Consultation on Accessible Travel Policy (ATP) Guidance redress requirements (HTML)

1. Introduction

1.1 Passenger Assistance is a free service for older and disabled passengers who may require help to be able to access rail travel. Sitting alongside broader efforts to make rail travel accessible to everyone, it is designed to reduce the barriers to travel that older and disabled people may face.

1.2 Our ongoing survey of passengers that have booked assistance shows that satisfaction with assistance when it is provided is relatively high but that the service is not reliable enough.

1.3 In the year 1 April 2023 to 31 March 2024, among those who were met and received assistance, 94% were satisfied with the assistance they received. However, 12% of passengers said they did not receive any of the assistance they had booked.

1.4 The consequences of an assistance failure will vary from case to case. In many cases, passengers will still be able to complete their journey, though their journey experience may be negatively affected. In other situations, they may experience uncertainty, incur additional costs, or their confidence to travel may be lowered. In the worst cases, passengers can be on a train unable to alight without assistance and without information on when or if assistance will arrive. This can leave the passenger feeling powerless and increasingly frustrated.

1.5 Redress is a way that operators can seek to put things right for a passenger where they have failed to deliver booked assistance. 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.

Whatever form it may take, it is a way in which passengers can receive assurance that failures are being investigated and acted upon, and for operators to recognise the impact of the failure on passengers.

Regulatory framework

1.6 Operators are required, as a condition of their operating licence, to establish and comply with an Accessible Travel Policy (ATP), setting out what they will do to help disabled people use the railway. Operators must secure ORR's approval for their ATP, as well as for any subsequent material changes. Our ATP Guidance sets out the minimum requirements against which we assess operators' ATPs.

1.7 As public service providers, operators also have a duty under section 29 of the Equality Act 2010 to make reasonable adjustments to accommodate services for disabled passengers. Passenger assistance is one of the ways the railway makes reasonable adjustments for older and disabled people. A failure to provide pre-booked travel assistance to disabled passengers may, under certain circumstances, constitute a breach of this duty and render operators liable to pay compensation for the passengers' financial and/or non-financial loss (i.e. injury to feelings). Such incidents should be assessed on a case-by-case basis and on the merits of their individual facts.

1.8 Operators are also bound by similar rail-specific obligations that derive under retained European legislation (for example, articles 21 and 22 of the Passenger Rights and Obligations Regulation EC 1371/2007 as retained ("PRO 2007")). These Regulations, as transposed in the UK domestic law by the Rail Passengers' Rights and Obligations Regulations 2010, provide rights for disabled persons and persons with reduced mobility, including assistance during travel and financial compensation, if this assistance is not provided.

1.9 The ATP redress requirements run in parallel with and remain unaffected by other legal obligations operators may be subject to as service providers under general consumer legislation.

Redress

1.10 Our ATP Guidance requires operators to commit to providing appropriate redress to passengers where assistance has been booked but has not been provided as confirmed by the operator, due to a failure of the assistance service.

1.11 Operators are required to provide an overview of the claims process, which must be simple, straightforward and clear, and to promote it to passengers, including through their passenger leaflet and website. However, the volume of redress claims remains low. Between 1 April 2023 and 31 March 2024, 455 respondents to our survey were either unable to complete their journey, or unable to complete it as planned due to not being met in a timely manner or not receiving the assistance they had booked. Of these, only 108 (23%) made a claim for redress.

1.12 A passenger's redress claim must be owned by the operator of the train the passenger was travelling on, or due to travel on, when the failure took place. This means that train operators always take ownership for redress claims, including in those cases where Network Rail, or another station operator, was responsible for delivering the assistance. Where there are multiple failures in a single journey, one operator must coordinate a single response. Taken together these measures provide a "single front door" for passengers to submit a claim. We are not proposing to review these requirements at the present time given the forthcoming rail reforms which will bring many train operators under a single body, Great British Railways (GBR).

1.13 It is for the operator to determine the form and, where appropriate, value of any redress. Redress is not necessarily a form of financial compensation. It could be an apology, a gesture of good will, and/or a compensatory payment. Our ATP Guidance sets out that best practice is to determine redress on a case-by-case basis to allow operators to consider the circumstances of the case. In all cases, the operator must explain to the passenger why the assistance was not provided and provide reassurance that action has been taken to prevent the same failure from happening again. A redress claim from an individual therefore helps to drive improvements in the services that will benefit other older and disabled passengers too.

Complaints

1.14 Under their operating licence, operators must establish and comply with a Complaints Handling Procedure (CHP). If a passenger is unhappy with their experience of assistance, then they can make a complaint to the operator, and the operator must respond in line with its CHP. If the passenger and operator are unable to reach a resolution, then the passenger can escalate a complaint to the Rail Ombudsman.

1.15 All operators are required under their licence to be a member of the Rail Ombudsman (with the exception of Eurostar that, as an international operator across several jurisdictions, is a member of a different scheme). This means that passengers who are dissatisfied with the

outcome of a redress claim can complain to the operator and, if they remain dissatisfied with the response, escalate a complaint to the Rail Ombudsman. The Rail Ombudsman assesses complaints on a case-by-case basis.

1.16 Operators are required to promote the Rail Ombudsman to passengers, including making passengers aware of the Rail Ombudsman in their acknowledgements of complaints, and formally signposting passengers to its services when they have exhausted the complaints process.

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