



PUBLIC SECTOR EQUALITY DUTY & REGULATORY IMPACT ASSESSMENT

Changes to Accessible Travel Policy Guidance sections relating to Rail Replacement Services

Date: 16/9/20

Section 1: Introduction

This document records the current version of analysis undertaken by the Office of Rail and Road (ORR) to enable the organisation to fulfil the requirements placed on us by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. The PSED requires the decision maker to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

In undertaking the analysis that underpins this document, where applicable, ORR has also taken into account the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and in particular:

- Article 9: (Accessibility), which requires appropriate measures to be taken to ensure disabled people have access to transportation on an equal basis with others; and
- Article 31: (Statistics and Data), which requires appropriate information, including statistical and research data, to be collected and disseminated.

In lieu of a separate Regulatory Impact Assessment, this document also records the analysis undertaken to understand the impact of ORR's proposals on disabled and non-disabled passengers, passenger and station licence holders and bus and coach operators.

Section 2: Brief outline of policy or service

Train and station operators (hereafter referred to as “operators”) are required by their operating licences to establish and comply with an Accessible Travel Policy (ATP), which must be approved by ORR (licence condition 5). An ATP sets out, amongst other things, the arrangements and assistance that an operator will provide to protect the interests of disabled people using its services and to facilitate such use.

In order to inform its approval of ATPs, ORR relies on a document now titled “Accessible Travel Policy; Guidance for Train and Station Operators” (the “Guidance”), published on 27 July 2019. This Impact Assessment considers the impact of changes made to the Guidance in respect of the provision of rail replacement services. It forms an addendum to the Equality Impact Assessment and Regulatory Impact Assessment published alongside the Guidance.

The previous 2009 Disabled People's Protection Policy Guidance did not impose any requirements on train operators to ensure that rail replacement buses and coaches were accessible. In developing the revised ATP Guidance, ORR therefore sought views on proposals to improve the accessibility of substitute and alternative transport provided by train operators during disruption to rail services. This culminated in the inclusion in the Guidance at paragraph A6.2 of Section 4 of a new requirement that, in cases of planned disruption, operators must use reasonable endeavours to secure accessible rail replacement services (and where they are unable to secure such services, to set out why).

Following publication of the Guidance, ORR received a challenge on behalf of an individual that caused us to re-consider this position. One particular issue raised was the decision by ORR not to make it a mandatory requirement for all new ATPs to provide for accessible rail replacement buses where disruption is planned or reasonably foreseeable. The challenge proposed that compliance with relevant law required ORR to amend the relevant licence condition or guidance to ensure that buses and coaches providing rail replacement services during planned disruption comply with the Public Service Vehicles Accessibility Regulations 2000 (PSVAR). To inform our re-consideration we sought legal advice on the applicability of PSVAR, which requires all single and double deck buses and coaches to have accessibility certificates; we published this legal advice on our website on 30 September 2019.

We received a small number of responses to this legal advice; these were published on the ORR website with the exception of one, which was provided to us subject to legal privilege, so we have not published it. We took all these responses into account in the final legal advice we published on 6 February 2020. We also received another submission raising further legal points after publishing the final legal advice and have subsequently considered those further points as well; we do not consider that they materially alter the conclusion we have reached on the law.

Our legal advice concluded that buses and coaches used for rail replacement services are required to comply with PSVAR if they provide a 'local' or 'scheduled' service, unless the vehicle is exempt¹; it is our understanding of the services provided by operators that rail replacement services will usually be either 'local' or 'scheduled' services.

However, the Secretary of State for Transport can permit coach and bus operators that provide rail replacement services to apply for time-limited special authorisations pursuant to section 178 of the Equality Act 2010, providing exemptions from the requirements of PSVAR. Such special authorisations were introduced on 21 April and are currently in place from 1 May until 31 December 2020.

Between 20 December 2019 and 14 February 2020, ORR consulted on draft proposals for any possible revision of paragraph A6.2 and to introduce further requirements on the provision of information regarding planned disruption. These proposals were based on representations received from industry on our provisional legal advice and the evidence we subsequently gathered. Alongside that public consultation we published a draft Impact Assessment.

¹ N.B. There is an exemption which may apply to rail replacement services provided by vehicles which are 20 years old and which are only used for that purpose less than 20 days a year.

This final Impact Assessment considers the equality and regulatory impacts of final revisions of a number of paragraphs, including A6.2; these extend to updating our requirements on the provision of information regarding planned disruption. This assessment is based on a wide range of information, including the representations received from industry on our provisional legal advice, responses to our public consultation from a range of stakeholders and individuals and other evidence we have gathered. The final Guidance is published online at: <https://www.orr.gov.uk/media/10955>.

Section 3: Changes to the Guidance

Four options are discussed in this Impact Assessment, presented here in ascending order of departure from the current Guidance:

1. No change to the current Guidance
2. Amend the Guidance by requiring that, with immediate effect, all buses and coaches used as a rail replacement be PSVAR-compliant (either directly, or by requiring that train operators contract only with suppliers of accessible vehicles), with the exception of those subject to special authorisations at present – this would mean that any breach of the PSVAR is also a breach of the train operator’s licence.
3. Amend the Guidance to require that operators take appropriate steps to source PSVAR-compliant vehicles through requirements in contracts with vehicle suppliers, alongside a series of additional information requirements – and thus, the licence obligation would be to take measures to source compliant vehicles.
4. Alternatively, amend the current Guidance by requiring that, with immediate effect, all buses and coaches used as a rail replacement be PSVAR-compliant (either directly, or by requiring that train operators contract only with suppliers of accessible vehicles), including those subject to special authorisations at present – this would mean that any breach of the PSVAR is a breach of the train operator’s licence, and goes further by not allowing any dispensation to those vehicles currently covered by the special authorisations.²

² Option 4 has been included to reflect the views of those consultation respondents that argued only PSVAR-compliant vehicles should be permitted to be used for rail replacement and to represent an option ORR also considered prior to the decision by the Secretary of State to issue special authorisations.

The equalities and regulatory impacts of these four options are assessed in detail in Annex A. As part of the public consultation, we received a number of additional proposals to improve the provision of accessible rail replacement vehicles and deliver a better experience for passengers, which we consider are either unsuitable for monitoring and enforcement via passenger and station operator licence conditions, require a change in legislation or require action by industry bodies not covered by the Guidance. Our assessment of these is provided at Annex B. We also received proposed amendments to our consultation proposals, which we have decided not to include in the Guidance for a variety of reasons. Our assessment of these is provided at Annex C.

Section 4: Evidence

Our Guidance changes have been developed based on:

- i) information we sought from operators and other stakeholders on the accessibility of buses and coaches used, and available, for rail replacement over the past 12 months;
- ii) responses to our requests for further information as part of the public consultation; and
- iii) the Rail Delivery Group (RDG) plan “Rail Replacement Vehicles – a pathway to regulatory compliance”³.

Where we have identified that we do not hold the information needed to understand particular impacts of these proposals, we have taken reasonable steps to seek it. These steps included asking operators to provide detailed quantitative and qualitative information on the provision, deployment and usage of rail replacement bus and coach services during both planned and unplanned disruption to better understand the extent to which PSVAR-compliant vehicles are used. The steps also included asking disabled people for their experiences of using rail replacement services, as part of the public consultation. Responses to our September 2019 draft legal advice and our public consultation are published on the ORR website.⁴

³ Available online at: <https://www.raildeliverygroup.com/component/arkhive/?task=file.download&id=469776205>

⁴ <https://orr.gov.uk/rail/consumers/consumer-consultations/consultation-on-accessible-travel-policy-guidance-accessibility-of-rail-replacement-services>

Data on accessible vehicles

The data we collected demonstrated that whilst buses used for rail replacement are overwhelmingly accessible (99.96%), the opposite is true of coaches; of more than 55,000 coaches used in 2019 (predominantly by long-distance operators) only 175 (0.3%) were PSVAR-compliant. Over the year, the average number of coaches used per rail period was over 4,400. Information from the Confederation of Passenger Transport estimates that, although around 2200 PSVAR-compliant coaches have been built, 1000 are still in use on scheduled services, whilst of the remainder half have had their lifts removed once they were no longer used on scheduled services. As a result, there were only around 600 accessible coaches potentially available for rail replacement work at any one time, but the extent to which they could be deployed during a specific incidence of disruption would be dependent on their geographical location and existing commitments. For instance, the large supplier First Travel Solutions indicated in its consultation response that First Group train operators in the north of England (to which it supplies vehicles) are more likely to need to use coaches due to the longer routes and distances between stops but less likely to be able to get hold of compliant ones. RDG has indicated that of the almost 500 coaches it identified were in theory available for rail replacement work at any one time, only half would in practice be available given competition from other markets (e.g. school / leisure). RDG compared these figures with the over 950 vehicles it estimated were required during Easter 2020 engineering works. In its consultation response, the transport group Abellio reported that the number of coaches required each day for weekends in March 2020 to operate during engineering works in Scotland exceeded the total number of available PSVAR-compliant coaches across its UK supply chain.

When taking buses and coaches together, only 40% of vehicles used as a rail replacement in 2019 were PSVAR-compliant. Although there has been an increased focus on this issue, RDG reports that in February 2020 only 60% of vehicles used during planned disruption were compliant, whilst 30% of vehicles used during unplanned disruption were compliant.

Section 248 of the Transport Act 2000 requires that substitute road services provided instead of rail services shall, as far as reasonably practicable, allow disabled passengers to undertake their journeys safely and in reasonable comfort. From a safety and comfort perspective, train operators and rail owning groups have argued that coaches are more suitable than buses for longer-distance journeys (but see pp9-10 for disabled people's own views). Those operators running long distance services therefore tend to use coaches, and as a consequence a greater percentage of vehicles that are not PSVAR-compliant. When a coach is used, disabled passengers who are unable to access these vehicles are offered alternatives (usually a taxi). When asked in September 2019, only eight operators were able to provide us with data on this alternative provision, which meant that we had an incomplete national picture.

Rail replacement journeys

We have been keen to understand more about the journeys undertaken on rail replacement vehicles, but the scarcity of the data available from operators in 2019, coupled with the limitations of the data that was provided, has made it difficult to draw any firm conclusions. In response to our consultation questions, we received additional data from a small number of train operators. Of note, c2c has indicated that during recent disruption none of the 12,807 passengers using its rail replacement services were wheelchair users or 'mobility impaired', despite its use of low-floor buses. Avanti indicated it provided on average 11 accessible taxis per rail period (i.e. every 4 weeks). We know that the number of disabled people using rail replacement is low compared to total users; however we suspect there are also significant numbers of older passengers with luggage that require assistance to travel by rail, but who may not require accessible road transport.

Availability of suitable accessible vehicles

In response to our request for comments on our provisional legal advice, we also received a number of detailed responses from operators focussing on the availability of accessible vehicles and on the implications of applying PSVAR to rail replacement services. These responses from train operators highlighted the lack of available PSVAR-compliant vehicles in the bus and coach market which is particularly acute in rural areas, and questioned whether there are sufficient incentives on coach companies to invest in PSVAR-compliant coaches to meet what they suggest is limited demand in terms of suppliers' overall business. We received more detail on this in First Group companies' responses to the consultation and in RDG's published plan: the cost of retrofitting existing vehicles or procuring new ones is significant (the cost of retrofitting a coach is roughly £30,000 - estimated at £165m across industry - and outright purchase of a compliant coach around £250,000 - estimated at £1.4 billion across industry). In addition, the evidence presented to us shows that coach companies are more likely to invest in the necessary upgrades to meet urban emissions standards (Clean Air Zones, Ultra Low Emission Zones), which will enable them to continue with their core business (RDG estimates 60-80% of this is home to school transport⁵). Meanwhile, Southeastern has suggested to us that its rail replacement supplier Go Ahead London has seen a reduction in the number of companies on its framework since mandating the use of compliant vehicles in its supply contracts.

⁵ N.B. Certain coach operators also have special authorisation to operate non-PSVAR compliant coaches for use in home to school transport under particular circumstances, initially until 31 December 2021.

Nonetheless, it was clear in these responses that in 2019 most train operators did not include requirements for the provision of PSVAR-compliant vehicles in either their contract tender documents or the contracts themselves. Furthermore, even where requirements are included it is possible that, mirroring the concern the passenger champions Transport Focus and London TravelWatch expressed to us in their consultation responses, cheaper non-compliant coaches may be used in preference over more expensive compliant coaches.

Some operators have suggested to us that the limited availability of PSVAR-compliant vehicles may impact on their readiness to agree to Network Rail's programme of planned engineering designed to increase, maintain and improve infrastructure; we understand that at least one transport-owning group is now working with Network Rail to review this programme.

There was also the suggestion from a number of operators that the low number of PSVAR-compliant vehicles would mean that, if PSVAR compliance became a requirement, they would either be unable to provide any PSVAR-compliant rail replacement services or only a limited number of them. They suggested this would impact on all passengers including disabled passengers (with and without mobility needs), and create safety issues where potentially large numbers of passengers were at the station, unable to travel for lengthy periods of time whilst waiting for a suitable vehicle.

Finally, the suitability of PSVAR-compliant vehicles in some circumstances was highlighted. In particular, train operators noted the problems faced by passengers even when travelling on PSVAR-compliant vehicles where the station does not have accessible stops at which a wheelchair lift can be deployed, as well as the limited utility of PSVAR-compliant low-floor buses on long-distance routes where the lack of seat belts and luggage storage may create comfort and safety issues (although we have seen first-hand how Blackpool Transport has mitigated these latter issues through the use of dedicated low-floor buses that have additional facilities).

The impact of non-accessible vehicles on passengers

PSVAR reflects the importance of ensuring that disabled people, and in particular wheelchair users, are able to access the same local and scheduled bus and coach services as persons who do not have a disability or persons whose disability gives rise to different needs. ORR recognises the role of accessible rail replacement services in terms of eliminating discrimination against disabled people and in advancing equality of opportunity for this cohort. Ensuring that public transport is accessible to all is an important way of fostering the inclusion of disabled people in everyday life. We recognise that wheelchair users are particularly negatively impacted by a lack of PSVAR-compliant vehicles supported by trained drivers and suitable kerbside infrastructure. We

also understand that, while blind and visually impaired people may be able to travel on non-PSVAR-compliant vehicles, compliant vehicles offer vital features that enable them to travel more easily.

However, we also recognise that different passengers have different needs: only a quarter of Passenger Assist users – themselves a subset of disabled travellers – require the use of a ramp to board and alight trains, and by extension lifts to board and alight coaches⁶. As was noted in consultation responses, other disabled passengers, such as those with autism, and users of Passenger Assist (many of whom are making use of the luggage assistance service) may benefit from or indeed prefer to use alternative transport such as taxis.

As part of the public consultation, we sought to understand the extent to which passengers with different impairments and needs have a preference for a particular mode of transport. Overall, responses indicated that journeys may be long or uncomfortable even on PSVAR-compliant vehicles, with poor signage, shelter or lighting at the kerbside and potentially a significant distance between station entrance and the kerb. Nonetheless, amongst individuals, passenger champions, disabled people's organisations and rail user groups that responded to the relevant questions, coach was the most popular rail replacement service, followed by local low-floor bus. Taxi was the least preferred option; respondents indicated it was the least inclusive option and that waiting times for an accessible taxi could be lengthy due to limited availability in some locations.

In addition, we have considered evidence from the focus group research carried out by Transport Focus⁷, in which rail passengers express a preference for coaches (including scheduled coaches where these are a suitable alternative) over rail replacement buses, whilst acknowledging that suitable provision has to be made for disabled passengers on all rail replacement services. This research also recommended taxis be used for longer journeys. More recently, in its response to our provisional legal advice on the applicability of PSVAR to buses and coaches used as rail replacement services, Transport Focus highlighted the consensus view reached in its recent Accessibility Forum that some form of accessible transport must be provided on all occasions of disruption, although it was agreed that this may be harder to arrange for unplanned disruption.

⁶ Experiences of Passenger Assist research by Breaking Blue 2019/20, published online at: <https://orr.gov.uk/rail/consumers/what-we-do-for-consumers/orr-research-into-passenger-experiences-of-assisted-travel>

⁷ <https://www.transportfocus.org.uk/research-publications/publications/rail-passengers-experiences-and-priorities-during-engineering-works/>

We have also considered responses to the Improving Assisted Travel consultation we published in November 2018, which sought views about methods to improve the accessibility of substitute and alternative transport provided by operators, amongst other improvements we proposed to make to assisted travel. These were encapsulated in our summary of consultation responses published on 27 July 2019.⁸ In that document we acknowledged the evidence provided to us of the potential difficulties caused to some passengers when a suitable accessible alternative to rail cannot be provided; this includes disabled passengers requiring access to toilet facilities and those with non-wheelchair mobility needs who may find the step height to enter the vehicle challenging.

Section 5: Analysis

Our duties under PSED are to have due regard to the need to:

Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010.

Advance equality of opportunity between people who share a particular protected characteristic and people who do not share it.

Foster good relations between people who share a particular protected characteristic and people who do not share it.

This document is primarily focussed on the protected characteristics of disability, and age where this may result in the need for an accessible vehicles and / or assistance. The consultation invited comments in relation to any other particular protected characteristic which consultees considered may be affected. We received only one comment highlighting that travellers with small children were also impacted by vehicle accessibility. We have received no evidence that people who share any other protected characteristic are impacted.

Our overall objective in this area is to ensure all passengers can travel safely and with confidence and ease, including people with disabilities. For disabled people who need assistance to do so, they should be able to request and receive it. We recognise that the option which most advances equality of opportunity for disabled people and which would best foster inclusion between disabled people and non-disabled people generally, and wheelchair users and others that depend on the facilities provided under PSVAR specifically, is one which ensures that all rail replacement services are PSVAR-compliant. However, in assessing the options, we must also recognise the practical realities faced by operators at the present time, the fact that special authorisations are in use at

⁸ https://orr.gov.uk/data/assets/pdf_file/0012/41520/improving-assisted-travel-summary-of-consultation-responses-and-orr-response-july-2019.pdf

present under the Equality Act 2010 due to the limited availability of accessible coaches, and the implications of all this for passengers. Finally we must act in accordance with our wider statutory duties.

We therefore developed the following objectives to help guide our proposals:

- rail replacement services should continue to be provided so that all passengers can travel successfully when there is disruption;
- the ATP Guidance must reflect the law;
- all disabled passengers should be able to use rail replacement services, but efforts should be concentrated on those who require an accessible vehicle, particularly when operating non-PSVAR-compliant vehicles under special authorisations; and
- the wider improvements to the provision of assisted travel and passenger information required by our ATP Guidance should continue to be implemented without delay.

We have also taken into account ORR's various other statutory duties that may apply in exercising our economic or safety functions. We included a more detailed description in chapter 3 of the consultation document of our economic duties as set out in section 4 of the Railways Act 1993, but in summary they include:

- to promote improvements in railway service performance;
- otherwise to protect the interests of users of railway services;
- to promote efficiency and economy on the part of persons providing railway services;
- to have regard to the interests, in securing value for money, of the users or potential users of railway services, of persons providing railway services or of the persons who make available the resources and funds and of the general public; and
- to have regard, in particular, to the interests of persons who are disabled in relation to services for the carriage of passengers by railway or to station services.

ORR also has safety duties that could, for example, require us to ensure that train operators consider any potential impact on passengers and railway staff of the use, or changes in the provision of, rail replacement services

We must therefore take the regulatory approach we consider appropriate, bearing in mind all our competing duties and considerations, including our public sector equality duty.

Our role here is to consider, in accordance with our statutory duties, how train operators should enable passengers to make journeys using accessible transport, with a view to advancing equality of opportunity for disabled people, and passengers who cannot currently access rail replacement services in particular.

Decision making

In the light of the legal advice we have received on the applicability of PSVAR to rail replacement services, and taking into account the impact on wheelchair users and other passengers with mobility impairments who are unable to access rail replacement coach services, we consider it is appropriate to strengthen the requirements we impose on operators as set out in the Guidance. We consider that, in particular, requiring train operators to take appropriate steps to avail themselves of available accessible vehicles is likely to advance equality of opportunity between wheelchair users and other passengers, given the evidence that this may not have been taking place in the past. For these reasons, we are minded to take appropriate action to improve the situation, and therefore we do not propose to adopt Option 1 (no change to the Guidance).

Whilst ORR has powers to take enforcement action under the licence where obligations are breached, and apply prioritisation criteria to help us focus our resource and priorities, breach of the PSVAR is a criminal offence enforced by the Driver and Vehicle Standards Agency (DVSA). We therefore consider that Option 2 - requiring as a licence condition that, with immediate effect, all buses and coaches used as a rail replacement be PSVAR-compliant (either directly, or by requiring that train operators contract only with suppliers of accessible vehicles), with the exception of those subject to special authorisations at present – is not appropriate (because it will have the effect that any individual breach of PSVAR is also a licence breach). Instead, we have engaged in positive discussions with DVSA about agreeing a memorandum of understanding to formalise, clarify and strengthen our respective monitoring and compliance activities.

Similarly, we do not consider that it would be appropriate at this stage to seek to go further in the licence by disregarding what the special authorisation regime itself permits under the PSVAR for buses and coaches. This would be inconsistent with the current legal position which itself is intended to reflect the practical constraints on operations. Taking this course would be likely to lead to a substantial reduction, and possibly even cessation of those rail replacement services, which would undermine one of our key objectives and is not in the interests of passengers as a whole.

We are therefore also minded not to proceed with option 4 (strengthening the current Guidance by requiring that, with immediate effect, all buses and coaches used as a rail replacement be PSVAR-compliant, either directly or by permitting train operators to contract only with suppliers of accessible vehicles). Buses used in rail replacement services are already required by law to be accessible; the same is true of coaches not operated under special authorisations.

Balancing our public sector equality, economic and safety duties, we consider that we should adopt Option 3 and thus amend the ATP Guidance to influence train operators' behaviour to support the greater availability and use of PSVAR-compliant vehicles in rail replacement services, including during the period of special authorisations. A fuller explanation of the changes are set out in the public ORR response to the consultation⁹; an assessment of their potential impacts is provided in **Annex A**:

- On the provision of rail replacement services;
- On passengers who are unable to access non-PSVAR-compliant vehicles, including wheelchair users;
- On all other disabled passengers;
- On all other passengers, including those with protected characteristics; and
- On rail, bus and coach operators.

We have also provided in **Annex A** the same assessment for option 3.

Taking into account the views of respondents to the consultation, we therefore consider that this package of Guidance changes (Option 3) is likely to be an appropriate and effective method of advancing equality of opportunity for all disabled people and other people with protected characteristics. This package also avoids the potential negative impacts of doing nothing or introducing measures that may limit all passengers' ability to travel safely during disruption, and means that DVSA and ORR's enforcement roles are distinct.

We consider that by making the proposed amendments to the Guidance we will be taking positive steps towards advancing equality of opportunity for disabled people, as well as fostering good relations between those with and without disabilities. We do not at present consider that it would be appropriate to go further than this towards options 2 or 4 in our Guidance, and in any event to do so may risk curtailing rail replacement services more generally.

Monitoring and evaluation

In November 2017 ORR published its Economic Enforcement Policy and Penalties Statement. This sets out our approach to these matters in accordance with section 57B of the Railways Act 1993. We recognise the role of DVSA in monitoring and enforcing

⁹ Available online at: <https://www.orr.gov.uk/search-consultations/consultation-accessible-travel-policy-guidance-accessibility-rail-replacement>

compliance with PSVAR. We are aware that DVSA has a published enforcement sanctions policy. We are working with DVSA on a Memorandum of Understanding to clarify and strengthen its plans for monitoring compliance with and enforcing PSVAR, alongside our own.

In terms of ORR, we have powers to take enforcement action under the licence where obligations are breached, and we apply prioritisation principles criteria to help us focus our resources in a way that will deliver most value from our interventions. These prioritisation criteria apply across most of our discretionary enforcement activities. We focus our resources and priorities on systemic issues or one-off events of material significance and those aspects of compliance which are most important to passengers and where non-compliance would cause most harm. In deciding whether to take enforcement action for example in relation to ATP Guidance for rail replacement, we would seek evidence to demonstrate the steps taken (or not taken) by train operators to meet requirements of the ATP Guidance.

Our regulatory approach is to routinely collect and publish core data from train operators to monitor their compliance with regulatory obligations and inform any further action which may be necessary. This includes information about alternative accessible transport provided during disruption and ongoing research into the experience of passengers using Passenger Assist, including those travelling during disruption and those using alternative accessible transport. The data we have obtained from train operators demonstrates that most do not record the use of PSVAR-compliant vehicles. It is important that we understand the extent to which PSVAR-compliant vehicles are used and whether there is progress being made in this area. Therefore, from autumn 2020 we will collect data on the level of compliance with PSVAR for rail replacement services, the use of non-PSVAR-compliant vehicles and the number and types of alternatives provided (e.g. taxis), as well as the number of complaints that are received by train operators where the alternatives provided have fallen short of expectations of safety, comfort and timing. In addition, we are monitoring the training of bus and taxi drivers on rail replacement duties as part of our wider reporting requirements for disability awareness training, and we will require train operators to report to us as part of their annual ATP review the steps they have taken to review their contracts with suppliers of rail replacement vehicles.

Where available, we will also draw on our sources of information such as any post-blockade reviews conducted by Transport Focus and RDG monitoring.

This monitoring, alongside our work on an MoU with DVSA, will help enable ORR to evaluate the impact of the ATP changes on advancing equality of opportunity for, and fostering good relations with, disabled people.

Annex A – Table of Guidance change impacts

Guidance Change	Impact on provision of accessible rail replacement services	Impact on passengers that require PSVAR-compliant vehicles (incl wheelchair users)	Impact on other disabled passengers	Impact on other passengers (incl those protected under EA2010)	Impact on rail, bus and coach operators ¹⁰
A4.3 Operators must set out how they will take appropriate steps to procure, through explicit requirements in tenders for contracts with vehicle suppliers, the use of accessible PSVs that are compliant with PSVAR and alternative accessible vehicles for use where, for whatever reason, substitute transport is provided	[+] Train operators will be incentivised to contract with (and potentially pay a premium to) different suppliers that have available accessible vehicles that were not previously in use on rail replacement services; RDG has already published evidence of train operators transporting accessible vehicles across the country to secure their use. ¹¹ There will	[+] Substitution of coaches for low-floor buses, and / or an increase in the usage of available accessible coaches should result in increased accessibility and advanced equality of opportunity for some passengers. ¹²	[+] More people may travel by accessible coach rather than taxi, thereby advancing equality of opportunity, particularly passengers e.g. visually impaired people who can travel on a non-compliant vehicles but for whom a the facilities of a compliant vehicles offer considerable benefit. Since coaches are also preferred to buses, this	[=] Minimal impact (positive or negative) overall; passengers will continue to use rail replacement services as now. However, any substitution of coaches for low-floor buses on longer routes in the near-term could result in a reduction in comfort and facilities e.g. luggage for certain passengers, including older travellers.	[+] Potential revenue benefit for bus operators with compliant vehicles (we understand this revenue increase may be up to 30% per vehicle depending on availability, though we have received evidence that coach day rates for rail replacement work do not incentivise investment in accessible vehicles.)

¹⁰ We recognise that cost and revenue impacts on train operators may ultimately fall on rail franchising authorities whilst Emergency Measures Agreements are in place. For more details of the arrangements in England, see: <https://www.gov.uk/government/speeches/rail-emergency-measures-during-the-covid-19-pandemic>. Similar arrangements are in place in Scotland and Wales.

¹¹ “Rail Replacement Vehicles – a pathway to regulatory compliance” (RDG, 2020)

¹² N.B. while 26% of Passenger Assist users require a ramp to board a train, not all of these passengers would require a boarding aid on a coach; conversely, not all passengers able to board a train via a ramp would be able to make use of such a boarding aid (e.g. lift or ramp) to board a coach

<p>to replace rail (e.g. because of planned engineering works, industrial action or a replacement timetable).</p> <p>A4.4. Such contracts must be reviewed annually to consider any changes in the availability of accessible vehicles.</p>	<p>therefore be greater utilisation of the existing pool of accessible vehicles.</p> <p>[=] In addition, there may be some substitution of low-floor buses for coaches at the margins.</p> <p>[-] Given marginal nature of rail work to coach operators and competing investment priorities, unlikely to drive investment in compliant vehicles by coach operators without external incentives (funding, legislation).</p>		<p>may result in people using Passenger Assist who would otherwise choose not to travel during disruption.</p> <p>However, Transport Focus data suggests 55% of all passengers would rather not travel if it is a bus rather than a train – disabled people are more likely than the average passenger to prefer a diverted train than a replacement bus and passengers over 65 are more likely not to travel at all.</p> <p>[=] The option of travel by taxi or another suitable alternative would remain for passengers unable to access a PSVAR-compliant vehicle, and may be increased. (In 2018-19, 97% of users of Passenger Assist who were transported by taxi were satisfied with the assistance they received.)</p> <p>[-] Any Substitution of</p>		<p>[-] Whilst buses are already compliant, potential to increase value of compliant coaches, thereby increasing rail operators' operating costs for longer distance journeys. (We understand from one owning group that this may be up to 30%).</p> <p>[-] Potential to add to the cost of tendering for rail replacement contracts, given the current difficulties of sourcing accessible coaches.</p> <p>[-] Additional reporting requirement to ORR from passenger licence holders.</p> <p>[+] In the longer term, reputational and revenue benefit for rail operators that provide accessible vehicles.</p> <p>[-] Potential for negative revenue impact on coach operators that do not have compliant</p>
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			coaches for low-floor buses may result in reduction in comfort and facilities e.g. luggage		vehicles and choose not to acquire them, and negative impact on costs of meeting tender requirements for operators that do choose to procure vehicles (we have received evidence that the cost of compliance in retrofitting facilities is £30,000 per vehicle). [+] Prevents 'double jeopardy' monitoring and enforcement of use of PSVAR compliant vehicles, as limits ORR regulatory oversight to procurement process.
A4.5 At least 12 weeks before all major planned engineering works, operators must take appropriate steps to: a. assess the requirement for accessible PSVs that are compliant with PSVAR and	As per A4.3, but in addition: [+] This will incentivise operators to increase the number of PSVAR-compliant vehicles and accessible alternatives that are used during major planned disruption. It will not negatively impact on	[+] As per A4.3, but we may expect more immediate impacts from accessible vehicles being used during major planned disruption, where available.	[+] As per A4.3, but we may expect more immediate impacts from accessible vehicles being used during major planned disruption, where available. [+] Reduces waiting times for passengers relying on alternative accessible travel during	[+] As per A4.3, but this drives more immediate impacts from accessible vehicles being used during planned disruption, where available – RDG figures of 60% coach PSVAR compliance during planned disruption in February 2020 indicate additional focus on this	As per A4.3, but in addition: [+] Additional reputational benefit. [-] Additional costs of ensuring sufficient numbers of accessible taxis are available on demand during major planned disruption.

<p>alternative accessible vehicles for use as substitute transport; and</p> <p>b. where necessary, procure the use of such vehicles.</p> <p>A4.6 Operators must, [...] during all major planned engineering works, ensure waiting times for alternative accessible transport are similar to those for PSVs.</p>	<p>the overall provision of rail replacement services.</p>		<p>major planned disruption.</p>	<p>issue from train operators can improve accessibility considerably.</p>	
<p>A2.3.1c ...where passengers have booked assistance in advance through Passenger Assist that, because of service disruption [...] is no longer valid, operators must set out how they will contact passengers to inform them, provide them with information on the use of rail replacement services and discuss with them their individual needs and</p>	<p>[=] No impact on overall provision of rail replacement services.</p>	<p>[+] Advances equality of opportunity; ensures that when operators contact - in advance of travel -passengers who have booked assistance when there is service disruption, those passengers will be able to make informed travel decisions based on the accessible transport options open to them.</p> <p>[+] Advances equality of opportunity; ensures that passengers have accurate and useful information about the</p>	<p>[+] Advances equality of opportunity; ensures that when operators contact - in advance of travel -passengers who have booked assistance when there is service disruption, those passengers will be able to make informed travel decisions based on the accessible transport options open to them.</p> <p>[+] Advances equality of opportunity; ensures that passengers have accurate and useful information about the</p>	<p>[=] No impact (with the exception of older and other passengers who may book assistance, who would benefit in the same way as disabled people).</p>	<p>[+] More passengers may travel if they have confidence their needs will be met during disruption.</p> <p>[-] Additional burden of sourcing and providing the extra detail re vehicle accessibility.</p> <p>[-] Train operators already publish information about service information during disruption. Although additional costs may be incurred and new industry</p>

<p>preferences in coming to alternative arrangements...</p> <p>Operators must also set out for planned disruption how they will:</p> <ul style="list-style-type: none"> inform passengers, including those with mental, sensory or intellectual impairments, in advance with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey; provide them with information on the use of rail replacement services and 		<p>accessible travel options during planned disruption before making a decision to travel.</p> <p><i>N.B. Operators are already required to provide information to passengers on board trains and at stations during disruption, whether they have booked or not.</i></p>	<p>accessible travel options during planned disruption before making a decision to travel.</p> <p><i>N.B. Operators are already required to provide information to passengers on board trains and at stations during disruption, whether they have booked or not.</i></p>		<p>processes required to ensure this covers the accessibility of rail replacement services, the provision of better information is already part of RDG's plan "Rail Replacement Vehicles – a pathway to regulatory compliance".</p>
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<p>discuss with them their individual needs and preferences in coming to alternative arrangements</p>					
<p>Option 1 (NOT IMPLEMENTED). No change to the current Guidance.</p>	<p>[-] Weaker provision of accessible rail replacement services compared to ORR's preferred option, as operators make maximum use of special authorisations, rather than taking steps to procure PSVAR-compliant vehicles.</p>	<p>[-] Whilst special authorisations continue, allows non-PSVAR compliant vehicles to be used in rail replacement services; fails to increase accessibility or advance equality of opportunity for people that require a compliant vehicle, some of whom may not be able to travel as a result.</p> <p>[=] Alternative accessible transport would continue to be provided to passengers able to access such vehicles.</p>	<p>[-] Compared with ORR's preferred option, does not advance equality of opportunity, for passengers (e.g. visually impaired people) who can travel on a non-PSVAR compliant vehicles but for whom the facilities of compliant vehicles offer considerable benefit.</p> <p>[=] Scooter users, and other disabled people for whom PSVAR-compliant vehicles remain inappropriate (including users of wheelchairs that cannot be carried on coaches) would continue to be provided with alternative transport if required.</p>	<p>[=] No positive or negative impact – provision of rail replacement services continues for all passengers.</p>	<p>[=] No impact</p>
<p>Option 2 (NOT IMPLEMENTED)</p>	<p>[-] Poorer provision of accessible rail</p>	<p>[-] Whilst special</p>	<p>.</p> <p>[+] In the longer term,</p>	<p>[=] No positive or negative impact in the</p>	<p>[+] Increased potential for revenue benefits for</p>

<p>Guidance amended to reflect application of PSVAR to rail replacement services - with immediate effect, all buses and coaches used as a rail replacement must be PSVAR-compliant unless operating under a special authorisation.</p>	<p>replacement services compared to ORR's preferred option in the short term, as operators make maximum use of special authorisations, rather than taking steps to procure PSVAR-compliant vehicles.</p> <p>[+] In the longer term, when special authorisations are no longer provided, coach operators may be more strongly incentivised to comply with PSVAR by train operators if the latter are held to account by ORR and there are sufficient numbers of accessible vehicles available to hire.</p> <p>[-] See Option 4 for the negative impacts on accessibility if special authorisations are not provided despite insufficient supply of accessible vehicles, compared with ORR's preferred option.</p>	<p>authorisations continue, allows non-PSVAR compliant vehicles to be used in rail replacement services; fails to increase accessibility or advance equality of opportunity for people that require a compliant vehicle, some of whom may not be able to travel as a result.</p> <p>[-] Alternative accessible transport would continue to be provided to passengers able to access such vehicles.</p> <p>[+] In the longer term, ORR oversight may provide additional incentives to substitute coaches for low-floor buses, and / or an increase in the usage of available accessible coaches; this should result in increased accessibility and advanced equality of opportunity for some passengers.</p> <p>[-] See Option 4 for the negative impacts on accessibility if special</p>	<p>ORR oversight may provide additional incentives to substitute coaches for low-floor buses, and / or an increase in the usage of available accessible coaches; this would advance equality of opportunity for every passenger who has booked assistance as they will be able to travel on an accessible bus or coach, provided the station infrastructure permits safe boarding / alighting; this will benefit a range of disabled people (including visually impaired people).</p> <p>[-] Scooter users, and other disabled people for whom PSVAR-compliant vehicles remain inappropriate (including users of wheelchairs that cannot be carried on coaches) would continue to be provided with alternative transport if required.</p> <p>[-] Compared with ORR's preferred option,</p>	<p>short term under special authorisations – provision of rail replacement services continues for all passengers.</p> <p>[-] In the longer term when special authorisations are no longer provided, potential negative impact should operators to some extent be incentivised not to offer any bus and coach replacements if the required number of accessible vehicles cannot be provided. Furthermore, in such a scenario, the alternative transport on offer to disabled people may not be available to other passengers (including older passengers). For planned disruption this may mean they cannot travel; during unplanned disruption this also risks crowding and safety issues at stations.</p>	<p>bus operators (of up to 30%) with compliant vehicles when special authorisations are no longer provided.</p> <p>[+] In the longer term, reputational benefit for rail operators that provide accessible vehicles</p> <p>[-] ORR assumes responsibility for PSVAR monitoring and enforcement of bus and coach operators as well as DVSA, forcing it to act beyond its remit and expertise in enforcing PSVAR and risking 'double jeopardy', concurrent but divergent enforcement activities and approaches.</p>
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		<p>authorisations are not provided despite insufficient supply of accessible vehicles, compared with ORR's preferred option.</p>	<p>does not, as long as rail replacement services are operated under special authorisations, advance equality of opportunity, for passengers (e.g. visually impaired people) who can travel on a non-PSVAR compliant vehicles but for whom the facilities of compliant vehicles offer considerable benefit.</p> <p>[-] See Option 4 for the negative impacts on accessibility if special authorisations end despite insufficient supply of accessible vehicles, compared with ORR's preferred option.</p>		
<p>Option 4 (NOT IMPLEMENTED). With immediate effect, all buses and coaches used as a rail replacement must be PSVAR-compliant, irrespective of any special authorisations granted.</p>	<p>[-] This may incentivise operators not to offer bus and coach replacements for any passengers if accessible vehicles cannot be provided. There may be some substitution of low-floor buses for coaches at the margins.</p> <p>It remains unclear if</p>	<p>[IF/WHEN DELIVERABLE]</p> <p>[+] Advances equality of opportunity: every passenger who has booked assistance will be able to travel on an accessible bus or coach, provided the station infrastructure permits safe boarding /</p>	<p>[IF/WHEN DELIVERABLE]</p> <p>[+] Advances equality of opportunity: every passenger who has booked assistance will be able to travel on an accessible bus or coach, provided the station infrastructure permits safe boarding / alighting; this will</p>	<p>[IF/WHEN DELIVERABLE]</p> <p>[=] No positive or negative impact – provision of rail replacement services continues for all passengers.</p> <p>[IF/WHEN NOT DELIVERABLE]</p>	<p>[-] ORR assumes responsibility for PSVAR monitoring and enforcement as well as DVSA – risking double jeopardy, concurrent enforcement activities and divergent approaches and ORR acting beyond its remit and expertise.</p>

	<p>taxis or smaller PSVs (minibuses) could be provided in sufficient numbers as alternative transport for passengers.</p>	<p>alighting.</p> <p>[IF/WHEN NOT DELIVERABLE]</p> <p>[-] Potential negative impact of being unable to travel if bus and coach replacements cannot be provided. For passengers unable to travel using alternative accessible options, this risks a lack of journey options and – during unplanned disruption - crowding and safety issues at stations.</p>	<p>benefit a range of disabled people (including visually impaired people).</p> <p>[=] Scooter users, and other disabled people for whom PSVAR-compliant vehicles remain inappropriate (including users of wheelchairs that cannot be carried on coaches) would continue to be provided with alternative transport if required.</p> <p>[IF/WHEN NOT DELIVERABLE]</p> <p>[-] Potential negative impact of being unable to travel if bus and coach replacements cannot be provided. It is unclear if taxis or smaller PSVs (minibuses) could be provided in sufficient numbers for the increased number of passenger assist users needing alternative transport, which risks a lack of journey options and – during unplanned disruption - crowding</p>	<p>[-] Potential negative impact should operators to some extent be incentivised not to offer any bus and coach replacements if the required number of accessible vehicles cannot be provided. Furthermore, in such a scenario, the alternative transport on offer to disabled people may not be available to other passengers (including older passengers). For planned disruption this may mean they cannot travel; during unplanned disruption this also risks crowding and safety issues at stations.</p>	<p>[-] Misalignment between Government policy of special authorisations and more stringent regulatory requirements.</p> <p>[IF/WHEN DELIVERABLE]</p> <p>[+] Potential revenue benefit for bus operators (of up to 30%) with compliant vehicles remains.</p> <p>[+] In the longer term, reputational benefit for rail operators that provide accessible vehicles</p> <p>[-] Whilst buses already compliant, potential to increase value of compliant coaches remains, thereby increasing rail operators' operating costs for longer distance journeys of up to 30%.</p> <p>[-] Potential to add to the cost of tendering for rail replacement</p>
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			<p>and safety issues at stations.</p> <p>In addition, there may be some risk to the approval of outstanding ATPs and commitments to other improvements to the provision of assisted travel if an undeliverable requirement is added in Guidance.</p>		<p>contracts (of up to 30%).</p> <p>[-] Additional reporting requirement to ORR from passenger licence holders</p> <p>[-] Potential for negative revenue impact on coach operators that do not have compliant vehicles and choose not to acquire them.</p> <p>[IF/WHEN UNDELIVERABLE]</p> <p>[-] Risk of both franchise agreement breach and non-compliance with passenger licence.</p> <p>[-] Reputational damage of being unable to transport customers during disruption.</p>
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Annex B – Proposals from consultation respondents: out of scope of ATP Guidance

PROPOSAL		ORR RESPONSE / ACTION
Monitoring and enforcing PSVAR compliance		
1	Enforcement of compliance with PSVAR e.g. against rail replacement suppliers, coach operators.	<p>Enforcement of PSVAR is the responsibility of DVSA.</p> <p><u>We have begun discussions with DVSA on a potential Memorandum of Understanding to strengthen and clarify our respective monitoring and compliance regimes.</u></p>
2	Publication of data on routes where there are no accessible rail replacements available.	<p>Better information helps advance equality of opportunity for disabled passengers. RDG has indicated that information will be provided on the National Rail Enquiries journey planner when a route is subject to disruption, indicating whether the rail replacement service vehicle will be a bus, a coach or a mix of the two. From this the passenger should be able to identify whether the vehicle is suitable for the passenger's needs and request an alternative where required.</p> <p><u>We have asked RDG if this can be supplemented by data on routes where there is routinely no accessible rail replacement available.</u></p>
Industry coordination of accessible rail replacement provision		
3	Provision of a dedicated fleet of PSVAR-compliant / accessible vehicles, either by an individual train operator or transport owning group, or supplied at a national level for use during disruption (whether unplanned or planned).	<p>This proposal would significantly advance equality of opportunity and reduce discrimination for disabled people, and people that are currently unable to access rail replacement coaches in particular. However, the consultation response from RSSB, which has considered this option, suggests the costs are prohibitive. Furthermore, it is not within ORR's regulatory remit to compel a licence holder to operate its own</p>

PROPOSAL		ORR RESPONSE / ACTION
		<p>dedicated fleet of road vehicles. Transport owning groups and other industry bodies are not passenger service licence holders subject to licence conditions.</p> <p><u>We have noted this proposal in our letters to the rail industry and to the Rail Minister, for their consideration.</u></p>
4	<p>Rather than require every rail replacement coach be PSVAR-compliant, secure sufficient numbers to be on standby for use when a disabled customer is travelling or only a single compliant vehicle on multi-vehicle departures. On lower volume services, this could be substituted by an accessible taxi. Where companions need to travel together, secure accessible minibuses.</p>	<p>The law requires that where a bus or coach is used, it must comply with PSVAR or be operated under a special authorisation under the Equality Act 2010. Noting the duty on operators to provide reasonable adjustments to disabled people, operators are already required by the ATP Guidance to provide alternative accessible transport where, for whatever reason, rail replacement services and / or station facilities are not accessible to passengers.</p> <p><u>We have not pursued this proposal from RDG any further; our new ATP Guidance requires operators to take appropriate steps to procure and use PSVAR-compliant vehicles, alongside our existing requirements to provide alternative accessible transport.</u></p>
5	<p>A variety of amendments to our consultation proposal that train operators establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services – to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays); amendments included devolution to a number</p>	<p>Although we recognise this will not necessarily result in an increase in the availability of accessible vehicles, consultation responses reinforced that there is merit in this proposal to better make use of vehicles that are currently available, with support from Network Rail. RDG has already committed to convening working groups to assess what measures can be taken to maximise the efficient use of PSVAR-compliant vehicles.</p> <p><u>We have recommended to the industry and to the Rail Minister that such a forum is established, with scope, objectives and membership to</u></p>

PROPOSAL		ORR RESPONSE / ACTION
	of regional groups or organisation at the Network Rail route level.	<u>be determined. We have noted in our letters to them the range of suggestions put to us.</u>
Staffing issues		
6	Increase staff availability at part-staffed and unstaffed stations to help passengers during disruption.	<p>As set out in the Equality Impact Assessment of the ATP Guidance published in July 2019, changes to staff levels at stations have the potential to eliminate discrimination against disabled people and advance equality of opportunity. However, consideration of the levels of staffing at stations is the responsibility of the Government, devolved administrations and rail franchising and concession authorities. In our response to the Williams Rail Review we recommended that the Disabled Persons Transport Advisory Committee is best placed to provide advice to operators when making changes to staffing arrangements, as part of a 'whole-system' approach to making the railway more inclusive.</p> <p><u>We have noted this proposal in our letter to the Rail Minister.</u></p>
Network Rail track possession planning		
7	Network Rail should consider rail replacement when planning possessions e.g. engineering works should be fewer in number but longer; more use should be made of diversion routes to minimise reliance on rail replacement services.	<p>We recognise that disabled and older rail passengers may prefer not to have travel by road if it all possible. These proposals have the potential to reduce discrimination against people that are currently unable to use rail replacement services and improve the experience of travel for passengers that require assistance and passengers that do not. We understand from consultation responses that rail operators and Network Rail have begun to consider future engineering works in the context of the availability of accessible vehicles suitable for longer</p>

PROPOSAL		ORR RESPONSE / ACTION
		<p>distance journeys. However, ORR is unable to provide Guidance on Network Rail's system operator role through its station operator licence condition to produce an ATP.</p> <p><u>As set out above, in our letter to industry we have recommended a forum is set up to explore these issues more fully, and we have noted for the attention of Network Rail consultation respondents' suggestions regarding the length and frequency of planned provisions, and the difficulties in obtaining sufficient accessible rail replacement vehicles caused when engineering works cluster in a particular geographical location.</u></p>
Legislation		
8	Changes to PSVAR are required to incentivise the leisure and home to school market to obtain accessible vehicles.	<p>Changes to legislation to incentivise greater availability of accessible vehicles for use in rail replacement, home to school transport and leisure trips have significant potential to reduce discrimination against people that are currently unable to access these services and improve the experience of travel for passengers that require assistance to travel as well as passengers that do not. However, legislative changes are a matter for Government.</p> <p><u>We have reflected in our letter to the Rail Minister consultation respondents' views that without legislative change there are limited incentives on coach operators to invest in accessible vehicles.</u></p>

Annex C – Proposals from consultation respondents: not added to revised ATP Guidance

PROPOSAL		ORR RESPONSE / ACTION
Amend the Guidance to require PSVAR compliance		
1a	Require that buses and coaches used in rail replacement services comply with PSVAR after defined time period, or when there is sufficient supply of vehicles to make such a requirement deliverable; then remove the requirement for operators to take appropriate steps to assess the requirement for accessible buses and coaches that are compliant with PSVAR and procure their use once compliance mandatory.	<p>As set out in the revised ATP Guidance, the law requires that where a bus or coach is used, it must comply with PSVAR or be operated under a special authorisation under the Equality Act 2010. 98% of buses are already compliant and do not require a special authorisation. Special authorisations are a matter for the Secretary of State. PSVAR enforcement is a matter for DVSA.</p> <p><u>In addition, our new ATP Guidance requires operators to take appropriate steps to procure and use PSVAR-compliant vehicles, even during the period of special authorisations. We consider this important to continue to advance equality of opportunity for people that rely on such vehicles. We will monitor PSVAR compliance to assess whether this requirement is being met and take action where necessary.</u></p>
1b	Require that buses / coaches used in shorter journeys comply with PSVAR during planned disruption, with immediate effect.	<p><u>We will monitor PSVAR compliance to assess whether this requirement is being met and take action where necessary.</u></p>
Amend the Guidance to mandate and promote compensation / redress when assistance fails during disruption		
2a	Require that compensation be provided to passengers if they cannot complete their journey due to disruption.	<p>Operators were already required under Section 4: A8 of the ATP Guidance to provide appropriate redress when assistance is booked but not provided, and to set out in their Passenger Leaflets how to claim this. We collect data on the proportion of claims that are accepted. Passengers may also seek restitution via the National Rail Conditions of Travel or under the Consumer Rights Act if they are unable to complete their journey; these routes are also highlighted in each operator's ATP.</p> <p><u>We have updated paragraph A8.4 to set this out more clearly. We recently wrote to a number of operators regarding our concerns about the</u></p>
2b	Require that operators provide passengers with clear guidance on their rights and expectations and a route for restitution in the case of failures	<p><u>We have updated paragraph A8.4 to set this out more clearly. We recently wrote to a number of operators regarding our concerns about the</u></p>

		<u>proportion of claims for redress that are rejected, and asked for an explanation.</u>
Amend the Guidance to require further staff training		
3	Require that drivers of taxi, bus and coach rail replacement services receive disability awareness training.	<p>We recognise this can reduce discrimination faced by disabled people when using rail replacement services. We received evidence that people using assistance dogs in particular can be discriminated against when travelling by taxi during rail disruption.</p> <p>It is illegal under the Equality Act 2010 for assistance dog owners to be refused access to a taxi with their assistance dog. Operators were already required under Section 4: B6.3 of the ATP Guidance to set out "...what appropriate training drivers of rail replacement bus services and taxis receive to ensure they are able to provide assistance to rail passengers."</p> <p><u>We have asked operators to provide us further information on this by end July as part of a wider staff disability awareness training progress update; where we consider further action is required we will follow up.</u></p>
Additional stipulations within our new requirement for operators to take appropriate steps to procure and use PSVAR-compliant vehicles		
4a	Require that contracts are only awarded to suppliers with a sufficient number of PSVAR-compliant vehicles / to those that agree to carry assistance dogs.	<p>As set out in Section 4 of this Impact Assessment, there are currently insufficient numbers of compliant vehicles to meet demand during major engineering works. This is reflected in the Secretary of State's provision of special authorisations for coaches used in rail replacement services, providing a temporary exemption from PSVAR. Bus and coach operators are required under the Equality Act to provide reasonable adjustments to assistance dog owners.</p>

		<p><u>In this context, we consider that our new ATP Guidance requirement for operators to take appropriate steps to procure and use PSVAR-compliant vehicles is a more effective option to reduce discrimination and advance equality of opportunity for people that require such vehicles to travel during disruption, without reducing the overall level of service for all passengers, including those with protected characteristics.</u></p>
<p>4b</p>	<p>Require that train operators increase the value of, or include a retainer or set a guaranteed income within, rail replacement contracts to pay for accessible vehicles.</p>	<p>Significant increases in funding for accessible vehicles has the potential to reduce discrimination and advance equality of opportunity for people that rely on such vehicles.</p> <p><u>We have not made an assessment of the levels to which the value of contracts would have to increase to incentivise PSVAR compliance by coach operators, as we do not consider it appropriate for ORR to set and enforce price controls in the bus and coach sector. Instead, we have revised the ATP Guidance to require operators to take appropriate steps to procure and use PSVAR-compliant vehicles.</u></p>
<p>4c</p>	<p>Require operators to take appropriate steps to procure and use PSVAR-compliant vehicles only for use during planned disruption.</p>	<p>We recognise that there is more scope for operators to procure and use compliant vehicles when disruption is known about in advance, particularly in the case of engineering works planned under rules set out in Part D of the Network Code which confirms the timetable 12 weeks in advance. However, we also consider that there is the opportunity to advance equality of opportunity for passengers that require those vehicles even when disruption occurs at shorter notice.</p> <p><u>We therefore require operators to take appropriate steps to procure PSVAR-compliant vehicles for use during any disruption, but also to assess the requirement for such vehicles at least 12 weeks before major engineering works. We will monitor PSVAR compliance and take action</u></p>

		<u>where necessary.</u>
Alternatives to our requirements that passengers are informed in advance of the accessibility of rail replacement services		
5a	Disapply the requirement where there is a last-minute change in service provision / vehicle availability or accessibility.	<p>It is important that passengers are provided as much information as possible when disruption takes place, whether planned or unplanned. Section 4, paragraph A2.3.1 of the ATP Guidance already required that operators "...set out how they will inform passengers, including those with mental, intellectual or sensory impairments on board trains and at stations when there is disruption, a diversion or delay with no advance warning, whether assistance has been booked or not;"</p> <p><u>We do not consider it appropriate to amend the ATP Guidance to unilaterally disapply these provisions under particular circumstances.</u></p>
5b	Remove the requirement to take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger.	<p>We understand the objection to this requirement stems from a concern that it singles out disabled people as requiring an individualised service, rather than receiving an equal and inclusive service. Our aim is that passenger receive the assistance to travel they require; during disruption passengers that have booked assistance will have differing needs and preferences for alternative or substitute travel that a train operator needs to understand and, where possible, act upon - taking into account its duty to provide reasonable adjustments under the Equality Act 2010.</p> <p><u>We have therefore retained this requirement.</u></p>
5c	Require that train operators provide a dedicated telephone number for passengers to make contact / book taxis during disruption (e.g. for passengers that have not booked	<p>Where disruption is planned, passengers requesting assistance will be able to request alternative accessible transport at the point of booking. Train operators are already required to contact passengers who have booked assistance during unplanned disruption to discuss their travel</p>

	assistance).	<p>options and make appropriate arrangements. They are also already required to provide in their 'Making Rail Accessible' passenger leaflets a number for passengers to use to make contact on the day of travel, as well as the number used for booking assistance. Passengers who have not booked their assistance in advance and find there is disruption to the rail network are already able to request assistance in the usual way. However we recognise that there can be a wait for an accessible taxi to become available when disruption occurs.</p> <p><u>For planned disruption, our new requirement is that users of alternative accessible transport should not wait longer than users of bus and coach rail replacement services.</u></p>
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