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

3. Draft Equality and Regulatory Impact Assessment

Introduction

3.1 ORR is proposing to amend the ATP Guidance to require all operators to always determine redress on a case-by-case basis. The objective of the proposal is to ensure that operators actively assess each redress claim on its own merits so that decisions are fair and proportionate. In making a case-by-case evaluation an ATP requirement, we are seeking to promote accountability and better outcomes for older and disabled passengers.

3.2 As a public body, ORR is required by the Equality Act 2010 (EA2010) to comply with the Public Sector Equality Duty (PSED).

3.3 ORR must, in every policy decision that could affect individuals with protected characteristics—either positively or negatively— have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations between all groups.

3.4 This draft assessment combines regulatory and equality considerations against our proposal for all operators to always determine redress on a case-by-case basis. It records analysis we have undertaken to understand the impact both on rail passengers and industry. The intended beneficiaries of the proposal are rail passengers who book assistance to travel on the rail network.

This will include older and disabled people who need assistance to access the rail network. Pregnant women may also benefit from the proposal. These specific groups will be the focus of our passenger assessment.

Evidence

3.5 Our proposal has been developed based on our assessment of information available in operators' individual ATP policies, and data we collect through our ongoing passenger survey. We have also taken into account recent court and Rail Ombudsman decisions.

3.6 We recognise that we do not hold all the information needed to understand particular impacts of the proposal, such as the potential costs to operators. Our consultation asks stakeholders to provide supporting evidence on this, which we intend to feed into this evolving assessment where appropriate.

Policy options being considered

3.7 The draft assessment discusses two options:

- Option 1: Amend current ATP Guidance by requiring all operators to always determine appropriate redress on a case-by-case basis.
- Option 2: Maintain current ATP Guidance which sets out as good practice that appropriate redress may be determined on a case-by-case basis (this is the "do nothing" option).

Analysis

3.8 We summarise below the potential regulatory and equality impacts of our proposal on older and disabled people and industry, relative to options one and two and each one is assessed as either having a positive or adverse impact. Our equality assessments are grouped under our PSED duties.

3.9 Overall, our analysis suggests that our proposal under option one will contribute towards a reduction in discrimination, an advancement of opportunity, and may help foster good relations for older and disabled people. It should improve fairness, proportionality and passenger confidence with the redress process. It also promotes operators' increased learning and

continuous improvement which can support them in preventing future cases of passenger failed assistance.

Option 1 Amend current ATP Guidance

Older and disabled people

Positive impact

- Reduction in discrimination
    - Requires consideration of individual experience when assistance fails, and the impact of the failure on the passenger.
- Advancing equality of opportunity
    - Adopts measures to tailor the form of redress to the harm or disadvantage caused.
    - Should reduce the burden of complaints and escalation if cases are considered on a case-by-case basis at the first tier (i.e. operators).
- Fostering good relations
    - Is likely to increase passenger confidence because they are being treated as an individual, and the circumstances of their case are taken into account.
    - Reduces the risk of passengers being discouraged from making a claim if appropriate redress appears to be limited or linked just to the price of a ticket.

Adverse impact

- Risk of less transparency for passengers on the potential value of a redress offer from some operators.
- Risk of inconsistent approaches between operators in terms of how they apply a case-by-case approach, though there is inconsistency in approaches to redress already.

Industry

Positive impact

- Operators' consideration of the circumstances of each case may increase opportunities for learning and continuous improvement.

Adverse impact

- May lead to a rise in disputes or escalation.
- Additional administration burden and potential increase on resource.

Option 2: Maintain current ATP Guidance

Older and disabled people

Adverse

- Passengers may be discouraged from submitting a claim for redress when their assistance fails, where operators' ATPs could be seen to limit or link redress with just the ticket price as they could perceive it to be more trouble than it is worth.

Industry

Positive

- Current practices remain unchanged.

Adverse

- Operator's ATPs which link redress with the ticket price could mean that they are less equipped to improve, as they may not be prompted to thoroughly investigate the failure on a case-by-case basis.

Evidence of engagement and involvement

3.10 This is a draft assessment and subject to completion once the consultation has closed and we have made our final decision. Therefore, our analysis will remain incomplete until we have reviewed the evidence from the consultation responses. We are publishing this draft assessment now in order to help facilitate engagement with stakeholders during the consultation process.

- ← Previous 2. Our proposals
- → Next Annex A: List of consultation questions