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

2. The case-by-case approach

2.1 This section provides a summary of responses to consultation question one: our proposal to require operators to determine all redress claims on a case-by-case basis. It also includes a summary of the feedback we received in response to question two, regarding the potential cost impacts of this proposal.

2.2 We received feedback on a range of other wider issues on redress. We respond to these areas in section 3, "wider issues".

Proposal to require a case-by-case approach

2.3 **Question 1** of our consultation asked the following: 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.

2.4 This means that there would be a one-word change to the ATP Guidance so that, going forwards, the form and, where appropriate, value of redress "must" be determined on a case-by-case basis, rather than "may."

Summary of responses

Broad support

2.5 Overall, we received broad support for our proposal to require redress claims to always be determined on a case-by-case basis. This included 13 operators who confirmed they adopt this approach already.

2.6 A central theme in the responses was the recognition that every redress case is unique and should be assessed on its individual merits. As one operator noted, "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."

2.7 A few passenger groups and one member of the public agreed that a case-by-case approach ensures both financial and non-financial impacts on passengers are fully acknowledged, reflecting the harms caused to an individual passenger. One operator noted that the full consideration of each incident will enable passengers to be informed of lessons learned and support continuous improvement by operators.

2.8 A few Government-owned operators noted the importance of balancing protecting public money with providing fair redress. Therefore, redress policies should adopt a case-by-case approach so that operators can apply "all the facts of an incident and make a fair and justified determination of what is owed to a customer", rather than applying a fixed, standardised amount for all claims.

Capping or limiting redress

2.9 Several respondents, including five members of the public, stated they were opposed to either capping the financial component of redress or basing compensation solely on the ticket price.

2.10 A number of operators and passenger organisations noted that redress which is linked to the ticket price is not always appropriate, for example, for passengers who use free travel passes or have concessionary trips. In some cases, the ticket value might be so low that offering the cost of the ticket would be out of proportion to the impact experienced by the individual.

2.11 One disabled passenger organisation suggested that capping redress "minimises the harm

caused by accessibility failures, disincentivising meaningful service improvements, and risks treating redress as a routine refund exercise rather than a genuine act of accountability." Another respondent added that blanket compensation policies such as limiting payments to the ticket price "will not consider the effect failed assistance may have had on the person."

Cost impacts of case-by-case

2.12 **Question 2** of our consultation asked the following: Please submit evidence to us if there are particular cost impacts for operators arising from our proposals that we need to consider.

2.13 A summary of responses is provided below.

Summary of responses

Evidence of cost impacts

2.14 Almost all operators who responded to the consultation did not provide quantitative evidence on any cost impacts arising from the proposal to adopt a case-by-case approach, with some noting they did not expect any impacts, mainly due to them already adopting a case-by-case approach.

2.15 A couple of operators provided rough cost estimates to their operations. One rail owning group and its operator reported undertaking internal financial impact assessments.

2.16 Several operators raised points around potential cost impacts including as follows:

- Five noted that the proposal for a case-by-case approach may lead to an increase in the frequency and complexity of legal advice sought by operators.
- Two felt that the proposed changes may lead to more passengers seeking compensation, including those who might not have previously considered pursuing redress.
- Three expressed views that operational costs across teams could rise due to a greater number of complex cases needing more detailed investigation and resolution.
- One rail owning group and its operator said that costs could be significant depending on implementation and passenger expectations.
- Two noted being publicly funded, and that if costs were to rise, and funding is limited, they may need to cut spending in other areas, including investment in accessibility related projects or other services with customer impact.

- A local transport authority expressed a view that, as the industry moves towards public ownership, any financial costs will ultimately fall on the taxpayer, and that financial sustainability must therefore be a key consideration.

2.17 In addition, points were raised by operators about the applicability of Vento bands to their considerations on financial compensation. We address the use of Vento bands in section three "wider issues".

ORR decision and next steps on case-by-case approach

2.18 We have considered the consultation feedback, and whilst we acknowledge that the policy decision may lead to some cost increases for industry, we consider that these are justified by the anticipated benefits for older and disabled passengers.

2.19 We will write to all operators to request that they review their ATP content on redress and make any appropriate amendments to implement the case-by-case approach. Operators will need to remove any provision from their ATPs that cap or appear to be capping monetary compensation just to the ticket price or multiple thereof. Where financial compensation forms part of redress, we recognise that a refund or partial refund of the ticket price could be appropriate, depending on the circumstances of the case, and this remains a decision for the relevant train operator.

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