people and improve their service provision accordingly. This should also lead to fewer complaints and reduce the need to escalate matters to the court. Improving the reliability of assistance and the appropriateness of redress may result in greater confidence for older and disabled people who wish to travel by train.

#### 4. Glasgow Prestwick Airport

I am responding to your consultation on behalf of, and by the direction of, [REDACTED], the Railway Station Manager at Glasgow Prestwick Airport.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

We are content with the proposals set out in your consultation.

**Consultation Questions 2 and 3.**

We have no comment to make on these questions.

## 5. Govia Thameslink Railway (GTR)

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

Redress It has been the case for some considerable time that redress is considered on a case-by-case basis at GTR. We do this for many reasons but often customers affected by a failed assistance may be using concessionary or free travel or their ticket value is so low that offering the cost of the ticket could be viewed as insulting. Conversely many customers are not motivated by receiving redress but are sharing their experience so that changes can be made or processes reviewed or they simply want an explanation and apology.

Specific issues of note

While we operate in excess of our ATP commitment we believe that it is important not to use the experience of a small number of individuals to influence the direction that the industry might take. GTR acknowledge that customers have the right to seek legal advice, go to the Rail Ombudsman should they remain dissatisfied with a response or even take legal action- and that anything agreed with redress should not attempt to replace those rights or deter an individual from exploring the choices available to them.

Moving to industry wide guidance on redress values offered to customers should neither replace nor interfere with any of those consumer options – neither should TOCs try to second guess what a customer may be entitled to should they make a future Equality Act claim which the TOC would rather avoid.

Indeed it would require legal input across multiple complaint cases to attempt to come to a figure that may resolve a case without the customer possibly going to court – and the customer may have had no intention of doing so in the first place. Furthermore, offering high sums potentially in line with the Vento scale or making an EA claim will be at considerable cost to the rail industry should a link with Vento or court action become part of the proposal. For comparison, even a TOC as big as GTR receives a small number of EA claims every year. This could be seen as a key indicator of the success we have in delivering our service and then dealing satisfactorily with the complaints we receive.

Finally, the Vento scale considers factors that ATPs do not take into account or that may be considered less impactful in consideration of a wider complaint.

GTR would support a minimum payment proposal eg £50.00 and consideration of other factors to help determine redress. However any guidance based on a level of magnitude of failure will in itself pose potential problems in delivering straightforward instructions as opposed to the common sense approach currently in use at GTR.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

This is a difficult question to answer without knowing how the proposal will be concluded however GTR already determine complaints of confirmed failed assistance on a case by case basis

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

Govia Thameslink Railway (GTR) takes its responsibilities for disabled and older passengers requiring assistance extremely seriously. Our commitment is underpinned by a clear framework of people, systems, and processes designed to ensure passengers who choose to either book assistance in advance or just Turn-Up-and-Go (TUAG) receive the service outlined in our Accessible Travel Policy (ATP).

We recognise that for many disabled customers, expert support is needed at every stage of their journey, from initial booking (via the Contact Centre or Passenger Assist app), through station arrival, boarding, travel, alighting, and onward travel. Each of these steps often requires complex coordination across multiple operators and staff members, all of whom must work in unison for a journey to be delivered smoothly.

**Failed Assistance**

We acknowledge that, despite robust processes, a small number of journeys result in what we define as a “failed assistance”, meaning the assistance outlined within the ATP was not delivered. This definition does not include general customer service complaints such as staff attitude.

When a complaint relating to failed assistance is received, it is allocated to a small, specialist team within GTR. Complex cases are escalated to our central HQ team with a direct link to SMEs. Incidents involving vulnerable passengers or potential safety concerns are jointly reviewed by the Head of Customer Relations and GTR’s Accessibility Lead.

Where a safety issue may be suggested a formal investigation involving senior leaders is triggered, with a full report and recommendations generated. All confirmed failed assistance cases along with accessibility incidents are also logged on our Zero Harm reporting portal and used for periodic reporting, identifying trend and hotspot analysis to inform decisions and improvements.

**Other Concerns**

While GTR have a considered and successful approach it is also clear that many areas of failed assists sit with other rail partners like Network Rail. There is no obvious route to claim for GTR customers affected by an NR failure, any extension of redress with specific values attached could mean GTR paying out for the failure of other organisations. In addition the Rail Ombudsman has also made awards ‘on behalf of the industry’ even when GTR were not at fault and this area will require consideration and the application of consistency.

[REDACTED]

**Conclusion**

Any revision to the redress payments offered following a failed assist should not be seen as a deterrent for consumers to seek or take legal action.

Any revision to the redress offered should not be used to replace the route to the Rail Ombudsman which should be expanded in line with the original intent.

Any change should not require TOCs to need significant legal advice to deal with

assistance complaints currently processed through normal policies.

Sending 'full and final settlement' letters does not stop a customer from seeking further redress through the courts or similar.

All organisations including Network Rail to have equal accountability – with the progression of GBR this could be revisited when NR accountability falls under one organisation and a true UK rail cross-journey assistance delivery can be proposed. Failed assistance to be clearly defined - given the potential increase in financial liability there will be no opportunity for flexibility outside of agreed ATP parameters.

## 6. Great Western Railway (GWR)

With regard to the ongoing consultation into onto ATP guidance regarding redress for assistance failures, please find attached the GWR response for your consideration. If any questions arise from our response, please do not hesitate to get in touch, and we will be happy to assist.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

We (GWR) welcome the consultation into ensuring the existing guidance for redress when a customer who has booked assistance has been let down by a failure to provide that assistance.

We want everyone who travels with us to have a safe and enjoyable journey, and recognise the Passenger Assist process is critical to providing a service that is accessible to everyone, and it is a fundamental part of that process to recognise, and tangibly apologise when that service is not provided as expected.

The proposal to amend the existing wording regarding redress when assistance fails from a capped level (currently for GWR this is 100% of the cost of a single ticket, or 50% of the cost of a return ticket) to one where we assess each instance on its own merits, and therefore by a case-by-case basis is welcomed and better reflects the internal approach we have recently taken regarding any complaints about the Passenger Assistance process.

This change will formally acknowledge that every complaint will have different elements that will have impacted the customer and will provide a clear customer facing commitment that we will always look at those elements when considering appropriate redress.

It will therefore give our customers confidence that should they be let down by an assistance failure we will compensate them fairly.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

There are no cost impacts that we feel are appropriate for consideration. Each operator should be fully responsible for any redress regarding their failure to provide the expected service.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

**Defining what is a failure:** We sometimes see a difference of opinion between

ourselves and a customer over what is defined as an 'assistance failure'. For example, should an assist be completed later than scheduled, either due to resourcing issues and/or the punctuality of the train service, is that defined as a failure?

Our response to any deviation from the booked service should look at all relevant elements, with the impact on the customer and their journey always being of primary concern, but a common definition of what constitutes a 'failure' and what does not would be useful when looking at redress, particularly if there are differences between the operator and customer that result in escalation.

**Turn Up and Go (TUAG):** We understand that redress for TUAG complaints is not in scope for this consultation, and we remain committed to providing appropriate redress to customers who have received a poor service whether that assistance was pre-booked or not.

If a customer requesting assistance is unable to give us 2 hours' notice of the journey they wish to take, we are committed to doing everything we can to enable their journey, but that is caveated with the possibility we may not be able to give that customer the same level of help as a pre-booked assist as our staff may not be available to help, so it may take longer for the assistance to be provided.

We recognise that this is a potentially confusing area for customers as some operators provide the same guarantee for customers whether the assistance is pre-booked, or not (TUAG) however, as an operator who manages a significant number of unstaffed stations, we are not able to provide that same guarantee.

Providing customers with clarity on any potential redress when an un-booked assist does not meet expectation would be useful, and if positioned correctly should not detract from a commitment to tangibly address any failure to provide the expected service.

**Who should provide redress?** We are committed to making the complaint process for any customer unhappy at the assistance they have received as frictionless as possible however, we feel that while the operator who has been contacted by the customer can act as a single point of contact for their complaint, the operator responsible for the failure should also be responsible for the subsequent investigation, and any redress provided as a result of that failure.

The existing guidance suggests that redress should be provided by the operator the customer was travelling with however, that does not allow for failures by other operators who may have made mistakes when booking the assistance, or errors from operators who provide assistance at stations they manage that are different to the operator the customer travelled with, to acknowledge that error with the customer or to be responsible for the redress associated with their error.

We do not want to complicate the path for customers to make a complaint, and

support the single response process currently in place, but an industry wide process that allows for all failures to be properly investigated by the operator responsible for that failure, alongside the provision of redress for that failure would be welcomed.

## 7. Hull Trains and Lumo

In response to the questions posed, please see below our response from a Hull Trains and Lumo perspective.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

We would support this approach, noting that we have always looked at each case raised to us on their own individual merits for both operators.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

Whilst we do not have evidence to provide of specific cost impacts, we would request that the ORR support operators in seeking amendments to station QX contract agreements which allow for the recovery of redress claim costs from the Station Facilities Operator as providers of the assistance service at each station.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

We do not have any additional comments regarding the redress requirements.

## 8. London North Eastern Railway (LNER)

### **LNER response to ORR's consultation on Accessible Travel Policy (ATP)**

#### **Guidance redress requirements**

We would like to thank you for inviting us to respond to your proposed changes to the ATP guidance in relation to redress for Passenger Assistance. We welcome the proposed changes and are fully supportive of the move as an industry to approach compensation on a case-by-case basis and set out our thoughts on this in answer to your questions below.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

#### **Response:**

LNER fully supports the proposal. While our ATP currently references ticket price, in practice we already handle complaints on a case-by-case basis and agree ATPs should align with this approach.

This method enables us to fairly assess the impact on a customer's journey and wellbeing, ensuring compensation is appropriate to each situation and compliant with relevant laws. Compensation based solely on ticket price is not always suitable; for example, customers using free travel passes may still be significantly impacted by service failures. A case-by-case review allows us to be more customer-focused and responsive to individual needs.

As a publicly owned operator, we must also balance fair redress with the responsible use of public funds. Our redress policies should enable practical, fact-based decisions rather than defaulting to standard compensation amounts.

While most assistance is delivered successfully, it is important operators accept responsibility for failures within their control. Rigid methodologies like automatic refunds can discourage thorough investigation. A case-by-case approach encourages full consideration of each incident, informs customers of lessons learned, and supports continuous improvement by operators.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

#### **Response:**

While LNER does not hold specific evidence quantifying the cost impacts associated with the proposed changes, we believe there are two key areas where increased costs for operators are likely to arise. We recommend the ORR gives due consideration to these potential implications:

- **Increased Demand for Legal Advice**  
The potential for a higher number of cases to be assessed against existing legal precedent or frameworks, such as the Vento scale, is expected to

increase the frequency and complexity of legal advice sought by operators. Legal advice is currently taken in unique circumstances to ensure the right balance is achieved between discharging our duties properly and taking reasonable steps to protect public money while ensuring fair redress for customers. This rise in demand for legal consultation, particularly in cases involving non-financial loss or broader interpretations of customer impact, is likely to result in a significant increase in legal expenditure across the industry.

- **Higher Volume and Complexity of Customer Cases.** The proposed changes may lead to an increase in customers seeking compensation who might not have previously pursued redress. Additionally, the likelihood of escalations, such as referrals to the Rail Ombudsman, is expected to grow, contributing to a greater number of complex cases requiring more detailed investigation and resolution. This, in turn, is likely to drive the need for increased staffing capacity within customer service and case-handling teams, resulting in further operational costs for train operators. LNER believes that while these implications are manageable, they represent meaningful shifts in industry practice and should be factored into any cost-benefit assessments undertaken as part of the ORR's review process.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

To reiterate, LNER are very supportive of this change and welcome a move to a more customer-focused approach. We believe however that there are two key areas of the ATP that should be revised to enable this to be done in the most effective way.

This discussion specifically relates to when assistance “fails” and a customer seeks compensation but, presently, there is no consistent definition as an industry as to what constitutes a failure. While handling situations on a case-by-case basis is crucial as every instance is difficult and each customer is impacted in a different way by an assistance failure, we believe it is crucial that the industry applies consistent standards to what it sees as constituting a failure and as the regulator of this area we believe the ORR should be a key partner in determining this criteria.

The other area which currently impacts on the ability to ensure operators are accountable for any failures is the complaints handling requirements on who owns a complaint. We understand the need for simplicity for a customer in understanding who they should contact when things go wrong, however we do not agree that that TOC must continue to own the complaint even when they are not responsible. Currently some organisations only operate stations and some only operate trains, meaning there are situations where some never pay any compensation and as such do not have the same accountability.

To enable us as an operator to decide on a case-by-case basis, it is crucial that we are the ones making this determination when it is our responsibility for the failure, as

otherwise we are reliant on another organisation to make a financial decision when they were not the party responsible. This also leads to a risk of lacking accountability if operators are not owning the financial impact of any incidents they are responsible for, and as such we would strongly recommend a change to this guidance to allow an operator to pass a complaint to the responsible operator, without requiring the customer make any further contact themselves.

To overcome this, we would propose a CAHA style approach to address where there is a potential discrepancy of where the responsibility for redress lies and also making sure that the process is easier for customers where assistance has failed across multiple operators.

I hope the information provided here gives ORR assurance of our support for a customer-centric approach to handling varying cases and gives the information needed to consider this in full. Should you require any further information then please do not hesitate to contact us.

## 9. London Northwestern and West Midlands Railways

### **Consultation on Accessible Travel Policy (ATP) Guidance redress requirements.**

Here's a non-confidential response of the consultation response from London Northwestern and West Midlands Railways, regarding the consultation on ATP guidance redress requirements.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

#### **Response:**

We fully support the proposed revision to require a case-by-case approach to redress where booked assistance fails. In our view, this is both legally and ethically appropriate and aligns with our values as a passenger-focused operator group. We recognise the real-world impact of failed assistance and agree that redress must be meaningful, considered individually, and delivered with empathy. We also note that a case-by-case approach is already applied in practice to our failed assistance claims. However, we acknowledge that some of our existing ATPs may require minor updates to better reflect this in their formal wording, and we will ensure that these are reviewed and amended as necessary. The costs of implementing those policy changes are minimal.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

#### **Response:**

Alongside our owning group colleagues at Transport-UK, an internal financial impact assessment has taken place in connection with the proposed changes. While we recognise that the potential cost implications could be significant depending on future implementation and passenger expectations, we are committed to working within a framework that places accessibility and fairness at its core. We continue to engage with this agenda seriously and in good faith and will remain closely aligned with the ORR as further guidance is developed.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

#### **Response:**

We understand that the customer insight referenced in this consultation is derived from an ongoing survey of passengers who have requested assistance. As previously noted, the current sample size remains relatively low compared to the overall volume of assistance requests. To gain a more accurate understanding of customer satisfaction and to gather more diverse insights, it would be advantageous to increase the sample size and diversify the methods of data collection. This approach would support improved customer outcomes and enable

economies of scale that contribute to the development of the service.

We appreciate the ORR's leadership in strengthening protections for disabled passengers, and we look forward to continuing our constructive engagement on this and related matters.

## 10. London TravelWatch

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:** London TravelWatch cautiously welcomes the proposal but has concerns about how consistency will be achieved in a case by case approach.

London TravelWatch would prefer to see more effort into resolution at the time when failed assist occurs as this will offer more confidence to passengers who require assistance to travel, rather than knowing how to complain afterwards. ATP's also frequently contain TOC promotional information causing them to be text heavy and challenging to read requiring digestion of large chunks of information. This could both deter passengers from using the railways or from complaining afterwards.

If changes redress is to be considered, the ATPs must be much shorter and contain the information the passenger needs and not that which the TOC would like to promote.

## 11. Merseyrail

In response to the consultation. Our only comment is that we broadly agree with the proposals as they reflect the approach we already take to claims of this nature.

## 12. Mobility and Access Committee for Scotland (MACS)

### PROPOSALS

*We are therefore proposing to amend our ATP Guidance to require operators to determine redress claims on a case-by-case basis. These changes are set out in our proposed amendment to the ATP Guidance (see Annex B). This would mean that we would no longer approve ATPs which stated or implied that the form or value of redress would be limited or linked just to the ticket price or a multiple thereof, although we recognise that depending on the individual circumstances an operator could still offer to refund the ticket price.*

### CONSULTATION QUESTIONS

- **Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.
- **Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.
- We want to make any decisions on the proposed change to our ATP Guidance as soon as possible, so that we can provide certainty to both passengers and operators who may be required to make consequential amendments to their ATPs. As a result, this consultation is targeted on this change.
- Should you have further comments on the ATP Guidance redress requirements, please let us know. These may need to be considered separately, where this is deemed appropriate, and may be subject to further review and engagement in due course.
- **Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

### MACS RESPONSE

#### Question 1

MACS welcome the proposals to require operators to determine all redress claims on a case by case basis. No two disabilities are the same, so no two claims should be considered the same. Circumstances may vary on a case by case basis and it seems appropriate to consider them this way.

MACS have members who have experience of using passenger assistance and although on the whole we have no concerns, we would agree that missing a train for someone who is physically disabled may cause different problems for someone who has sight or hearing disabilities and vice versa. Hence, why every case should be treated on their own merit.

Please note that whilst people who are registered blind do not pay for travel we do still think a form of compensation should still be offered for blind people who have delays.

In terms of delay we would advise that all claims should be treated with sensitivity, dignity and respect. Delay to a person with a disability can, at times, cause distress, inconvenience and may affect their personal care, health, and independence. One of our members is blind and requires a companion to travel. If there are delays in missed trains this can often mean the companion is unavailable or unable to travel due to the delay. In terms of personal issues, people may not have planned for unexpected delay and this may cause personal care issues and could in fact impact their health. It is important therefore that every case is treated on its own merits. This will ensure that people with disabilities are afforded the dignity and respect they deserve.

## **Question 2**

Not applicable to MACS we are not an operator

## **Question 3**

In terms of compensation we would suggest that matters such as ongoing travel costs should be taken into consideration when looking at claims. Many people who use passenger assist may have taxi's or other travel costs at the end of their journey which may be impacted if their journey is disrupted by a missed train. It may be appropriate for the operator to consider these when looking at compensation for the claim. Most people with a disability will have pre booked and pre planned their journey sometimes months in advance to avoid barriers and costs that are occurred as a result of their disability. Again, we would stress that each claim is handled with sensitivity, dignity and respect.

## 13. Northern Trains

### **Review of Accessible Travel Policy**

#### **Requirements on Redress**

Thank you for inviting us to respond to your proposed changes to ATP guidance in relation to redress for Passenger Assistance failures. Northern Trains welcomes the proposed changes and supports the move as an industry to consider compensation on a case-by-case basis. In this letter, we have set out our thoughts on this in answer to your questions.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

#### **Response:**

Northern's ATP states that redress for failed assistance will be assessed on individual merit. There is no wording in our current ATP to reflect that redress is limited to the value of the ticket used for travel. As Northern currently handle these claims on a case-by-case basis there is no change or impact to the way Northern handles these redress claims currently today.

Reviewing claims in this way allows Northern to consider the impact the failure had to the customers experience, their journey and well-being. This also enables us to consider compensation for people who have not paid for their journey at all, for example if they are travelling on a concessionary travel pass issued by their local authority.

As a publicly owned and funded train operating company under the Department for Transport Operator (DFTO), it is expected that we take reasonable steps to protect public money while ensuring fair redress for our customers. As such, it is important that redress policies enable case-by-case consideration to ensure that we apply all the facts of an incident and make a fair and justified determination of what is owed to a customer, rather than following a standardised system, and expectation, of paying a set amount for all claims.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

#### **Response:**

In Rail Year 24-25 Northern received 145 failed assist redress claims and accepted 126 claims where compensation was paid. The average compensation paid per claim was £86.01 (£10,837 in total).

From the 1 April 2025 to 11 June 2025, we have received 31 redress claims for failed assist and accepted 29 of these claims. The average compensation paid per claim is

£238.26. (£6909.45). Our Q1 data suggests that the recent Ombudsman ruling in a specific case as increased awareness and expectations of higher redress awards. Had Northern awarded £1200.00 to all 126 claims in Rail Year 24-25 this would have resulted in £140,363 in additional compensation costs.

The potential for a higher number of cases to be assessed against existing legal precedent or frameworks such as the Vento scale (which is currently being widely publicised amongst disability news sources and through disability advocates), is expected to increase the frequency and complexity of legal advice sought by operators. This rise in demand for legal consultation, particularly in cases involving non-financial loss or broader interpretations of customer impact, is likely to result in a significant increase in legal expenditure across the industry. Due to its specialist nature, usually this is not legal advice which can be obtained internally; therefore, operators have to seek advice from external lawyers.

We also need to consider, the likelihood of escalations (such as referrals to the Rail Ombudsman) is expected to grow, contributing to a greater number of complex cases requiring more detailed investigation and resolution. This is likely to drive the need for increased staffing capacity within Customer Relations teams resulting in further operational costs for the industry.

As we are publicly funded, it is not currently clear whether the Department for Transport will provide additional funding in response to any of the above considerations, and therefore we must consider that if these increases in cost do arise that we may have to reduce spending in other areas. This could lead to a reduction in spending on accessibility projects, or a reduction in spending in other areas of the business which still have a customer impact but are not directly related to accessible travel.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

Northern are supportive of this change as this reflects our current working practices however, we believe there are two areas that should be considered as part of this consultation to drive further improvements.

Whilst Northern are a large operator responsible for 470 stations and provide 2600 services a day and we deliver around 75,000 assisted travel journeys each year, there are still occasions when the reason for the assisted travel failure was a result of another train operator. Whilst we understand the ORR approach in one Train Operator owning the response and investigation on behalf of the industry, we believe the operator responsible for the failure should be accountable for providing the redress and owning the complaint.

In Rail Year 24-25 13 redress claims were paid by Northern for other operators

failings and an industry system does not currently exist to recoup the cost from the operator at fault, therefore all operators (including ourselves) don't necessarily have an accurate view of their assistance failures as the complaints are owned by the operator the customer was travelling with, not the one who was providing the assistance. Developing a system to address this would be complex and we believe could even increase the time taken to handle complaints, and therefore a better solution would be to change the ATP guidance in relation to who owns a Passenger assistance complaint.

We understand the need for simplicity for a customer in understanding who they should contact when things go wrong, however we do not agree that that operator must continue to own the complaint even when they are not responsible for the failure. Currently some organisations only operate stations and some only operate trains, meaning there are situations where some never pay any redress and as such do not have the same accountability for assistance failures.

In addition, the consultation specifically relates to when assistance "fails" and a customer seeks redress, however there is not currently a consistent industry definition as to what constitutes a failed assist. While handling situations on a case-by-case basis is crucial as every instance is different and each customer is impacted in a different way by a failure, we believe it is crucial that the industry applies consistent standards to what it sees as constituting a failure and as the regulator of this area we believe the ORR should be a key partner in determining these criteria.

Thank you for asking us to take part in this consultation and I hope you find our feedback useful, should you require any further information then please do not hesitate to contact us.

## 14. ScotRail Trains Limited

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

Our redress process is based on individual circumstances as it considers different situations that might have contributed to the failure to deliver on our promise. This is also outlined in the compensation section of our ATP. We have no cap on compensation value. We are therefore happy to continue with this approach as we feel it provides appropriate, relevant and fair redress decided upon by the individual's experience. However, if ORR feels strongly that the wording 'individual circumstances' is replaced with 'case by case', we will make those changes.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

At this moment, we don't have evidence of cost impacts for a process that's already in place. These complaints are already handled by the complex team within Customer Relations and our Accessibility Continuous Improvement team provide help and guidance where appropriate. However, we will monitor the process with a view for advising any future costs arising from this process.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

No other additional comments in terms of the delivery of redress for failed assistance.

## 15. Southeastern Railway

### **Southeastern Railway response to the ORR consultation on Accessible Travel Policy (ATP) Guidance redress**

This letter outlines our responses to the questions set out in the ORR consultation on Consultation on Accessible Travel Policy (ATP) Guidance redress published online on 30th May 2025.

Southeastern is committed to working with the Office for Rail and Road (ORR), the Rail Delivery Group (RDG), and other Train Operating Companies (TOCs) to improve Passenger Assistance services and welcomes the opportunity to contribute to the consultation on how to assess and determine appropriate redress and update the ATP guidance section A8.

#### **Principles**

Southeastern Railway has reviewed the papers provided by ORR, and the questions posed and would like to offer the following responses as part of the consultation process.

**Consultation Question 1: What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.**

Southeastern response: This aligns with our existing methodology for providing redress, where we do not cap redress as a rule, therefore we welcome this approach and the call for a more consistent and fair offering for customers. Southeastern believes that the existing ORR ATP guidance which sets out that the form and, where appropriate the value of the redress be determined on a case-by-case basis taking into consideration the circumstances. Southeastern welcomes a clear framework which provides certainty and consistency for the customer and the operator. We wish to engage in the process of establishing this working with all relevant stakeholders and note that depending on the outcome of consultation and revised ATP there may be a requirement for more resource to manage the changed process.

**Consultation Question 2: Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.**

Southeastern response: As Southeastern does not cap redress handling each case on an individual basis, at face value such a change to the ORR methodology would

not drive particular cost impacts. It is possible that with a change to guidance, customers may see a full refund of their fare as the minimum redress they will accept. In about half of the redress cases Southeastern handles a full refund is offered thus were it to become custom and practice this change would roughly double redress payments. It is noted that this exceeds the compensation offered by Delay Repay in some cases.

**Consultation Question 3: Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?**

Southeastern response: Promoting clarity and consistency in the approach to redress across the industry is a good step forward, however this must be underpinned by a clearly defined definition of a failed assist to ensure that the compensation is awarded consistently. The current ambiguity between customer expectations and what is determined by the ORR as a reasonable adjustment must be brought into alignment.

I hope the above helpfully outline our responses to the questions set in the consultation, but please do let us know if you need any further information.

## 16. Southeastern Accessible Travel Advisory Panel (ATAP)

Consultation response:

Accessible Travel Policy (ATP) Guidance redress requirements

9<sup>th</sup> July 2025

*NB: This response has been compiled by [REDACTED], Vice-Chair – at the request of [REDACTED], Chair. This represents the collective view of the members of the Panel, and is based on written feedback, and discussion at our meeting on 18<sup>th</sup> June 2025.*

Dear Madam/ Sir,

Please find below a response from the Southeastern Accessible Travel Advisory Panel ('the Panel') to your consultation 'Accessible Travel Policy (ATP) Guidance redress requirements'.

If you have not already done so, we would urge ORR to seek out proactively the views of all rail operators' disabled passengers' forums. As you will be aware, all operators must *"operate a regular forum of disabled passengers, to include users of assisted travel, with whom they consult on accessibility issues"* (see [Accessible Travel Policy Guidance](#) para. B5.1). Not to proactively seek the views of these forums would seem to be a missed opportunity.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

*Support for the proposed change*

The Panel agrees strongly that all redress claims should be considered on a case-by-case basis, and that ORR should amend the wording of the ATP Guidance as proposed (subject to our comments re the extension of this to 'turn-up-and-go' assistance as set out in our answer to Q3 below). This is because:

- The most important element of redress is that the operator takes steps to ensure that processes and resources etc. are amended to ensure the problem does not happen again – either to the complainant or anyone else. A standardised redress policy which omits case-by-case investigation may encourage operators to: focus on financial compensation to the complainant; and fail to respond internally to incidents properly within a culture of continuous improvement;
- Failed assistance is the result of discrimination and warrants a thorough investigation in all cases, under operators' anticipatory legal duty to make 'reasonable adjustments'. An adjustment is only 'reasonable' if it works, and assistance failure is evidence of the adjustment not working and therefore potentially unlawful action. An operator that fails to identify why it is breaking the law is likely to continue to do so;
- The impacts of failed assistance can be huge and can extend well beyond the journey, and are deserving of case-by-case investigation:
  - Missed appointments, stress, loss of dignity, and safety implications can all be

the result of a single failed assist – as can an enduring lack of confidence to travel independently;

- Persistent unreliability of assistance can have life-changing impacts and e.g. make employment unsustainable, and/or force people to move house;
- Failed assistance may be accompanied by other issues arising, and a combination of impacts may have a severe effect on the passenger. For example, someone who is overcarried on a train without a toilet may not only experience assistance failure but also the distress of not being able to access necessary facilities;
- Some disabled passengers face additional barriers due to socioeconomic status, language, age, or ethnicity, and may be disproportionately affected by assistance failures. A robust redress framework must be capable of recognising and responding to such cumulative impacts.
- Financial compensation should never be limited to ticket price, as this may be relatively low (or in some cases e.g. concessionary trips may be free) and be completely out of proportion to the impacts endured.

#### *Need for a supporting framework/ guidance*

Although we agree with case-by-case determination of redress, we feel that there also needs to be a strong and consistent industry-wide framework within which specific circumstances can be considered. We note that your proposed changes may still result in a wide variety of approaches.

However, the overlapping nature of train/ station operators means that passengers want a consistent network-wide policy for assistance, and redress when it fails.

In particular, there needs to be a shared understanding of what constitutes ‘assistance failure’, and whether there are degrees of impact (as is implicit in the ‘Vento scale’). For example, if someone is not met as expected at the entrance to their departure station, but still can board their train having located staff, this – whilst potentially distressing and discriminatory – is likely to represent a different level of impact than an incident where someone is overcarried to the wrong station due to failed alighting assistance, or cannot make a journey at all.

ORR’s ‘headline stats’ focus on surveyed passengers who have received *none* of the assistance booked, whereas anecdotally many frontline rail staff consider assistance successful if the passenger completed their journey, and focus sharply on boarding and alighting assistance. Neither is currently an accurate and comprehensive measure of the quality of assistance.

Therefore, whilst the individual circumstances will vary, we feel ORR should issue network-wide guidance as to the relative impact on passengers of different types of failure (focussed on the severity of the breakdown in industry processes, but ensuring the impact on the passenger is still considered individually). The industry is well used to producing risk-based matrices to use at a strategic level whilst allowing specific circumstances to be incorporated.

This would allow ORR to provide guidance of what is likely to constitute appropriate redress in a variety of foreseeable circumstances including a passenger being delayed, prevented from travel, travelled but not provided with assistance, or overcarried etc.

This guidance might focus in the first place on how operators (including Network Rail when delivering assistance on behalf of train operators) will remedy process and resourcing issues that have caused failed assistance – and who will enforce any promises they make to passengers (if 12% of surveyed passengers in 2023-24 received none of the assistance booked, then it is reasonable to assume that the repeated promises of operators since disability discrimination became unlawful in 1995 have not been adequately enforced by either ORR or the courts).

It would then seem important also to provide guidance on levels of financial compensation. (NB: we note that the ‘Delay Repay’ system currently does not permit a claim if a train ran on time but a disabled passenger missed it due to an industry failure – we suggest this is remedied as it does not matter if trains are delayed, it matters if passengers are delayed).

We would also encourage ORR to distinguish clearly between ‘redress’ and ‘compensation’. Redress should encompass both individual remedies (financial or otherwise) and operator accountability to change faulty processes. Compensation without change is inadequate and risks enabling repeated failure. Without formal guidance, a fragmented and inconsistent industry approach to compensation will persist, and – now the use of the wide-ranging Vento scale has been established – a court or the Rail Ombudsman may instead seek to make the necessary distinctions (and have arguably already started to do so). This will happen in the absence of proper industry consultation, and with unforeseen impacts.

If ORR can instead take the initiative to produce its own guidance, a consultation would enable the voices of disabled passengers to be heard, and ensure any approach is informed by detailed industry input.

#### *Need for an improved enforcement model*

To ensure culture change across the network, ORR should commit to an improved enforcement model that includes: (a) transparent publication of assistance failure data by operator, including unbooked assistance; (b) regular compliance reviews; and (c) the potential for formal sanctions, including regulatory penalties, where repeated failures occur or where improvements promised to passengers are not delivered.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

#### **Response:**

We are aware that operators may well be nervous of the financial impacts of the application of the Vento scale – they have reason to be if ORR’s shockingly-poor assistance survey results are an accurate reflection of reliability.

However, the most important element of redress is fixing the problem that caused assistance to fail – the provision of financial redress is only a liability for operators if they continue to fail. We would stress that the provision of reliable assistance will

encourage people to travel and therefore *generate* income for operators, as well as delivering external social, economic and health benefits. It is important that this internal and external generative effect is included in any consideration of cost impacts of this regulatory change. The 'Passenger Demand Forecasting Handbook' is used by the industry to assess the travel demand/ financial impact of changes, including to the quality of service, and we encourage ORR to make use of this in relation to the provision of reliable assistance, and also to engage with the Departments of Work and Pensions, Health and Social Care, Business and Trade, HM Treasury etc. to quantify the external financial benefits of supporting full social and economic participation through a 100%-reliable assistance service.

At a strategic level, we urge ORR to work collaboratively with Government, and in future GBR, to embed the principle of reliable assistance within broader policy goals on accessibility, economic inclusion, and levelling up. Access to the rail network is not simply a transport issue – it is a fundamental matter of equal opportunity. A narrow cost-focus in this case will not suffice.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

*Awareness of redress and how to claim*

We would like to draw your attention to the current weak obligations on operators to publicise widely, and in accessible formats, the availability of redress and how to make a claim – which we feel will undermine the value of the improvement proposed in this consultation. This can be illustrated quite clearly by comparing the ATP Guidance obligations, with those in ORR's ['Delay Compensation Code of Practice'](#).

In the latter, extensive 'how to claim' requirements are mandated in Section 3 ('Information for Passengers') that include: prominent web information; posters at stations and on-board; in-person information from staff; announcements; emails linked to ticket purchase; and social media messaging.

By contrast, the ATP information requirements regarding redress claims are weak, focussing on information in the ATP itself (which very few passengers will read), operators' websites (buried in a large volume of other information), and via social media – although experience suggests this may not reach many people. There is for example no requirement to provide clear information on posters/ via announcements at stations and on trains or proactively to inform assisted passengers. If the primary purpose of redress is to drive improvements, then we suggest that ORR should strengthen the requirements for operators to publicise the availability of redress and how to claim (including in accessible formats e.g. via BSL).

We suggest this should also make clear the necessary timescales in terms of progressing a claim, and how this might impact on bringing a case under the Equality Act (2010) if an operator and/or the Rail Ombudsman fails to satisfy the passenger that redress is appropriate.

*Redress for failed unbooked ('turn-up-and-go') assistance*

We would also draw your attention to an inconsistency in the ATP Guidance between the requirements regarding the 'Passenger Leaflet' and the 'Policy Document', which is also of relevance to Equality Act (2010) obligations:

In the 'Passenger leaflet' (para. 3.3d), operators must commit to providing redress when assistance fails, and there is nothing in the wording that allows this obligation to be made conditional upon the operator having received prior notice of travel. This of course aligns with the reality that most assisted disabled passengers do not book in advance, and do not want to, and may not be able to, and are not obligated to do so, and any insistence on this by the rail industry would amount to unlawful discrimination.

By contrast, the 'Policy Document' (para. A8) only places an obligation on operators to provide redress, and advertise the availability of this on websites, *when assistance has been booked*. This limitation extends to the obligation in the 'Policy Document' to set out the claims process in the 'Passenger Leaflet' – despite the fact that the latter contains a separate obligation to explain to passengers how to claim redress irrespective of booking or not.

This inconsistency means that operators are obliged, quite rightly, to commit to redress for unbooked assistance under their Passenger Leaflet, but this is outside the scope of ORR's proposed changes – and in fact it is completely unregulated by ORR in terms of how operators consider and respond to claims. We feel this separate regulatory position re booked/ unbooked assistance helps support an industry culture where – in the experience of Panel members – staff sometimes blame assistance failures on disabled passengers for not booking.

Furthermore, the Policy Document obligations, in omitting unbooked assistance from the scope of redress, suggest that these are not consistent with the Equality Act (2010), UN Convention on the Rights of Persons with Disabilities (UNCRPD), or in line with the Social Model of Disability to which the industry frequently commits. This is because:

- Unbooked assistance is a 'reasonable adjustment' under the Equality Act (2010), across the entire National Rail network:
  - Most assistance, including unbooked, is only required because of shortcomings in the infrastructure design, rail vehicle design, and operational policies of the rail network, and as such is not a 'free service' but compensates for the absence of necessary improvements to accessibility, for example platform-train level access;
  - It is inconceivable that placing additional barriers in the way of spontaneous travel for disabled people, on a network where perhaps 80-90% of all non- disabled passengers hold non-train-specific tickets, would not cause by comparison 'substantial disadvantage' to some disabled people;
  - There are significant resources available to the industry, and significant internal and external financial benefits of maximising its customer base;

- DfT as network funder and specifier now has, or shortly will have via GBR, full network-wide control of the allocation and job descriptions of staff – so for example can via operating contracts prevent unstaffed trains running to unstaffed stations.
- Disabled people have rights under Article 9 (Accessibility) and Article 20 (Personal mobility) of the UNCRPD to independent mobility and full participation in society;
- If the industry is not required to investigate unbooked assistance failures as part of the redress system, this will not support continuous improvement in this area and is inconsistent with its obligations to ensure adjustments are ‘reasonable’ as defined by the Act.

We would welcome ORR’s confirmation that it agrees with our view that the provision of ‘turn-up-and-go’ assistance is indeed a reasonable adjustment under the Equality Act 2010 (noting ORR’s obligation to have due regard to this Act when exercising its functions), and that as such the ATP Guidance should mandate equal access to redress for both booked and unbooked passengers.

Furthermore, we would also invite ORR to consider our view that, once an unbooked passenger who needs *alighting* assistance has been assisted to *board* a train, a contract is in effect formed between the passenger and the operator, and that failure to provide alighting assistance is a breach of that contract, and that consumer law protections apply and should therefore be reflected in the wording of the ATP Guidance.

We also note that ORR has been forced to propose these amendments to the ATP Guidance due to a successful challenge in court. We consider it inevitable that at some point another court ruling will align with our position that disabled people have a legal right to ‘turn-up-and-go’ assistance, and to redress when it fails. We feel there is a very strong case to anticipate such a ruling – rather than be required to react to it in short order.

### Concluding remarks

Thank you for taking the time to read this consultation response. We are very supportive of ORR’s efforts to improve the quality and reliability of assistance, and to that end we urge ORR to:

- Extend the scope of its consultation on redress requirements to cover all assistance irrespective of notice period, and meet the ‘reasonable adjustment’ requirements of the Equality Act 2010.
- Produce and consult on Guidance on the type and level of appropriate redress, within a framework that includes a shared industry-wide understanding of the definition of assistance failure.
- Ensure the ATP Guidance enforces a standard approach across the network – which will in any case be needed with the advent of GBR.
- Maintain a sharp focus on systematic improvements, not just compensation to individuals, ensuring there is an improved mechanism to enforce the promises of improvement made by operators

We would also welcome any information you are able to provide on how ORR will evaluate the success of any ATP changes, in particularly regarding the reliability of

assistance.

The rail industry is perfectly capable of delivering completely-reliable processes – it does it with e.g. train movements and operational communication, so we see no reason why, with the appropriate regulatory intervention, it cannot provide completely-reliable assistance.

## 17. South Western Railway (SWR)

**Introduction:** South Western Railway (SWR) operates some of the busiest routes in the country, operating over 1,500 services each weekday. We provide commuter, inter-urban, regional and long-distance services to customers in South West London and southern counties of England, as well as providing connectivity to the ports and airports in the region. As well as commuters and business travellers, SWR transports leisure travellers across the region, to many tourist and heritage sites, and the numerous major sporting and social events that take place along the route every year. We recognise the important role that SWR plays in this region, with so many people and businesses relying on the services that we provide.

### **The consultation response**

1. South Western Railway (SWR) welcomes the opportunity to respond to ORR's consultation on Accessible Travel Policy (ATP) Guidance redress requirements. We are fully committed to improving all services to our customers and welcome the opportunity to share our current practices.
2. In creating this consultation response, SWR has consulted with its Accessibility and Inclusion (A&I) Forum. All members of the A&I Forum have lived experience of disability and although each member is an expert in their own lived experience, they also consider pan-disability issues. We would like to thank them for their support and guidance in formulating this response.
3. We wish to use this response to highlight best practices, opportunities and challenges that are specific to SWR.
4. We recognise the importance of providing a suitable and consistent redress policy within SWR and across the rail industry. Redress can support rebuilding confidence with our disabled and older customers when passenger assistance has not gone as planned. With the engagement of the customer/s involved, the redress process and outcome can support in guiding the business to improve the customer experience for all customers.
5. We engage regularly and collaborate with RDG, Network Rail (NR) and other Train Operating Companies (TOCs) to make our railway more accessible and inclusive to all customers. We greatly value an open, honest relationship with ORR to ensure compliance with all regulatory requirements and to meet the shared goal of providing access for all to our products and services.
6. We welcome any changes that lead to improvements in customer outcomes, making SWR and the wider industry the reliable and trusted travel partner of choice.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

7. SWR already provides redress to customers on a case-by-case basis. Although our current ATP makes reference to providing a no-quibble refund to customers for the leg of the journey where assistance has failed, this is very much the starting point for giving suitable redress to a customer.

8. We would like to suggest that an industry working group(s), led and chaired by Rail Delivery Group (RDG), be responsible for working through all challenges and suggestions contained within the SWR response. The most appropriate partnership groups would be the existing Accessibility Group, and the Redress Group.

9. Following engagement with our A&I Forum, all members are supportive of ORR's proposal to change the ATP guidance.

10. Our A&I Forum has expressed that the ease of making a claim should be paramount. Some members expressed concern that the burden of making a complaint is currently on the customer and that operators should make it as easy as possible for customers to make a complaint. We will work with our A&I Forum to better understand the barriers faced by customers in making a complaint and make improvements accordingly. We would be happy to work with industry partners as part of any working group, in creating a seamless and consistent complaints and feedback experience for all.

11. Our A&I Forum made it clear that information to make a complaint should be available in all formats. We advise that the suggested industry working group(s) should formalise all complaints formats and any standardised information which all TOCs and NR should make available.

12. We acknowledge ORR's definition of Redress in Point 1.5 of the consultation document, *"It is not always or necessarily a form of financial compensation. It could be an apology, a gesture of good will, and/or a compensatory payment."* Our A&I Forum supports this view that it is important that TOCs work out the best way to apologise to each individual customer. We have always worked with customers and colleagues to find the most appropriate form of redress and we wish to continue this practice with the introduction of updated guidance in the ATP document. As part of the suggested working groups, we would find it beneficial to share examples of best practice of redress between all TOCs and NR, to ensure greater consistency of redress for customers and to help set expectations.

13. In determining appropriate redress, one of our A&I Forum members advised us that *"no two travellers will be impacted the same."* A case-by-case approach reflects this viewpoint and should be the way of working going forward. The proposed industry working group should support us in benchmarking appropriate redress guidance based on circumstance.

14. One member of our A&I Forum has advised that, *"some staff may need further training to understand the needs of disabled and older people to understand the sliding scale of impact upon disabled and older passengers when something does go*

*wrong.*” We continuously update our Disability and Equality Awareness Training based on customer and colleague feedback, with the latest updates highlighting how customers feel when things don’t go to plan. We acknowledge that there is more work to do in this area, and we would welcome any support and guidance ORR can give to support us in ensuring all colleagues appreciate the challenges that disabled and older customers face when assistance has not been delivered as requested.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

15. Legal advice costs could rise with an increase in overall complaints and redress requests assessed against existing legal precedent. More customers are rightly becoming more aware of their rights, with increasing awareness of some compensation scales, such as the Vento scale. With an increased need to seek legal advice, especially for increasing numbers of complex cases, legal expenditure is likely to increase across the industry. Expectations must be clearly set around redress to avoid costly and sometimes inappropriate use of legal channels when formal complaints processes have not been utilised. ORR should work with the industry to establish a clear process for redress claim and escalation that is fair to both customers and Train Operators. We would like to seek the opportunity to provide appropriate redress, on a case-by-case basis, in advance of any formal legal proceedings.

16. We know that some operators pay for subscriptions to translation services for British Sign Language (BSL) and we have had preliminary discussions with some providers regarding enabling customers to contact us in BSL via an interpreter. As part of the suggested industry working group, if it be advised to offer this service, we would like further support in understanding the annual cost impact on our business and to the industry to provide consistency with other operators’ contact centres.

17. As suggested by our A&I Forum, if we were to create alternative information formats for customers, such as BSL translation videos, there may be a small, one-off cost. We suggest the proposed industry working group should agree the content of these alternative formats to ensure consistency of information and its format.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

18. In regard to Point A8.1 in the ATP guidance which references redress for pre-booked assistance that has failed; SWR has never discriminated between pre-booked and Turn Up and Go (TUAG) assistance, which constitutes the majority of assistance carried out by SWR colleagues. As we will continue to treat TUAG and pre-booked assistance as equals, addressing any challenges for customers on a case-by-case basis, we would like to raise that TUAG be considered as part of a

wider industry redress model.

19. The definition of an assistance failure has still not been clearly defined by the industry. Customer expectations and assessment of a failed assistance are currently different to what the industry would define as a failure, so more work must be done to agree upon the definition of “failed assistance”. We would encourage ORR to lead and support the industry in defining this crucial metric to ensure standardisation across the industry for appropriate redress to customers.

20. The current guidance states that one operator must own a customer complaint. Although it is important for customers not to be passed between operators for a resolution, we disagree that an operator not responsible for an assistance failure or the reason for complaint should continue to own that complaint. For operators that do not run stations or are not the station facility operator, they may pay out less compensation than others, leading to a diminishment in accountability. With the support of the RDG working groups in Paragraph 8, we must clearly define the accountable train and/or station operator that should lead the complaints and redress process in each case.

### **Closing statement**

We hope the information provided in this consultation response assures ORR of our commitment to improve redress and the complaints process in a customer-centric way. We urge industry and ORR to ensure that those with lived experience of disability, as well as experts in accessibility and customer complaints handling within the industry, be involved in setting up a standardised framework for redress. Should ORR require any further information, please do not hesitate to contact us.

## 18. The Rail Ombudsman

### **Office of Rail and Road Consultation on Accessible Travel Policy (ATP) Guidance redress requirements - response from the Rail Ombudsman**

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

Thank you for the opportunity to respond to the consultation on Accessible Travel Policy (ATP) Guidance redress requirements. The Rail Ombudsman welcomes the Office of Rail and Road's proposal to ensure that redress for failed assistance is always considered on a case-by-case basis because:

- It better reflects the sometimes complex and nuanced nature of assistance failure complaints, promoting consideration of specific circumstances and impact on the individual.
- It ensures consistency across the sector, which reduces the opportunity for passenger confusion about their rights and ambiguity in the sector as to how expectations should be addressed.

The Rail Ombudsman has a remit to consider accessibility disputes, and many of these relate to assistance failure. The issues we encounter include a clear passenger expectation that their personal circumstances and experiences will be taken into account. By adopting the case-by-case approach, this can be more readily – and demonstrably – achieved as such factors must be considered by necessity.

Furthermore, our experience has been that complainants can identify inconsistencies of approach between operators and will use this information to challenge operators on the service they have delivered by comparing one service with another. By removing inconsistency, the passenger experience can be enhanced.

The Rail Ombudsman itself takes a case-by-case approach to disputes. Although there are provisions for cases to be treated as 'echo cases' (i) a case-by-case approach must have been taken in the first instance to determine a case such. Having delivered this service since inception in 2018, we are well versed in both the clear benefit and necessity of the case-by-case approach as described above, and also the challenges that must be overcome in its delivery.

[\(\(i\)Please see Rail ADR service Rules and Eligibility Criteria, paragraph 8.1.\)](#)

We recognise the logic behind efforts to standardise approaches to redress:

consistency of approach is vital and by approaching scenarios on a case-by-case basis, new variables are introduced, in particular the propensity of different staff members to view matters differently, creating the potential for different outcomes. As an Ombudsman, overcoming any such tendency so that the final result is a consistent approach to casework is an objective we must constantly strive to achieve. We do this through several methods that give structure to our approach. Of relevance to rail operators at tier one, we suggest consideration of the following:

- Staff training and alignment. The Rail Ombudsman's recent Equality Act short course was well attended by the sector, demonstrating appetite within the industry to understand these issues and respond appropriately. We train our team internally and meet regularly to discuss casework. We suggest similar approaches within – and ideally between – operators to promote consistency, and recognise that positive work led by Rail Delivery Group already takes place on complaints and redress. The Rail Ombudsman can continue to support this activity where appropriate.
- Robust quality assurance. Proactive oversight mechanisms should be used to intercept inconsistencies where appropriate. Similarly, organisations taking case-by-case approaches should be responsive to challenge. As the Rail Ombudsman, we use our service complaints procedure as a trigger to undertake further quality assurance, both satisfying ourselves with the approach taken and also taking valuable learnings.
- Adoption of frameworks, where relevant. The Rail Ombudsman has a published [Compensation Framework](#), which includes a Time and Trouble Matrix. This helps to create structure and consistency around monetary values. It can also benefit transparency if such frameworks are published, in particular because the framework can be referenced in decisions, making them more comprehensively explained in the first instance. Transparency around such frameworks can also promote ongoing review and benchmarking against other relevant mechanisms, such as the Vento Guidelines. The effective use of such a framework could also establish a minimum expected value for settlements in relevant scenarios that is not perceived as nugatory; a principle that has been addressed explicitly by the courts.

In addition, our experience is that consumer expectations around redress can vary, adding a further variable to be considered in determining outcomes to disputes in a consistent manner. The Rail Ombudsman has demonstrated this through published case studies, such as [Failure to disembark passenger and impact of complaint handling](#) and [Accessibility](#). In these cases, passengers displayed different attitudes to - and appetites for - compensation.

Finally, we suggest that while a case-by-case approach promotes a thorough appreciation of the impact on the individual and that reasonable steps can

(and must) be taken to ensure consistent outcomes, this is unlikely to achieve the same consistency as something as restrictive as using ticket price as a determining factor. However, the challenge this presents is not insurmountable and must be viewed in the context of the importance of a true appreciation of a complex and potentially emotive complaint – those factors often having little or no relationship with the value of the ticket. This is reflected in the existing recognition of the approach as best practice within the Accessible Travel Policy Guidance, and adoption by many operators.

The Rail Ombudsman welcomes ORR's proposals, and will continue to engage with the sector and share our insights and experience of casework to help operators deliver consistent, quality approaches to redress.

## 19. Transport for All

### **Consultation: Accessible Travel Policy Guidance Redress Requirements**

Transport for All's response

July 2025

#### **About Transport for All**

[Transport for All](#) is the only disabled-led group striving to increase access to all modes of transport and streetspace across the UK. We are a pan-impairment organisation, guided by the passionate belief that all disabled and older people have the right to travel with freedom and independence.

#### **How the views of our community are obtained**

Transport for All is the leading voice on accessible transport. We have 40 years of specialist knowledge of transport access, and a unique understanding of the needs and views of disabled travellers. As a membership organisation, we facilitate a network of over 1000 disabled people, gathering the perceptions and insights of those with lived experience of access to transport. Through our information and advice line we provide advice, support, and education for over 250 disabled and older people each month.

**What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.**

We strongly support the ORR's proposal to require operators to determine redress claims on a case-by-case basis. Disabled people continue to be let down by rail assistance services, and the current one-size-fits-all approach to redress is clearly unfit for purpose. The effects of an assistance failure can vary widely and often go far beyond the financial cost of a train ticket – yet existing redress models frequently fail to reflect this.

Operators who limit redress solely to a refund based on ticket price inherently fail to recognise the real-world impacts of inaccessible travel. Assistance failures can lead to missed medical appointments, financial loss, emotional distress, damage to essential mobility aids, exclusion from social and professional activities, or even being left stranded in unsafe situations. Critically, they can also result in a complete loss of confidence to travel, an outcome that has long-term consequences for Disabled people's independence, wellbeing, and participation in society.

We therefore welcome the ORR's proposal to prohibit operators from placing explicit or implied caps on compensation linked to ticket value. Such caps minimise the harm caused by accessibility failures, disincentivise meaningful service improvement, and risk treating redress as a routine refund exercise rather than a genuine act of accountability. Redress must be more than just transactional: it should reflect the harm caused and act as a meaningful driver of service improvement.

The consultation acknowledges that recent legal decisions, including those made by the Rail Ombudsman and the courts, have made clear that appropriate compensation in such cases exceed ticket prices. In particular, we wish to draw attention to the [case of Doug Paulley in January 2024](#), in which the Rail Ombudsman awarded £1,325 in line with the Vento scale, following an assistance failure. This case established an important precedent: that financial redress for accessibility failures

should not be calculated through restrictive formulas like ticket price multiples, but based on factors like distress, loss of dignity, or whether the incident occurred in public. This approach is far more consistent with both the Equality Act 2010 and the Rail Passengers' Rights and Obligations Regulations 2010. If the ATP Guidance does not reflect these standards, there is a risk that operators will continue using outdated and unlawful compensation models.

We also support the ORR's emphasis that redress must not be limited to financial compensation. For many Disabled passengers, the most important outcome is knowing their experience has been taken seriously and will result in positive change.

The [ORR's own research](#) found that 48% of Disabled people who had a reason to complain chose not to do so because they didn't believe it would lead to change.

Redress should therefore serve a dual purpose: recognising harm done and delivering tangible accountability. Operators must be required to show how redress decisions are being used to improve services and prevent repeat failures.

While a case-by-case model has the potential to deliver fairer outcomes, it must not result in uncertainty or inconsistency. Passengers must not be left unclear about what to expect or feel that outcomes depend on how "severe" their experience is perceived to be, or on their ability to articulate emotional impact. Two passengers experiencing similar failures should not receive wildly different outcomes based solely on the operator or subjective judgment.

To mitigate this risk, we urge ORR to go further in setting out clear principles and minimum expectations to guide redress. Passengers should have access to transparent information about what kinds of factors will be considered in redress decisions, and what outcome they should expect to receive based on these factors.

For example, an assistance failure that causes someone to miss a medical, professional, or social appointment, or causes them significant anxiety should not be dismissed as "minor" simply because they eventually reached their destination. Even a single assistance failure can derail an entire day, especially when journeys have been carefully planned around energy levels, accessibility requirements, or health needs.

We recommend that ORR work with Disabled people to co-produce a framework of guiding factors that operators must consider when determining redress. This framework should include a transparent list of considerations, such as emotional distress, missed obligations, damage to mobility equipment, injury to passenger, frequency of prior failures, and more. Crucially, this work must be done in partnership with Disabled people across a range of impairments, identities, and lived experiences to ensure the guidance is meaningful, inclusive, and evidence-led.

One key factor we urge ORR to explicitly include is whether the failure is part of a recurring pattern, especially in the context of unstaffed or partially staffed stations, where assistance failures are more common. For example, if a Disabled passenger routinely uses an unstaffed local station where assistance regularly fails, these are not isolated incidents – they represent a persistent, systemic barrier to travel. In such cases, redress should reflect the cumulative impact, and operators must be held accountable for failing to address known problems. Operators should be required to track and report on these patterns, and demonstrate how they are resolving failings. ORR should monitor and act on these trends as part of its enforcement role, identifying recurring issues and requiring operators to take action, whether that involves changes to staffing, investment in infrastructure, or service redesign.

Finally, we note with concern that [only 23% of passengers who experienced failed assistance in 2023-2024 submitted a redress claim](#). This strongly suggests that many passengers see the current system as inaccessible, unclear, or not worth engaging

with. When seeking feedback on this consultation from our members, many emphasised the need for a much simpler and more transparent complaints process, backed by visible accountability and compensation that reflects the true impact of the failure.

A case-by-case approach, without ticket-based caps, is a vital and welcome step forward. However, this must not come at the expense of consistency and clarity. For the redress system to be effective, it must be accessible, enforceable, accountable, and shaped by the lived experiences of Disabled people. We urge ORR to develop a clear framework setting out the key factors operators must consider, require operators to provide evidence of how decisions are reached, and actively monitor redress patterns to ensure equity across the network. A robust, fair, and transparent redress system can play a critical role in improving service standards and restoring Disabled people's confidence in the rail network.

## 20. Transport for Greater Manchester (TfGM)

### Introduction

Transport for Greater Manchester (TfGM) have been made aware of a recent consultation published by the Office of Rail & Road (ORR) with the title: Consultation on Accessible Travel Policy (ATP) Guidance redress requirements.

As a local transport authority, ensuring that our railway network is both accessible and accountable to our customers is a key priority of ours. As we work to deliver Bee Network Rail, the issue of accessibility has been established as a particular importance to us. Therefore, we are pleased to present this response on behalf of the TfGM Rail Team. The following is an overview of our responses to the consultation questions set out in Appendix. A of the ORR publication.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

### **Response:**

We are overall supportive of this proposal, however, there are some aspects of this that raises concerns for us. Firstly, we believe that there should be a requirement for consistency across TOCs. By removing the need for a structured, consistent response, there is a risk that passengers who face the same issue across different operators could receive different levels of compensation. With the industry moving towards GBR as the railway's guiding mind, we strongly support the need for consistency across all operators. This could include some level of guidance or framework to help TOCs assess redress claims, and draw their conclusions in an industry-wide consistent manner. In addition to the above, we would also like to ensure clarity for passengers who experience ATP failures on journeys involving multiple TOCs, especially for those where split ticketing is used. Clarity on this issue will avoid unnecessary complications for the public and help to increase public confidence when travelling by rail.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

### **Response:**

We believe that changes to the process could have financial implications for the railway. While handling claims on a case-by-case basis represents a positive step towards a more customer-centric railway, this will undoubtedly create more resource requirements for TOCs and act as an additional expense to be considered. We are aware that passengers have on occasion cited the Vento scale when requesting compensation. We stress that the industry must not allow this to become normative, as the Vento bands (ranging from £1,200 through to £60,700) represent an

unsustainably high cost-base for the railway. Additionally, while increased awareness of the proposals is a good thing, it could lead to a greater level of claims being submitted by the travelling public, even when there is no basis for complaint or redress. At a minimum, we expect operators to be able to quickly dismiss claims that are clearly ineligible for redress without this taking a significant time and resource requirement. Ultimately, as the industry moves towards a nationalised model, we must consider that any losses incurred by the railway will be picked up at the taxpayers' expense. Therefore, financial sustainability is an issue that we see as becoming more pertinent moving forward.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

We would like to see clarity on how this proposal would affect passengers who do not use Passenger Assist but still experience distress while travelling.

Many passengers live with disabilities that could be referred to as hidden or neurodiverse. Those who live with this type of disability are less likely to book Passenger Assist, but may still face distress or discomfort if the TOC fails to provide a reasonable service. This then begs the question: If disabled passengers who are not travelling with the Passenger Assist service are to be entitled to redress, does this mean that all passengers who experience distress are entitled to submit a claim? Furthermore, there are protected characteristics under the Equality Act 2010 other than disability where passengers may need additional support (e.g., pregnancy). Despite this not being classed as a disability, a pregnant passenger could still experience significant discomfort or distress on the railway as a result of TOC failings. For example, if delays lead to a pregnant passenger standing for a prolonged period of time, they may expect redress due to the discomfort caused. It is important to note that the Equality Act 2010 does not weight the 9 protected characteristics differently (i.e., one characteristic is not any more or less protected than another). We would like to see clarification from the ORR on how such claims would be handled, and what level of redress the passenger would be entitled to.

Additionally, we'd like to understand how 'injury to feelings' may also be considered. This is often referenced in other contexts outside of the railway and could arise in future passenger redress claims.

**Conclusion**

We are supportive of the proposals set out within the publication, and we thank the ORR for allowing us the opportunity to respond to these proposals. Should you wish to discuss any part of our response, we remain available for further discussions.

## 21. Transport Focus

Thank you for providing an opportunity to comment on ORR's proposed amendments to the Accessible Travel Policy Guidance, concerning redress for passenger assistance failures.

The Passenger Assistance service is a vital element of the railway's efforts to make it accessible to as many people as possible. It is used by a wide variety of passengers; a significant number of whom would not be able to make their journey at all without the assistance it provides. The number of passengers not receiving some, or all, the assistance they booked is a concern for many.

Passenger Assistance booking failures not only have a significant impact on an individual journey experience, impacting satisfaction, they also undermine confidence that future bookings will deliver the assistance needed.

For those passengers who choose to complain about their experiences of failed assistance (and many don't) they will likely have several motivations. Anecdotal evidence from passengers suggests that might include:

- Wanting someone to recognise the level of inconvenience, stress, frustration and upset that failed assistance can cause
- A sense that someone will listen and treat their concerns seriously
- A desire for their confidence in the service to be restored
- A desire for the service to improve, both for themselves and other passengers

As we previously highlighted in our response to ORR's benchmarking framework consultation, there is a disparity between the high levels of overall satisfaction expressed by users of Passenger Assistance, and the lower numbers who have confidence in the service.

We believe the complaints process and system of redress can play a significant role in addressing some of those confidence issues. But to do so, operators need to strike a balance between offering compensation to provide a quick resolution, and delivering on existing ATP commitments to provide an explanation of what went wrong, and what action is being taken to avoid a repeat. Compensation on its own will do little to restore passenger confidence. Passengers will want to see evidence that someone has listened to their concerns and are taking action because of the complaints raised.

To that end, the railway needs to avoid simply accepting the costs of failed assistance complaints because it is cheaper than fixing the problems that generated them.

Turning to the specific consultation questions posed:

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

Depending on the circumstances, an operator's failure to provide booked assistance to disabled passengers may constitute a breach of their duty to provide 'reasonable adjustments to accommodate services for disabled passengers' (under section 29 of the Equality Act 2010). Where that is the case, it would seem wholly inadequate for a train operator to limit any compensation paid based on the price of the passenger's ticket. If someone travelling on a free pass or a discounted ticket experiences a serious passenger assistance failure, they are no less deserving of compensation because of the amount they paid for their ticket. The impact on the individual would be no less serious. It needs to be clear to passengers that their complaint, and the circumstances they describe, are being considered on their merit rather than an arbitrary mechanism linked to ticket price.

We therefore agree with the proposal to require all operators to determine redress claims on a case-by-case basis and remove any link between monetary compensation and ticket price.

In determining appropriate redress, an operator should consider the full range of issues that could arise from the failure and its impact on the passenger. Both long and short term.

The responsibility for determining compensation amounts should remain with operators in the first instance, as they are best placed to investigate what went wrong and may have to maintain the relationship with the passenger.

We are aware that the Rail Ombudsman was recently challenged by a disabled passenger who highlighted the disparity between awards it had made for failed assistance, and those awarded in court. The latter being several times higher, despite it being the same instance of passenger assistance failure. When the same passenger later presented a similar case of assistance failure to the Ombudsman, who had subsequently taken legal advice, it took the decision to award a higher amount, closer to that previously awarded by the Courts. It is difficult to see how operators should not be mindful of this when dealing with future passenger assistance failures.

It should be the aim of any operator's complaint handling process to resolve a passenger's complaint before it reaches the Ombudsman. The onus should not be placed on passengers to navigate the extended process of using the Ombudsman

service to get a fair resolution. In short, operators shouldn't look to pass on the responsibility of determining appropriate amounts of compensation in cases where they have clearly let the passenger down.

Given the different processes of operators for dealing with failed assistance complaints, it is likely that there is inconsistency in the way the impacts of those failures are assessed. This includes the determination of any compensation offer.

Would a member of staff who has been given additional accessibility training, regularly deals with disabled complainants, and can easily draw upon the input of an Accessibility Manager, assess a case differently to someone who deals with a wider pool of complaints and isn't able to draw upon the knowledge and experience of someone who truly understand the potential impacts of failed assistance.

Importantly, it should also not be the case that only the most articulate and persistent of complainants receive redress for their poor experiences.

For those reasons we believe that the rail industry needs to look to establish a minimum level of redress for passenger assistance failures, and a guide to the expected levels above that. This would provide both transparency and consistency to passengers, as well as sending a clear signal about the impact of these failures on disabled passengers.

One existing scheme in use in the public sector is that of the Parliamentary Health Service Ombudsman (PHSO) which provides a severity of injustice scale. The PHSO scheme does not suggest standard amounts for specific failings, as they may impact the person differently in different circumstances. The individual facts of each case are considered before deciding what level of redress is appropriate to recommend. The scale is used to make recommendations only for non-financial loss, such as distress.

If the railway were to adopt such a scheme, any recommendation shouldn't preclude payments being made for additional impacts such as Delay Repay, where an assistance failure has resulted in extended journey times. It should also be easily accessible to passengers, in a way that makes it easy to explain the impacts of the assistance failure on them.

We would encourage the rail industry to work with disabled-led organisations, representing the interests of disabled people, and disabled passengers to agree on what any minimum amount and scale should look like.

We would also support efforts to identify and promote best practice amongst train operators when dealing with accessibility complaints, so that a common approach can be adopted as more operators fall under the umbrella of DFTO.

In suggesting this, we are mindful of ORR's duty to consider the cost impact on licensees, and the funds available to the Secretary of State, before making any regulatory change. When weighing up the potential costs, we would however suggest

that the total costs of dealing with a complaint be considered rather than just the final sums offered. From the initial response sent to a complainant, to the submissions made to the Ombudsman after a deadlock letter has been issued.

Without any guidance, it is likely there will continue to be huge disparities in the way some operators provide redress for assistance failures. We believe the above proposal would help bring some consistency to the way operators deal with requests for redress following a passenger assistance failure, ensure operators try and achieve a fair settlement without the need for a passenger to approach the Ombudsman, and hopefully incentivise the industry to address the root cause of problems.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

We have insufficient evidence to comment.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

The current redress requirements of the ATP guidance specifically relate to booked assistance only. With many operators now providing more Turn Up and Go (TUAG) assists than booked, and with a well-documented handover protocol in place at stations, we recommend that you consider whether the redress arrangements should now also extend to Turn Up and Go complaints. Where a member of railway staff has agreed to provide assistance, e.g. help a wheelchair user to board a train, the railway has accepted the responsibility of ensuring the passenger gets the help they need for their journey. Where that doesn't happen the potential impact on the passenger is not lessened just because they haven't requested that help two hours ahead of their departure.

Where the reason for a TUAG assistance failure is clearly identifiable and attributable to the railway, then the railway should seek to put that right in the same way as if the assistance had been booked. We understand some operators already adopt this principle, but that it is not universal. A recent increase in the number of train operating staff now entering turn up and go assists into the passenger assist system has been a positive improvement for passengers. Any widening of the compensation scheme to include turn up and go assistance failures, will need to prompt an assessment of the impact (which could be positive or negative) this might have on the propensity of staff to record TUAG journeys.

We hope the above comments are helpful and would be happy to provide further clarification on any of the points we raise.

## 22. Transport UK Group

We welcome the opportunity to respond to the ORR's consultation on redress requirements in Accessible Travel Policies (ATPs).

We fully support the proposed revision to require a case-by-case approach to redress where booked assistance fails. In our view, this is both legally and ethically appropriate and aligns with our values as a passenger-focused operator group. We recognise the real-world impact of failed assistance and agree that redress must be meaningful, considered individually, and delivered with empathy.

We also note that a case-by-case approach is already applied in practice across our train operating companies. However, we acknowledge that some of our existing ATPs may require minor updates to better reflect this in their formal wording, and we will ensure that these are reviewed and amended as necessary. The costs of implementing those policy changes are minimal.

We have undertaken an internal financial impact assessment in connection with the proposed changes. While we recognise that the potential cost implications could be significant depending on future implementation and passenger expectations, we are committed to working within a framework that places accessibility and fairness at its core. We continue to engage with this agenda seriously and in good faith and will remain closely aligned with the ORR as further guidance is developed.

We appreciate the ORR's leadership in strengthening protections for disabled passengers, and we look forward to continuing our constructive engagement on this and related matters.

## 23. Transport for London (TfL)

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

Transport for London (“TfL”) are the integrated transport authority for London. In respect of this consultation, we are responsible for the London Underground, London Overground and Elizabeth line. We offer a turn up and go service to support customers who need assistance to travel on all these transport services. Our staff are trained to give assistance to customers, including guiding visually impaired customers by the arm and helping wheelchair users get on and off trains. As part of our turn up and go service, our staff will:

Let customers know if there are unplanned disruptions and suggest alternative step free access routes.

Accompany customers from the ticket hall to the platform and help you board the train.

Help customers get off the train at any interchange stations and board the next train.

Help customers get off the train when they arrive at their destination, and accompany them to the ticket hall.

Arrange a mini-ramp or boarding ramp if required.

We also offer pre-booked assistance through Passenger Assist on London Overground, Elizabeth Line and at 30 London Underground stations, where we are the Station Facility Operator. This provides the same services as detailed above in turn up and go.

In addition, London Overground and Elizabeth line staff offer wheelchair assistance to customers. This is not available on London Underground.

We welcome the amendment to the ATP guidance to require all Operators to assess and determine appropriate redress on a case-by-case basis, and that the form or value of redress should not be linked to or limited to the ticket price, or multiples thereof. This reflects the current practice at TfL when assessing instances of failed assistance, whether that be turn up and go or pre-booked assistance through Passenger Assist. These are always considered on a case-by-case basis.

We are always working on improving our services for older and disabled people, but we recognise that despite our best efforts, there are times when assistance is not delivered or is delivered at a lower service level than expected. We agree that redress is a way that we can seek to put things right when we have not delivered assistance, whether that is pre-booked or turn up and go. We offer an apology, a gesture of good will and/or a compensatory payment.

We demonstrate that the incident is being investigated and acted on, whilst also

recognising the impact on our customers. This would assist customers to understand the system and expected outcomes when they engage with individual operators and with operators across the transport network. This may take the form of factors to take into account when assessing levels of compensation, for example, delay to journey, anxiety felt when travelling, or whether there is a long-term impact on customer confidence. It may also include bands of compensation to consider. The only guidance that currently exists is the Vento bands, which start at £1200. Customers seeking compensation refer to these bands, expecting that any payments will start at this level and this is perhaps misleading to customers that this is a minimum level of compensation payable in all matters.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

We do not believe there are cost impacts arising from the proposals as we currently adopt a case-by-case approach, and do not limit or link redress to the ticket price, or multiples thereof.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

We recognise that you state that the ORR will continue to consider that it is not appropriate to provide guidance on the levels of financial compensation that may form part of any redress. However, we feel a framework of guidance on appropriate levels of compensation would be beneficial for our decision-making and to provide clear expectations to customers. This would assist customers to understand the system and expected outcomes when they engage with individual operators and with operators across the transport network. This may take the form of factors to take into account when assessing levels of compensation, for example, delay to journey, anxiety felt when travelling, or whether there is a long-term impact on customer confidence. It may also include bands of compensation to consider. The only guidance that currently exists is the Vento bands, which start at £1200. Customers seeking compensation refer to these bands, expecting that any payments will start at this level and this is perhaps misleading to customers that this is a minimum level of compensation payable in all matters.

## 24. TransPennine Express

Thank you for inviting us to respond to your proposed changes to ATP guidance in relation to redress for Passenger Assistance failures. TransPennine Express welcomes the proposed changes and supports the move as an industry to consider compensation on a case-by-case basis. In this letter, we have set out our thoughts on this in answer to your questions.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

TransPennine Express is fully supportive of this proposal, and recently re-issued guidance to our Contact Centre to ensure that claims for redress which relate to a Passenger Assistance failure continue to be processed in this way. While the wording in our Customer Charter references ticket price, our ATP does not, and we already operate our complaints handling for this category of complaint on a case-by-case basis and therefore agree with the proposals to align all ATPs.

Reviewing claims in this way allows us to consider compensation based on the customer's experience and the impact on their journey and their wellbeing. There are many situations where the cost of a ticket is not an appropriate measure of the experience they have had, and in these circumstances, we are empowered to consider claims on a case-by-case basis and offer a more appropriate payment. It also allows us to consider compensation for people who have not paid for their journey at all, for example if they are travelling on a disabled person's travel pass issued by their local authority.

As a publicly owned and funded train operating company under the Department for Transport Operator (DFTO), it is expected that we take reasonable steps to protect public money while ensuring fair redress for our customers. As such, it is important that redress policies enable case-by-case consideration to ensure that we apply all the facts of an incident and make a fair and justified determination of what is owed to a customer, rather than following a standardised system, and expectation, of paying a set amount for all claims.

The majority of our Passenger Assistance is delivered successfully. At the time of writing, 99% of customers (financial year to date) confirmed through our post-trip survey that they were met 'within a reasonable time frame', and 90% are satisfied or very satisfied with the overall Passenger Assistance service. But failures do occur, and it is important to us that operators accept responsibility and are accountable for

failures which are within their control. We believe that a restrictive method such as using refunds on the ticket price paid by customers can create a culture in which it is easier to pay redress due to it only being a refund than carry out full investigations. Ensuring this is done on a case-by-case basis where the obligations on the operator are to consider the facts and be confident that all responsibilities have been considered encourages a culture of thorough investigations which better enables customers to be informed of lessons learned (thus fulfilling our ATP requirement to explain the reason for an assistance failure) and operators to take actions accordingly. This also aligns to the action in our Passenger Assist Improvement Plan to further improve the complaints investigation process.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

Whilst TransPennine Express does not hold specific evidence quantifying the cost impacts associated with the proposed changes, we believe there are two areas where costs are likely to increase as a result of the proposed changes. We recommend that ORR gives consideration to the following potential implications:

- **Increased Demand for Legal Advice** The potential for a higher number of cases to be assessed against existing legal precedent or frameworks such as the Vento scale (which is currently being widely publicised amongst disability news sources and through disability advocates), is expected to increase the frequency and complexity of legal advice sought by operators. This rise in demand for legal consultation, particularly in cases involving non-financial loss or broader interpretations of customer impact, is likely to result in a significant increase in legal expenditure across the industry. Due to its specialist nature, usually this is not legal advice which can be obtained internally, therefore operators have to seek advice from external lawyers.
- **Higher Volume and Complexity of Customer Cases** The proposed changes may lead to an increase in customers seeking compensation who might not have previously pursued redress, perhaps because they were previously unaware that they could do so, or perhaps because they thought the redress which would be offered wouldn't be worth the effort required to contact an operator about their experience. In terms of understanding the shortcomings of our Passenger Assistance service, we actually see this as a positive, as it will enable us to investigate more incidents and make further improvements to our service based on any trends which we identify as a result.

However, the financial implications of additional claims, and or claims requesting higher amounts of redress, needs to be considered. In the financial year 2024 - 2025, TransPennine Express paid a total of £3,171.92 in Passenger Assistance redress through 90 cases, resulting in an average payment value of £35.24 per case. Even if only 50% of those cases had resulted in the lower band of compensation recommended on the Vento scale (£1,200), this would've increased the value of compensation for that year to over £46,500.

Additionally, the likelihood of escalations (such as referrals to the Rail Ombudsman) is expected to grow, contributing to a greater number of complex cases requiring more detailed investigation and resolution. This is likely to drive the need for increased staffing capacity within Customer Relations teams resulting in further operational costs for the industry.

As we are publicly funded, it is not currently clear whether or not the Department for Transport will provide additional funding in response to any of the above considerations, and therefore we must consider that if these increases in cost do arise that we may have to reduce spending in other areas instead. This could lead to a reduction in spending on accessibility projects, or a reduction in spending in other areas of the business which still have a customer impact but are not directly related to accessible travel.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

Whilst TransPennine Express are supportive of this change and welcome a move to a more customer-focused and consistent approach across the rail industry, there are two areas of further improvement required to achieve this.

Firstly, as a comparatively small operator compared to many others in the industry, we feel that we often pay redress to customers when the failure was caused by another operator fairly often. We only deliver Passenger Assistance to customers at 16 staffed stations but call our trains at many more where the assistance is then provided by another train operator or by Network Rail. There does not currently exist an industry system to recoup the cost from the operator at fault, therefore all operators (including ourselves) don't necessarily have an accurate view of their assistance failures as the complaints are owned by the operator the customer was travelling with, not the one who was providing the assistance. Developing a system to address this would be complex and we believe could even increase the time taken to handle complaints, and therefore a better solution would be to change the ATP guidance in relation to who owns a Passenger Assistance complaint. We understand the need for simplicity for a customer in understanding who they should contact when things go wrong, however we do not agree that that operator must continue to own the complaint even when they are not responsible for the failure. Currently some organisations only operate stations and some only operate trains, meaning there are situations where some never pay any redress and as such do not have the same accountability for assistance failures.

Secondly, this consultation specifically relates to when assistance "fails" and a customer seeks compensation, but there is not currently a consistent definition as an industry as to what constitutes a failure. While handling situations on a case-by-case basis is crucial as every instance is different and each customer is impacted in a

different way by a failure, we believe it is crucial that the industry applies consistent standards to what it sees as constituting a failure and as the regulator of this area we believe the ORR should be a key partner in determining these criteria. We would strongly recommend a change to ATP guidance to allow an operator to pass a complaint to the responsible operator, without requiring the customer make any further contact themselves.

I hope the information provided herein gives ORR assurance of our support for a customer-focused approach to handling failed assistance claims for redress. Should you require any further information then please do not hesitate to contact us.

## 25. Individual 1

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

Compensations should be on case by case for support failure not limited to price of Tickets I believe Operators should apply a case by case monetary compensation no capping of any sort.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

Please consider the costs of Psychiatric and Trauma treatment after being left ALONE ON A DARK RAILWAY PLATFORM WHEN SOMEBODY WHO HAS BEEN PAID TO GIVE . the planned support. on a dark Winter day.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

Investigations should be. TIMELY not taking the lifetime of Service User.

## 26. Individual 2

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

I definitely think it should be done a case by case basis. This allows neurodivergent people like myself to put their 'case' in terms that underscore how hidden disabilities are often overlooked, the anxiety attached to not being assisted and that impact. It can result in withdrawal from travel for a considerable length of time because we have lost our trust in a service.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

I have to admit that I do not know what costs might be entailed in operating an expanded redress claim. I hope this would not mean fares would rise as a result. Surely insurance covers

## 27. Individual 3

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

This is absolutely necessary as the costs incurred, both financial and non-financial, will be very different for each passenger. There cannot be a one size fits all approach as this is completely unfair. The cost of the ticket makes no difference, nor does the length of the journey. When assistance is needed, it is needed and when it does not happen there are implications and these need to be recognised on a case by case basis.

## 28. Individual 4

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

All redress claims should be assessed on a case-by-case basis. The harm and distress caused to an individual because of a failure to provide assisted travel requirements under the ATP could be immense. It must be considered on the merits of the individual with a full understanding of the facts surrounding the particular journey. Capping monetary compensation just to the value of the ticket price was never an intended consequence of the original guidelines. It is the decision of certain operators who have chosen to act unreasonably and against the spirit of the scheme that is at fault.

I am suspecting that those charged with administering redress claims on behalf of train operators have never experienced the anxiety and utter feeling of hopelessness experienced by a disabled traveller when Assisted Travel has been booked (usually provided by the station operator) and it fails to materialise for one reason or another. The result is that the individual if travelling alone, is left abandoned on the train unable to alight. As a wheelchair user, I have suffered this humiliation a number of times, particularly at London Paddington Station, where ramps are poorly located, or the operator has failed to notify station staff correctly and no one has turned up to manipulate the ramps into position. I have frequently been the last person on the train when the staff come through clearing litter before the train begins to fill-up with passengers again. It is an unnerving feeling, at any moment one may be heading off to an unknown destination. There is also an element of embarrassment as passengers offer to assist or try to find a member of station staff. On one occasion, my partner thankfully had been on the platform to meet me. She realised there was no ramp in position and no station staff in sight to assist. She communicated that she would summon assistance. She had to return to the ticket Office and was then directed to somewhere else. During which time the train was again filling with passengers some of whom thought it highly amusing that I was stranded and offered to carry me off. A Seamless transition it was not. When eventually my wife ran up the platform having summoned a station employee brandishing a ramp, the individual offered no apology and did not assist me by standing at the bottom of the ramp to slow the descent. It was an utter shambles from start to finish. You may ask where was the train guard? and why did they not oversee my safe discharge from the train. I can only assume that he or she assumed that the Assistance was in place and left the train from the other end with the other passengers.

Whilst the rolling stock in this country is poorly designed, I have every sympathy with the train guards, (many of whom are now female), who are tasked with manoeuvring the heavy ramps into position, in a very tight time frame. The newer trains have their own ramps stowed in lockers, but there are often operational issues with the footplate and ensuring they are locked securely in place. One would have thought that some form of carbon fibre or duality of material could be utilised to make the task

far less cumbersome and onerous, whilst maintaining passenger safety.

There is often an inaudible sound associated with displeasure when a guard realises that they have a wheelchair user booked to board the train, especially on a cold and wet day they will be charged with stacking steel against steel, to assist that individual on and off the train. In my experience it is rarely the fault of a guard, they are almost always helpful, polite and accommodating. The issue is often with the destination station staff who maintain that they have not been informed that a passenger requires Assistance.

The issues are particularly poor and more frequent when alighting late at night. Frequently, the person charged with meeting the individual has been misinformed of the coach number. As a result, is at the wrong end of the platform.

I am fortunate that I have some upper body dexterity. For manual wheelchair users the steepness of the rail network ramps (when alighting) is not to be underestimated. I fail to understand why station staff are reluctant to assist in making that descent as comfortable and minimally dangerous as possible. If a wheelchair user descends the ramp at pace and hits the platform surface at some considerable speed, they have no method of stopping or avoiding other able-bodied passengers who often are walking past the end of the ramp in haste to exit the station. If on that vital descent, there is a stone, or any rogue form of small debris that can catch under the front castor wheel, the wheelchair user could easily be catapulted forward and ejected from their wheelchair. This is a universal design fault with sports wheelchairs, and the smaller the front wheel the greater the capacity for occurrence. It is not an uncommon occurrence in regular street use for full-time wheelchair users to find themselves unexpectedly ejected from their chair because of a twig or some object that has jammed the castor wheel halting its rotation and usually forcing it to jack-knife. This is the catastrophic moment when we are at high risk of head injury or upper limb fractures. Experienced self-propelling wheelchair users will be adept at identifying hazards on pedestrian highways, but when descending long ramps at speed it is much more difficult to observe one's line of sight.

Whilst the claimants will by no means all be wheelchair users, it is another reason why the claims needed to be assessed on a case-by-case investigation. The passenger's expectation and requirement will be vastly different according to the form of Assisted Travel they require and the station operator's fulfilment criteria and the agreed delivery of the ATP with the ORR.

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

The system of booking Assisted Travel is unnecessarily cumbersome and should be a one-stop action when booking with the operator. Currently, the mechanism is complicated depending on the route, operator and time and date of travel. Often requiring numerous telephone conversations, to establish the correct stakeholder and one inevitably spends considerable time regurgitating one's travel destination and details. Once on the train, it is sensible to have the guard ring ahead to ensure the destination station are aware of the passengers needs and that the Assisted

Travel booking is in place. Very often they deny knowledge of it. In a modern intellectual society it should not be like this.

The UK government's policy on the Access For All Programme and the newer Inclusive Transport Strategy frequently discusses that the journey for disabled passengers should be straight forward, unencumbered and not discriminate. We know that this is political rhetoric and there are a myriad of issues facing passengers with disability. Many of which surround poor signage, badly designed infrastructure, and inconsistent communication between train operators and third parties. There is routinely no foresight to warn a severely disabled individual that there are lifts out of service on their journey and they will have to divert to an alternative destination or consider alternative transport. It happens perpetually and is the most common failing across our rail network. TfL is particularly at fault, when in a number of stations, they have only one lift and it has been out of service for days. The operator has a duty to provide a safe means of access for all rail users to the platform level. For passengers with mobility impairment, passengers travelling with heavy luggage, or parents travelling with infants in buggies, not having lifts that are operational is unacceptable and there should not only be redress for those suffering delay or having to abandon travel plans, but severe fines should be levied on the operator for failing to maintain the lifts they operate. When travelling across London on both the London Underground, Overground and DLR there are routinely lifts out of service, and no warning on TfL network Apps or Journey Planners of the service being severely impacted, especially for passengers who require step free access.

## 29. Individual 5

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

As a wheelchair using regular traveller on the GB rail network who regularly encounters assistance failures this would be a welcome move, however it does not address the true issue with the redress system. TOC's do not proactively offer compensation to aggrieved passengers and many front line to mid level customer support representatives either do not have knowledge of the system or actively work to prevent claims. Many appear to be under the impression that redress is capped at the cost of a ticket or is only applicable if you have been delayed and should therefore be claimed via the DR process. In one recent case I was repeatedly offered £0.56 and told the TOC in question were ""legally prohibited by national guidance from the ORR fro offering a higher amount"" as redress for a case of serious direct discrimination, only after nearly 6 months and the involvement of the ombudsman was I awarded suitable redress totalling £5500, it does not need to be this difficult.

Many TOC's seem to have a policy of only escalating such claims once the rail ombudsman has been contacted at which point redress is often provided but this is a slow, long and stressful process especially considering the claimant's will definitionally have a disability, this administrative burden on claimants is patently unnecessary and often borders on discrimination itself.

For instance over the course of 20 assistance failures I have never had a successful redress resolution within 40 working days of complaint, each complaint averages 6 emails to the TOC and often the completion of rail ombudsman paperwork. This is an extreme burden to place on people who have already been failed by the rail networks lack of accessibility and amounts to a part time job for regular travellers. I urge the ORR to press forward with this proposal but also to investigate streamlining the process for claiming redress, with a standardised process and targets for TOC's to meet regarding time to provide redress.

## 30. Individual 6

1. This is my response to ORR's consultation on amending its requirements regarding redress for failures to provide pre-booked passenger assistance in its Accessible Travel Policy ("ATP") Guidance.

About me

2. I am a wheelchair user and have a hearing impairment. I am a regular user of the rail network and have significant personal experience of using both pre-booked assistance and the "Turn Up and Go" service (a service which enables disabled passengers to receive assistance at train stations without needing to book it in advance).

The background to the proposal

3. ORR's consultation materials note that 12% of passengers surveyed were unable to complete their journey at all or as planned because their pre-booked assistance was not provided. Worse still, only 23% made a claim for redress. This is consistent with my lived experience. Pre-booked assistance is very frequently not provided, and there is widespread underenforcement of passengers' rights to redress.

4. Having been through the redress claim system many times myself, I believe that there is a widespread practice of train operating companies limiting the financial redress they provide to passengers by reference to the cost of the ticket (by means of "Capping Provisions"). That deters passengers from enforcing their rights (as they believe it is not worth the hassle) and undercompensates those who do seek to enforce their rights.

5. In a letter before action sent to ORR earlier this year, I set out examples of train operating companies whose ATPs appear to contain Capping Provisions. I append that letter before action, which should be treated as forming part of my consultation response.

6. However, it is also my belief that if ORR were to audit the redress offered by operating companies, it would find that a much greater number of train operating companies cap the redress by reference to the ticket price in practice (even if their ATPs do not state that they will do this). I therefore believe that there is a real problem of train operating companies merely paying 'lip service' to the need to assess cases on an individual, case-by-case basis.

7. For example, concerning an assistance failure I experienced at Euston Station. Network Rail initially offered me an "explanation" and no redress. The Rail Ombudsman upheld my complaint and awarded me an explanation and £125.00. I refused and took legal action. The Court awarded "a declaration that the Defendant discriminated against the Claimant by failing to make reasonable adjustments on 6 March 2023 in that it failed to escort [REDACTED] from the First Class lounge to the departure platform of the Caledonian Sleeper" and £1,325.

8. For a subsequent incident of failed assistance, Network Rail admitted assistance failure but once again offered no redress. Following my advocacy to the Rail Ombudsman, the Ombudsman awarded me £1,200.

What is ORR proposing to do?

9. ORR proposes to:

a. Amend its ATP Guidance to require all train operating companies to determine redress for failed assistance where it has not been delivered as booked on a "case-by-case basis" (which is reflected by amending the word "may" to "must" in the

following sentence of A8.1: “The form and, where appropriate, value of this redress must be determined on a case-by-case basis”); and b. No longer approve ATPs which stated or implied that the form or value of redress would be limited or linked just to the ticket price or a multiple thereof.

**Consultation Question 1:** What are your views on the proposal to require operators to determine all redress claims on a case-by-case basis? This would mean operators removing any provisions from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or a multiple thereof. Please explain your answer, providing evidence wherever possible.

**Response:**

(i) The ATP Guidance should be amended – the “do nothing” option would be unlawful

10. ORR is right to amend its ATP Guidance so as to ensure that financial redress is considered on a case-by-case basis, without any Capping Provision. In my letter before action, I explained in detail why I consider that ORR has acted unlawfully in approving ATPs containing Capping Provisions previously. The key points are these:

a. Train operating companies are subject to two parallel regimes.

The first regime is the Equality Act 2010, and in particular the obligation to make reasonable adjustments under s.29.

The second regime is the Passenger Rights and Obligations Regulation EC 1371/2007 as retained (the “PRO 2007”). Article 21(2) states that: “In the absence of accompanying staff on board a train or of staff at a station, railway undertakings and station managers shall make all reasonable efforts to enable disabled persons or persons with reduced mobility to have access to travel by rail”. Article 22 obliges station managers to provide assistance to disabled users to ensure that they are able to board or disembark a particular rail service where a rail service passes through a staffed station.

b. Pre-booked passenger assistance and the Turn Up and Go service are part of how train operating companies comply with these legal obligations.

c. If the train operating company breaches its obligations under either regime, they have a legal obligation to compensate the passenger by paying them damages for financial losses and for their injury to feelings. See ss.119(4) of the Equality Act 2010, and regulations 11(1) – (2) of the Rail Passengers’ Rights and Obligations Regulations 2010.

d. Awards of damages for injury to feelings are assessed by reference to the Vento bands. In civil equality claims outside of the employment context, courts have nevertheless referred to the Presidential Guidance revising the Vento bands in the employment tribunals (see e.g. *Durrant v Chief Constable of Avon & Somerset Constabulary* [2017] EWCA Civ 1808). The current Presidential Guidance sets the lowest limit of the lower Vento band at £1,200.

e. Section 4(1) of the Railways Act 1993 provides that ORR shall exercise its non-safety functions “in the manner which it considers best calculated” to, inter alia, “promote improvements in railway service performance” (ss.(zb)) or “otherwise to

protect the interests of users of railway services” (ss.(a)). In carrying out that duty, ORR must have regard “in particular to the interests of persons who are disabled” (s.4(6)).

f. ORR must also have regard to any guidance given by the Secretary of State (s.4(5)(a)). The guidance published by the Secretary of State states, amongst other things, that the Secretary of State “wishes ORR to use its powers to hold the industry to account for its obligations to passengers under licences and wider consumer law” (§5).([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/908433/Guidance\\_to\\_the\\_office\\_of\\_rail\\_and\\_road.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908433/Guidance_to_the_office_of_rail_and_road.pdf))

g. ORR also has a duty to use its licensing powers “to take the measures necessary to ensure the [PRO 2007 (as retained)] is complied with”: Rail Passengers’ Rights and Obligations Regulations 2010, reg.13(2).

h. The ATP Guidance amounts to ORR policy on how it will exercise its statutory function of granting licences and approving ATPs. The express purpose of the ATP Guidance is to ensure that train operating companies are complying with their obligations to provide redress consistent with the Equality Act 2010 and PRO 2007 (see paragraph 1.3.11).

i. Against that background, when the ATP Guidance requires train operating companies to provide “appropriate redress” for failures to provide pre-booked passenger assistance, “appropriate” must be assessed by reference to the legal liability of that train operating company to their passenger. In this way, their legal liability to pay damages under the Equality Act 2010 and/or PRO 2007 must form part of the yardstick against which a redress scheme, system or policy is to be measured.

11. The “do nothing” approach would just continue the status quo, which has given rise to the widespread industry deployment of Capping Provisions. This would serve to continue unlawful conduct and would tacitly condone the widespread under-compensation of disabled passengers within the rail industry.

(ii) The ATP Guidance should go further

12. I am concerned that ORR’s proposal does not go far enough.

13. Firstly, I believe that the ATP Guidance should be more prescriptive:

a. The rail industry turns a blind eye to the fact that (1) failures to provide assistance to disabled passengers will amount to a breach of relevant equality law obligations on the part of train operating companies, and (2) that in these circumstances, train operating companies are under a legal obligation to pay damages reflecting not only the financial loss incurred by the passenger (which will often include the cost of the rail ticket, if they had to make alternative travel arrangements) but also damages reflecting injury to feelings.

b. Simply stating that operators must determine the form and value of redress on a case-by-case basis does not hammer home to train operating companies what they need to take into account in this regard.

- c. The ATP Guidance should state that in determining the value of any redress, the train operating companies must comply with their existing legal obligations to provide compensation for both financial and non-financial injury (including injury to feelings), including pursuant to ss.119(4) of the Equality Act 2010, and regulations 11(1) – (2) of the Rail Passengers' Rights and Obligations Regulations 2010.
- d. The ATP Guidance should also require the ATPs of train operating companies to state expressly (for the benefit of disabled passengers) that train operating companies will comply with their existing legal obligations to provide compensation for both financial and non-financial injury (including injury to feelings), including pursuant to ss.119(4) of the Equality Act 2010, and regulations 11(1) – (2) of the Rail Passengers' Rights and Obligations Regulations 2010.
- e. I note that one of the adverse impacts of your proposed amendment to the ATP Guidance is said to be: "Risk of less transparency for passengers on the potential value of a redress offer from some operators". My suggestion above would increase transparency in this regard. It will signal the applicable legal regimes (in what is otherwise a dense legal landscape). It will also signal that compensation should reflect both financial and nonfinancial losses. This will help passengers identify what their losses have been, for the purposes of claiming redress.
- f. In this regard, I am concerned by the statement in paragraph 2.4 of your consultation document, which says: "Recent decisions of the courts and the Rail Ombudsman have indicated that appropriate compensation in some instances of failed assistance will be higher than the price of the ticket". With respect, this understates the position. The proper legal position is that where pre-booked assistance is not provided to a passenger without good reason, that passenger will be legally entitled to an award of damages to reflect their injury to feelings, alongside an award of damages to reflect any financial loss which they have suffered. Given the current Vento bands, I would suggest that the true position is that appropriate compensation will be higher than the price of the ticket in nearly all cases of failed assistance.
- (iii) ORR should provide guidance on financial redress amounts
14. ORR states: "We continue to consider that it is not appropriate for ORR to provide guidance on particular levels of financial compensation that may form part of any redress.". No explanation is given for this position.
15. This stance is inconsistent with ORR's approach elsewhere. ORR routinely prescribes delay compensation amounts, sets hotel and alternative transport cost repayments and establishes financial frameworks, for example for track access charges. Why should assistance failure compensation be different?
16. Other bodies provide such guidance. The Rail Ombudsman (ORR-sponsored) publishes compensation frameworks based on court precedents. Courts reference established frameworks (Vento bands) and EHRC guidance on redress for discrimination.

17. Guidance would benefit everyone: operators would have certainty, passengers would know their rights, and it would drive improvements in disabled passengers' travel experience - all consistent with ORR's Public Sector Equality Duty.

18. Without guidance, the current proposal risks operators maintaining informal ticket-price caps whilst appearing compliant. (iv) ORR should not allow train operating companies to avoid complying with their legal obligations on grounds of cost

19. I note that ORR has requested evidence from train operating companies about the cost impact that the proposed amendment would have on them.

20. I also note that one of the adverse impacts of ORR's proposal on industry is considered to be the fact that "May lead to a rise in disputes or escalation" and "Additional administration burden and potential increase on resources".

21. It would be unlawful for ORR to fail to take the steps necessary to ensure that train operating companies are complying with their legal obligations to compensate disabled passengers for failed assistance, on the grounds that complying with those legal obligations will cost the train operating companies money.

22. To the extent that the changes lead more passengers to seek the compensation to which they are due, that is precisely the objective.

23. It is within the gift of train operating companies to make reasonable offers of compensation, and thereby to minimise the number of passengers who need to escalate their claims to obtain proper redress.

24. The legal obligations of train operating companies include the obligation to pay financial compensation, to include an award in respect of injury to feelings, where failed assistance is a breach of their obligations under the Equality Act 2010 or PRO 2007. That obligation arises once the passenger's cause of action is complete. It does not require an Ombudsman, Court or Tribunal ruling to exist.

**Consultation Question 2:** Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

**Response:**

Nil response

**Consultation Question 3:** Do you have any additional comments on other matters in the ATP Guidance that relate to the redress requirements?

**Response:**

25. The ATP Guidance currently only requires train operating companies to provide appropriate redress in cases where they fail to deliver pre-booked passenger assistance.

26. In my view, the ATP Guidance should be revised so as to extend this obligation to failures to provide a Turn Up and Go service in accordance with the ATP.

27. Restricting the obligation to provide appropriate redress to pre-booked assistance failures creates an unjustifiable two-tier system. This approach places undue pressure on disabled passengers to book assistance in advance in all circumstances, implies that failures to provide Turn Up and Go assistance are

somehow less deserving of redress, and reinforces the rail industry's misguided fixation on pre-booked assistance at the expense of disabled passengers' fundamental accessibility rights.

28. The provision of a Turn Up and Go service forms part of how train operating companies comply with the relevant legal obligations (including the obligation under PRO 2007 for station managers to provide assistance to disabled users to ensure they can embark and disembark from trains passing through a staffed station).

29. In its 2019 response to an earlier ORR consultation, the Equality and Human Rights Commission has described Turn Up and Go as reflecting “the fundamental right to spontaneous travel” under Article 19 of the UN Convention on the Rights of Persons with Disabilities and warned that train operating companies must not lead passengers to believe that they must only rely upon pre-booked passenger assistance when travelling. I append a copy of that consultation response. Please see pp.7 – 8.

30. There is no good reason why the ATP Guidance should draw a distinction between the provision of pre-booked assistance on the one hand and the Turn Up and Go service on the other, for the purposes of the requirement to ensure appropriate redress.

I am grateful for the assistance of legal representatives in writing this consultation response.

## Appendix to Individual 6's response.

# Our response to the Office of Rail and Road consultation on improving assisted travel

### Consultation details

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**Title of consultation:** Improving Assisted Travel: a consultation on changes to guidance for train and station operators on Disabled People's Protection Policy (DPPP)

**Source of consultation:** Office of Rail and Road (ORR)

**Date we submitted our response:** March 2019

### For more information please contact

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## About the Equality and Human Rights Commission

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The Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights. We are committed to our vision of a modern Britain where everyone is treated with dignity and respect, and we all have an equal chance to succeed.

The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It encourages compliance with the Human Rights Act 1998 and is accredited at UN level as an 'A status' national human rights institution (NHRI) in recognition of its independence, powers and performance.

The Commission has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws, and to publish information or provide advice on any matter related to equality, diversity and human rights.

## Introduction

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Access to accessible, affordable transport underpins individuals' ability to participate in all aspects of social and economic life, and to live independently.

In our 2017 review *Being Disabled in Britain*<sup>1</sup> we noted that disabled people continue to face a number of issues accessing transport services, ranging from the physical design of transport modes and stations to attitudinal and psychological barriers experienced as a result of poor staff training and knowledge. We recommended that the rail industry undertake more work to improve the quality and consistency of assistance it provides, and noted that the Passenger Assist scheme required further improvement to ensure it meets the needs of disabled people.

We made similar recommendations in our report to the UN Committee on the Rights of Persons with Disabilities in 2017<sup>2</sup>, proposing that the UK and devolved governments ensure that public transport staff are equipped with the skills and knowledge to assist disabled passengers; that trains provide accessible real-time travel information; and ensure that accessibility is built into infrastructure and planning processes. The UN Committee expressed similar concerns and made a number of recommendations along the same lines<sup>3</sup>.

Our recent state of the nation report *Is Britain Fairer? 2018*<sup>4</sup> sets out too how transport services are at risk of becoming increasingly inaccessible to disabled people and older people, particularly because of a lack of proper planning in the design and delivery of transport services. As such, access to transport has been identified a potential priority in our draft new Strategic Plan, which will be published shortly.

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<sup>1</sup> [Being Disabled in Britain, Equality and Human Rights Commission 2017](#)

<sup>2</sup> [Disability rights in the UK: updated submission to the UN Committee on the Rights of Persons with Disabilities, Equality and Human Rights Commission 2017](#)

<sup>3</sup> [General comment No. 5 \(2017\) on living independently and being included in the community, Committee on the Rights of Persons with Disabilities 2017](#)

<sup>4</sup> [Is Britain Fairer? Equality and Human Rights Commission 2018](#)

## Summary

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We welcome the ORR's commitment to improving passenger experiences and outcomes, particularly the commitment to improving the quality of information available to disabled passengers; raising awareness of available assistance and routes to redress when things go wrong; improved staff training; and greater involvement of disabled people in the development of policy and staff training. This approach will support disabled people in the realisation of their rights to accessible services and to live independently as part of their communities, as set out in Articles 9 and 19 of the UN Convention on the Rights of Persons with Disabilities<sup>5</sup>.

We note that the draft guidance clearly sets out relevant legislation, including reference to the Equality Act 2010 and the Human Rights Act 1998. We welcome this clarity.

However, we consider that there is insufficient emphasis on how section 20 of the Equality Act 2010 (the reasonable adjustments duty - see below) affects train and station operators, and recommend that the guidance is revised to provide greater detail on how transport providers might meet this duty.

## Equality and human rights

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All public authorities in Britain including the Office of Rail and Road and Network Rail have obligations under the Human Rights Act 1998 and the Equality Act 2010. Regulators such as the Office of Rail and Road have a particular responsibility to help ensure that their sectors meet these obligations.

Complying with obligations under equality and human rights law is not only a matter of legal compliance; it enables public bodies and service providers to deliver good quality, appropriate and accessible services to all customers.

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<sup>5</sup> [Convention on the Rights of Persons with Disabilities, United Nations](#)

## How the Equality Act 2010 relates to transport

Train and station operators have specific obligations under the Equality Act 2010.

The Equality Act 2010 protects individuals with protected characteristics, such as disability and age, from discrimination and promotes a fair and more equal society. There are specific provisions which relate to transport service provision for disabled people<sup>6</sup>.

Section 20<sup>7</sup> of the Act also places a duty on transport service providers to make reasonable adjustments. This applies to the way vehicles are operated, for example, by requiring train or station staff to assist a person with a mobility impairment in getting on and off a train, or by a bus driver telling a visually impaired person when they have reached their stop. It may require a service to be provided in a different way.

The duty to make reasonable adjustments also includes providing auxiliary aids and services, such as hearing loops in stations, information in alternative formats, and ramps; these may be reasonable adjustments and, if so, the transport provider must provide them.

In addition, section 149<sup>8</sup> of the Equality Act 2010 requires public authorities and those exercising a public function to comply with a general duty to **have due regard** to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups

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<sup>6</sup> [Part 12: Disabled Persons - Transport, Equality Act 2010](#)

<sup>7</sup> [Section 20: Duty to make adjustments, Equality Act 2010](#)

<sup>8</sup> [Section 149: public sector equality duty, Equality Act 2010](#)

## **How the international human rights framework relates to transport**

Accessibility is a precondition for independent living and the full inclusion and participation of disabled people, and to enable them to enjoy all other human rights, including rights to work, rights to education, and rights to leisure and recreation.

There are a number of provisions within international treaties which either relate to, or can be applied to, the topic of transport. These are, in particular, Articles 9 and 19 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

### **Article 9 - Accessibility**

UNCRPD Article 9<sup>9</sup> requires States Parties to ‘take appropriate measures to ensure’ disabled people have equal access to ‘the physical environment, to transportation, to information and communications...and to other facilities and services open or provided to the public both in urban and rural areas’. This could include ensuring private providers consider accessibility issues, implementing accessibility training, and providing information in accessible formats and assistance when accessing services. As with s.20 of the Equality Act 2010, obligations around accessibility are anticipatory: that means the state and its agents need to take proactive steps to provide accessible services rather than wait for requests.

### **Article 19 - living independently and being included in the community.**

Although UNCRPD Article 19<sup>10</sup> on independent living does not explicitly refer to transport, it is clearly of central importance to achieving this right. The UN Committee on the Rights of Persons with Disabilities has made it clear, through its authoritative interpretation of Article 19,<sup>11</sup> that access to transport is a key part of ensuring that disabled people have choice and control over all aspects of their lives in order to enable independent living, and for full and effective inclusion and participation in all areas of life on an equal basis with others. Article 19 says that States Parties ‘shall

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<sup>9</sup> [Article 9 – Accessibility, United Nations Convention on the Rights of Persons with Disabilities](#)

<sup>10</sup> [Article 19 – Living independently and being included in the community, United Nations Convention on the Rights of Persons with Disabilities](#)

<sup>11</sup> [UNCRPD General Comment No 5 on Living Independently and Being Included in the Community, 2017](#)

take effective and appropriate measures to facilitate full enjoyment' of this right by disabled people.

## Accessible Travel Policies

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We welcome the proposal to rename Disabled People's Protection Policy to Accessible Travel Policy as we believe this will increase awareness of the support available to passengers with a range of impairments, and make support relevant to those who do not necessarily identify as disabled, but who may require assistance.

We also welcome the proposal to simplify and streamline the passenger leaflet so that disabled and other passengers have the necessary information available to them, and in a variety of accessible formats.

However, we believe that the passenger leaflet should make it clear to travellers that there is **no requirement to use the Passenger Assist scheme in order to travel**. The Commission believes that by relying on Passenger Assist alone, train and station operators may not be fully meeting their obligations under s.20 of the Equality Act 2010.

This emphasis should also be picked up in the policy document.

## 'Turn up and go' versus Passenger Assist

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The Commission believes that spontaneous travel is fundamental to the rights of disabled people in realising their right to independent living, under Art.19 of UNCRPD.

While Passenger Assist provides a valuable service, and the proposals in the guidance will undoubtedly assist in improving and streamlining the provision of assistance to disabled passengers, we believe that additional emphasis should be placed on the operator's duty to make reasonable adjustments, and to ensure that passengers are not led to believe they must only rely on Passenger Assist as standard when travelling.

We note from the consultation document that a mystery shopping exercise by the ORR into passenger experiences of 'Turn-up-and-go' (TUAG) services revealed that 86% of participants were either very or fairly confident about TUAG in future. In contrast, 70% of potential users of Passenger Assist were either unaware of the scheme, or knew little about it. As such, we agree with the proposals to raise awareness and would be happy to support the ORR, the Rail Delivery Group and industry in delivering this activity.

We know that the majority of stations in London work as TUAG and believe that if operators fully meet their duty to make reasonable adjustments, a service much closer to TUAG as standard will be possible at mainline stations. By encouraging train and station operators to meet the duty to make reasonable adjustments, the guidance can support disabled people's right to travel independently.