

## Responses to consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies

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**From:** Bould, Emma  
**Sent:** 23 January 2017 10:49  
**To:** Competition  
**Subject:** Consultation on CHP and DPPP

Hi,

Apologies this is slightly late. I had this in my outbox and checked and it hadn't sent last week.

#### Section 1.

- Pp.10 first para first line - Clarification that ramps must be provided regardless if passenger assist is booked or not. A lot of instances where stations refuse to provide ramps or assistance when departing a train if they haven't got the record of a passenger assist or if there is a turn up and go
- Pp. 10 second para – Addition that operators must publicise this and ensure disabled passengers are aware of this. All station staff need to be trained to be aware of this requirement.
- Pp. 10 third para – Addition in written form to send or give out to those who do not have access to the internet. Not everyone can afford or get access to a computer, so information needs to be provided offline. Less than half of households aged 65 and over have internet access, and 14% of all households in UK have no internet access.
- Pp.10 sixth para – This should not be wherever possible, this should be a must. If someone is deaf or blind they will need both aural and visual information updates, especially in the case of disruption.
- Pp.10 seventh para – This should be a must for all stations, at least an electronic information or help point to allow disabled or vulnerable passengers to get help, support or assistance. This is especially needed for low staffed stations or unstaffed stations.
- Pp. 10 ninth para – Staff need to be trained and aware of this, so passengers are not unfairly penalised.
- Pp.11 fifth para – Including those with hidden disabilities and older passengers.

#### Section 2.

- Pp.18 – Those stations not being part of Passenger Assist is concerning. The proposed criteria are not appropriate, as the total daily footfall of these stations are high. A majority of those stations will be used by disabled and vulnerable passengers for access to their daily activities. This could be limiting individuals from getting access to supermarkets, pharmacies which are crucial for older and disabled individuals for their health and wellbeing. This therefore could be impacting people health and denying members of the public a service they need. It shouldn't just be footfall, but demographic of local population as well as travelling population.
- Pp.19 – CHP and DPPP should be kept in the license. These railways, especially leisure and heritage will have a higher amount of passengers who are disabled or older using this as a leisure activity. These are hugely positive and enjoyed experiences, and removing CHP and DPPP would have an adverse impact on their accessibility to enjoy these attractions, especially those who use visiting these attractions for a health benefit – carers and older passengers as a respite from their caring responsibilities, passengers with dementia who use visits are reminiscence.

Kind regards,  
Emma Bould  
Programme Partnerships Project Manager

Alzheimer's Society, 43-44 Crutched Friars, London EC3N 2AE



Department  
for Transport

Paul Stone  
Stations Policy Manager  
Rail – Passenger Services Excellence  
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19 January 2017

Competition and Consumer Policy  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

**BY EMAIL ONLY**

Dear Competition and Consumer Policy team,

**Consultation on the scope of regulation of some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies**

Many thanks for the opportunity to comment on the above-named consultation. This letter constitutes the Department for Transport's ("DfT") response to the consultation.

Station licence holders

DfT notes the proposals on station licence holders who only hold station licences and who are not bound by Complaints Handling Procedures ("CHP") and Disabled People's Protection Policies ("DPPP") obligations, and the preferred policy option.

DfT considers that the proposed criteria to be applied are proportionate and appropriate. DfT would not currently support the move to a further option for removing some operations from regulatory scrutiny based on footfall. All passengers deserve appropriate protections, and DfT does not believe that any diminishment of protection or oversight should be removed based on arbitrary footfall figures (or any other criteria). If such a measure was introduced, it may prove difficult to reinstate the removed protections if footfall subsequently increases (and would present an administrative burden that could have been avoided).

DfT supports the retention of the current proactive approach to monitoring and believes that it is the duty of the ORR to act on any findings that do not represent compliant behaviour, even in the absence of a complaint.

Charter operators

In respect of the requirements in the Rail Passengers' Rights and Obligations Regulation ("PRO") EC Regulation 1371/2007, DfT seeks clarity on how ORR will enforce the PRO requirements if it decides to remove the licence conditions relating to either or both DPPPs and CHPs for Charter Train Operators. The licence

conditions currently allow ORR to take action against an operator if they breach the licence conditions.

DfT would be concerned if this means that passengers would find it more difficult to have action taken and if passengers' rights were less clear, given that ORR would still remain the National Enforcement Body for the PRO Regulation.

DfT notes that the relevant PRO "core articles" which currently apply are articles 19 and 20(1) of the PRO, which relate to mandating the establishment of non-discriminatory access rules for the transport of disabled people and persons with reduced mobility (DPRMs) for both railway undertakings and station managers and providing information (if requested) on the accessibility of rail services and on the access conditions of rolling stock and facilities on board. The other relevant "non-core" articles which the UK is currently exempted from, but which could apply in the future are articles 20(2), 21, 22, 23, 24 and 25 on various disability related requirements such as assistance to passengers on board and at stations and article 27 on complaints handling.

DfT supports a regulatory approach which protects passengers in an effective and appropriate way, ensuring consistency between charter operators and which does not require excessive resource. DfT understands ORR's reasoning and criteria for seeking to make changes to its regulatory approach. DfT is concerned that passengers could lose protections under option 2, which would remove regulation from the charter operators listed. Once these protections were removed, they would prove difficult to reinstate should they subsequently be required and would in practice mean that passengers would have no framework to set out a minimum level of provision to expect on charter services, no standard to measure against if the operator failed to deliver with the only means of complaint to be bringing a case under the Equality Act 2010.

The removal of the requirements for charter operators to make provision as if they were franchised operators leaves the practical application of 'reasonable adjustment' open to a very wide scope of interpretation. Assuming a positive bias, it could lead charter operators to innovate in their provision for disabled passengers and passengers of reduced mobility – particularly because they could measure directly an increase in fare revenue from better accommodating passengers in need of assistance and also by being better than their competitors in the charter market. Conversely, allowing individual interpretation of reasonable adjustment could lead to poor treatment of disabled passengers, where their minimum requirements to buy tickets, board and alight trains and access facilities on board are not considered nor met.

DfT is of the view that, if charter operators are required to hold passenger operator licences to demonstrate that they are fit and proper persons to run a train service and that they can operate safely and with adequate insurance, charter operators should also be expected to set out how they will ensure they protect the interests of disabled passengers and passengers of reduced mobility.

DfT supports option 3, which would retain a proportionate approach to the approval of CHPs and monitoring of compliance, although DfT would appreciate further information on what ORR would consider to be 'proportionate' in this instance. Should

the ORR implement this approach, DfT would expect that is reviewed after an appropriate period of time to understand its impact on passengers, charter operators and ORR. If this review identified any negative impact on the protection of passengers, ORR would need to address these.

No part of this response should be considered confidential.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Paul Stone', with a long horizontal line extending to the right.

Paul Stone

**ORR: Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies – DPTAC response 19<sup>th</sup> January 2017.**

**DPTAC response to consultation.**

DPTAC welcomes the opportunity to offer a response to this ORR consultation.

After careful consideration of the detail provided by ORR in terms of this consultation, DPTAC believe that **Option 3** (as detailed on page 3 of the consultation document) offers the most practical and proportionate way forward in context of both DPPP's and CHP's in that ORR should:

*"Retain the conditions but to adopt a proportionate approach to the approval of DPPP's and CHP's and in the monitoring of continuing compliance."*

DPTAC believes that a light touch regulatory approach is therefore the most proportionate way forward.

1. The reasoning behind DPTAC's preference for this option is outlined below:
2. DPTAC believes that in terms of Station Licence Holders, existing legislation (Equality Act 2010) already offers customers a means to expect reasonable adjustments to be offered as a matter of routine and course in relation to access to goods and services.
3. In terms of Charter Operators, the same principles as set out in 1) above equally apply.
4. DPTAC anticipates that over time, charter services will inherit access to RVAR compliant rolling stock as a matter of course, which will help bridge the gap in terms of consistency across the rail network regardless of routes being scheduled or not.
5. DPTAC recognises the difficulty in enforcing a fully regulated regime, and difficulty in monitoring the same across networks and station facilities which do not substantially engage with the mainline rail network, nor offer nationally scheduled services to passengers.
6. DPTAC appreciates the need to maintain business related progress in terms of Station Licence Holders and Charter Operators taking into account the requirement to reduce the cost and logistical burden on business in both an operational capacity, and ORR context.
7. DPTAC understands that rail related businesses which are covered within this consultation are not significantly linked to the mainline rail network, and therefore exempt from Passenger Assist requirements.
8. DPTAC is mindful of the risk of higher costs being imposed on rail users, should a formal regulatory approach towards Station Licence Holders and Charter Operators be adopted.
9. DPTAC proposes that Station Licence Holders and Charter Operators need to determine the best way to meet disabled customers' needs on an individual company basis, using existing equality legislation to maintain consistency and improve the (disabled) passenger experience.
10. DPTAC is of the opinion that the way forward in terms of ensuring that Station Licence Holders and Charter Operators are fulfilling their duty to promote equality of access to disabled passengers and customers is for ORR to maintain a watch on

accessibility related complaints made/received from disabled customers, and to review this in 18 months to ensure there has been no adverse impact on disabled people once the outcome of this consultation has been agreed.

11. DPTAC would welcome the opportunity to continue to engage with ORR in terms of compliance monitoring, once a regulatory decision is agreed as appropriate, and to assist in reviewing whether a further evaluation of regulatory approaches is required at a future date.

In terms of Section 2 of this consultation relating to Station Licence Holders (paragraphs 2.3 – 2.10), DPTAC's views in terms of the statements on page 18 are:

*Whether the proposed criteria ORR has applied for considering the scope of regulation are appropriate:*

**Yes.**

*Whether there should be a further option to remove some of these operations from regulatory scrutiny entirely by virtue of footfall and if so, what threshold value should we apply:*

**No.**

*The need to adopt our proactive approach to ongoing monitoring (the collection of core data and reporting annually by way of our Measuring Up Report) or whether we should adopt a more reactive stance which would mean us interacting with the undertaking only in response to complaints/intelligence about failures in service:*

**DPTAC believes the latter part of this statement offers the most practical way forward, as detailed in points 9 and 10 above.**

In terms of Section 2 of the consultation relating to Charter Operators, DPTAC's responses to the proposals in paragraph 2.15 are:

*Remove regulation for RES, DRS, ROG, GBRfr, and North Yorkshire Moors Railway (heritage):*

**Yes, but maintain a watch on any accessibility related complaints received, as detailed in points 9 and 10 above.**

*Retain regulation for WCRC but take a tailored and proportionate approach to the approval of policies and procedures and on-going monitoring:*

**Yes.**

In terms of the questions posed in Section 2 on page 21, DPTAC's responses are:

*Whether or not you agree with our proposals with respect to the operations listed, providing full reasoning:*

**Yes, as detailed in points 1 to 10 above.**

*Which of options 1, 2 or 3 you would support – in the case of our approach to each of the DPPP's and CHP's:*

**Option 3, using the reasoning detailed in points 1 to 10 above.**

*Whether you agree with our categories of licensed operation:*

**Yes.**

*Whether you agree with the criteria we have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt such as footfall:*

**Yes. Alternative criteria ORR may like to consider could include local surveys among disabled communities who are most likely to use stations and facilities detailed in this consultation, and passenger surveys for disabled customers who use Charter Operator services.**

*What is the predicted impact on passengers, including passengers who need assistance, of our proposals:*

**Point 9 above details the DPTAC opinion of the best way to monitor impact in context of this question.**

*Whether there are any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore be necessary:*

**None identified from details provided.**

*For those operations we propose to retain within scope of regulation, how and to what extent we should adopt a proactive approach to on-going monitoring, or whether we should adopt a more reactive stance which would mean us interacting with the undertaking only in response to complaints/intelligence about failures in service:*

**DPTAC are of the opinion that the latter approach offers the best way forward (in context of point 9 above).**

*Whether a lighter touch approach to regulation could be an alternative approach to de-regulation:*

**Yes, using the reasoning detailed in points 1 to 8 above.**

*Whether there is merit in taking a decision on de-regulation at a later period when we have more evidence of how these operators are performing in these areas, and therefore, the extent to which regulation continues to be necessary:*

**Yes, using the reasoning detailed in points 9 and 10 above.**

*The costs that we have assumed within our Impact Assessment at Annex A, providing alternative estimates of costs with full workings where applicable:*

**DPTAC have no comment in terms of this question.**

End.

## AGE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes

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- **Please provide further details to your answer above**The focus on passenger journeys is appropriate.

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- Unsure

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- **Please provide further details to your answer above**As noted above, the focus is appropriate. To exclude entirely on footfall for both CHP and DPPP may not be appropriate depending on the nature of the operation, but there is a place for a proportionate approach for those with very low footfall.

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Reactive Approach

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- **Q4: Do you think there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

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- No Preference

- **Please provide further details to your answer above**By de-regulation, we assume this refers to those operations in the consultation that the ORR has identified as potentially out of scope. We have no preference as it depends on whether there are reasons for gathering further evidence as set out in the question. It appears that consideration has already been given to the question of deregulation in respect of some operators. If so, we assume there is no need to extend the time period to gather further information ?

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Yes

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- **Please provide further detail to your answer above**The proposals in respect of the two categories of operations in the consultation appear appropriate.

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- **Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPPs and CHPs**

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- Option 3 - To retain the conditions but to adopt a proportionate approach to the approval of DPPPs and CHPs and in the monitoring of continuing compliance.

- **Please provide further details to your answer above**This option has been selected in respect of those operations where the proposal is that they remain in scope.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Yes

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

The proposal to retain regulation for passenger related journeys would provide information on the entity's approach to CHP and assistance, and provide a mechanism for regulatory scrutiny should potential systemic concerns be identified.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

We do not feel there are any gaps.

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- No

- **Please provide further detail to your answer above.** Whilst a lighter touch approach to regulation is always an alternative approach, where it has been determined that regulation is not required then this approach should not be adopted as an alternative. Instead, if in future a need for regulation arises then it should be considered at that time.

## PAGE 2: Respondent's Details

**Q12: Name of Organisation**

Eurostar International Limited

**Q13: Organisation Type**

- **Other (please specify)** TOC

**Q14: Point of Contact within your Organisation (please include contact information)**

Samantha Spence, Head of Regulatory Affairs

## **Consultation feedback for Glasgow Prestwick Airport (Prestwick International Rail Station) - Review of ORR Regulation of DPPP and CHP's for Station Operators**

### **1. Background**

- 1.1 It is a requirement of holding a Station Operators Licence that the licence holder must have in place a Disabled Persons Protection Policy (DPPP) and a Complaints Handling Procedure (CHP.) The Office of Rail and Road (ORR) regulate both the DPPP and CHP, and who approve operators policies. ORR also consult with the main rail passenger watchdog body Transport Focus on both of our policies.
- 1.2 GPA has recently been through the process of renewing their DPPP and CHP, and is currently carrying out finalisation of its CHP with ORR.

### **2. Current Guidelines**

- 2.1 Guidelines for the approval of both of these policies treat station only operators (of whatever size and scope) in the same way as the train operating companies (TOCs) such as ScotRail, Virgin etc, although in the case of the DPPP, it does provide a section for the use of Network Rail as the main operators of stations outwith the TOC operations. (For context, Network Rail owns and manages large city centre stations such as Glasgow Central, Edinburgh Waverley and the main London station, whilst the majority of other stations are leased by Network Rail to TOCs, who manage them station licences issued as part of their franchise arrangements.)
- 2.2 Station operators who are not leased to TOCs but are independent of Network Rail ownership therefore use the same guidelines, and are measured by the same criteria as the TOCs and Network Rail.
- 2.3 Apart from some large Metro Train operators who share some Network Rail owned infrastructure (such as London Underground and Tyne and Wear Metro) there are only 3 independent station operators across the network – ourselves, Southend Airport and Ashford International (which despite its name is a very small operation within Ashford station serving a few Eurostar trains between London and Europe.)

### **3. Current Issues**

- 3.1 The main issue with the current processes is that we are required to comply with a "one size fits all" mantra, regardless of size and scope of the operation.
- 3.2 In the course of negotiation during the approval process, we did manage to convince ORR that some of the requirements were not relevant to us.

### **4. ORR Proposals**

- 4.1 ORR has recognised that smaller operators (such as GPA) maybe do not impact as much as previously imagined on the integrity of the main network, and they have opened consultation on 3 high level options:
  - i) To keep these categories within the full scope of regulation.
  - ii) To remove the conditions relating to either or both of DPPPs and CHPs from the operating licences.
  - iv) To retain the conditions but to adopt a proportionate approach to the approval of DPPPs and CHPs and in the monitoring of continuing compliance. We invite comments on what a proportionate approach to approvals and monitoring might look like.
- 4.2 The criteria against which ORR assess their policy proposals are:
  - The nature of their interaction with the mainline network and whether the journey undertaken by the passenger is part of an end to end journey;

- The existence of law which provides protections to passengers in the area of complaints handling and disabled peoples' protections;
- Whether they operate scheduled passenger services or otherwise demonstrate similar characteristics as heritage operators who are outside of the scope of regulation; and
- The better regulation principles, in particular we ensure that we are proportionate, consistent, transparent and targeted in our approach

## **5. ORR Proposed Policy Option for Station Licence Holders.**

5.1 ORR proposed policy option is we should remain within full regulatory scrutiny for the following reasons:

- Each operation, at least to some extent, forms a component of a passenger's end to end journey. We see merit in ensuring a consistency of approach for the passenger for the entirety of that end to end journey by way of regulatory scrutiny; and
- ORR has not undertaken any market analysis of where protections should or should not exist (due to the disproportionate resource cost that this would involve).

5.2 This policy option will in practice mean that we:

- Will continue to have obligations around having an approved CHP and DPPP in place with the latter having to be reviewed and approved annually;
- Will be subject to our core data requirements – though this will need to be tailored and proportionate to the operations under consideration; and
- Will be engaging with us for the purpose of publishing performance under CHPs and DPPPs in our Measuring Up Report.

## **6. Our Views**

ORR is, therefore, seeking views on:

6.1 Whether the proposed criteria ORR has applied for considering the scope of regulation are appropriate

It is a welcome move that ORR is seeking our views, and in principle their criteria seems an appropriate starting point.

6.2 Whether there should be a further option to remove some of these operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply

### DPPP

- i) Footfall (through the station) must have a bearing on the touch of regulation given. The regulatory scrutiny should only be proportionate to the size and scope of the operation, and an operation of our size I would suggest is very much the lower end of the scale.
- ii) It is noted that the requirement that we should be signed up to participate in Passenger Assist (the industry wide disabled passenger booking system) has now been dropped. After some 12 months of argument, ORR has already granted us dispensation from this process so now this is taken on board is a welcome move.
- iii) We are principally an airport station, and the vast majority of our passengers do not

look for the station from our local communities. Certainly, there are some people from the local community who use the station, but this is a very small number, and probably barely double figures per day.

- iv) The DPPP guidelines in particular need to be more specific in relation to station only operators, and to understand that in the case of stations like Prestwick International the rail operation is secondary to its core operation (eg the airport.) The key guiding light here is that we should be able to adopt the best practice between the two industries to ensure our customers requiring assistance receive a seamless transition, and this should be formally recognised.
- v) Experience in writing our DPPP and going through the acceptance process suggests that some lighter touch should be possible, for such a small operation as GPA's, a statement of how we deal with our disabled customers should be sufficient, such as our commitment to:
  - Co-operate with the train operator to ensure we always meets trains to help disabled passengers
  - Confirmation that we provide sufficient information that explains how disabled passengers can organise their rail travel
  - Explain the facilities available at the airport/station
  - How we manage any disruptions
  - How disabled passengers can contact us for information/feedback etc.

The guiding light here should be that the station is an integral part of the airport, and about 95% of passengers using the station are doing so because of planning a flight to or from somewhere else. The journey requires planning – it is rarely, if ever, simply turn up and go.

#### CHP

- vi) The situation regarding the regulation of the CHP is again remarkably similar to that for disabled passengers, and there must be recognition that a station operator has NO control over the any operation or performance issue concerning train services (including the process of ticketing) the scope for passenger dissatisfaction becomes remarkably narrow, focusing mostly on the experience of accessing/leaving the station, waiting/joining/alighting the train and relative issues such as basic station information and staff (where engaged) behaviour. Whilst there is scope here for complaints, there has been few complaints about our station performance over the years, and those that have been made have mostly centred upon an accident or the condition of the station. Whilst we should not be complacent, it should be possible to apply a much lighter touch to the regulation of complaints procedures and a similar statement of our process should be sufficient
- vii) Such light touch could be that we make a simple statement regarding how we deal with complaints showing:
  - The means available to complain
  - How we will deal with any complaint, including response times
  - How to appeal any complaint where the customer remains dissatisfied

We would, of course, display such a statement prominently, including on our website and the station/airport, and the process should cover the whole operation of airport and station.

viii) Such a lighter regulatory touches for both the DPPP and the CHP would be beneficial to both the regulator and ourselves.

6.3 The need to adopt our proactive approach to on-going monitoring (the collection of core data and reporting annually by way of our Measuring Up Report) or whether we should adopt a more reactive stance which would mean us interacting with the undertaking only in response to complaints/intelligence about failures in service.

- i) A lighter regulatory touch for station operators also extends to on-going monitoring, and again footfall is an important factor. It is fair to acknowledge that we have made some progress in this area by reducing our reporting periods for DPPP reporting from every 4 weeks to every quarter. We have not yet agreed reporting periods for the CHP
- ii) Whilst it is understandable that the regulator wants to know the effectiveness of the regulation, the numbers of disabled people using the station/complaints handled at one small station frankly does not affect the overall complaints statistics of the industry. As good managers, we should certainly measure our performance on agreed measures and at stated intervals, and reporting to the regulator must be proportionate.

Richard Shaw  
Rail Consultant



20 December 2016

**From:** Kelly Henshall [REDACTED]  
**Sent:** 23 January 2017 16:27  
**To:** Competition  
**Subject:** ORR Consultation on the scope of regulation - CHPs and DPPP

Bryan

I appreciate the consultation has now closed, however it has only just become apparent to me that the RDG response did not include a point of clarification on the licences held by Pre Metro Operations Ltd, who are specifically mentioned in the consultation.

This may have been fed back by themselves, however I wanted to clarify that Pre-Metro Operations has an Operator's Licence. London Midland hold the station licences for both Stourbridge Junction and Stourbridge Town stations. They are included in London Midland's DPPP and complaints relating to the service are covered by our CHP, I therefore think Pre-Metro Operations have been mentioned in error in the consultation.

Once again, please accept my apologies that this wasn't included in RDG's response last week.

Kind regards

Kelly

**Kelly Henshall**  
**Head of Franchise Management & Development**



102 New Street, Birmingham, B2 4HQ

## PAGE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- Yes

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Proactive Approach

**Q4: Do you think there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- No

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Yes

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPPs and CHPs**

- Option 3 - To retain the conditions but to adopt a proportionate approach to the approval of DPPP's and CHPs and in the monitoring of continuing compliance.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Yes

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

No impact

**Q10: Do you feel there are any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

None

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- Unsure

## PAGE 2: Respondent's Details

**Q12: Name of Organisation**

London TravelWatch

**Q13: Organisation Type**

- Transport Consumer Group

**Q14: Point of Contact within your Organisation (please include contact information)**

Tim Bellenger

**PAGE 1: Questions from consultation document**

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes

- 
- **Please provide further details to your answer above**We support this approach.

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- No

- 
- **Please provide further details to your answer above**We have no view.

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Reactive Approach

**Q4: Do you there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- No Preference

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Yes

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPPs and CHPs**

- Option 3 - To retain the conditions but to adopt a proportionate approach to the approval of DPPPs and CHPs and in the monitoring of continuing compliance.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- **Please provide further details to your answer above**we have no view

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

We expect that our internal monitoring will be sufficient to ensure that there is little impact on the service our customer received.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

No

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- Yes

**PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

Merseyrail Electrics 2002 Limited

**Q13: Organisation Type**

- Transport Authority

**Q14: Point of Contact within your Organisation (please include contact information)**

Helen Hodgkinson

## PAGE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

*Respondent skipped this question*

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- No
- 

- **Please provide further details to your answer above**All disabled passengers should be catered for at EVERY station. Network Rail seem to have a policy of replacing station footbridges with ones which do not include any step free access. This must stop, and every new structure have step free access.

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Proactive Approach

**Q4: Do you there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

*Respondent skipped this question*

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- No
- 

- **Please provide further detail to your answer above**All disabled passengers should be catered for at EVERY station. Network Rail seem to have a policy of replacing station footbridges with ones which do not include any step free access. This must stop, and every new structure have step free access.

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPP's and CHP's**

- Option 1- To keep the existing categories within the full scope of regulation
- 

- **Please provide further details to your answer above**All disabled passengers should be catered for at EVERY station. Network Rail seem to have a policy of replacing station footbridges with ones which do not include any step free access. This must stop, and every new structure have step free access.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

*Respondent skipped this question*

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

*Respondent skipped this question*

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

All disabled passengers should be catered for at EVERY station. Network Rail seem to have a policy of replacing station footbridges with ones which do not include any step free access. This must stop, and every new structure have step free access. DOO trains present additional hazards for turn up and go disabled travellers (not all journeys can be booked 48/72 hours in advance) namely that once on board the train, the driver can not see that I am safely seated before starting of, resulting in possibility of being thrown to the floor.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

All disabled passengers should be catered for at EVERY station. Network Rail seem to have a policy of replacing station footbridges with ones which do not include any step free access. This must stop, and every new structure have step free access. The lack of access at stations is discriminatory against me. I know that every thing cant be done now, but a rolling program of provision should begin now, and these removals such as at Brigg be stopped forthwith.

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- Unsure

**PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

individual

**Q13: Organisation Type**

- **Other (please specify)** Individual

**Q14: Point of Contact within your Organisation (please include contact information)**

## AGE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- Yes

- 
- **Please provide further details to your answer above**<250 footfall per annum

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Proactive Approach

**Q4: Do you there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- Yes

- 
- **Please provide further details to your answer above**If taking a decision such as deregulation then as much evidence as possible should be required

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Yes

- 
- **Please provide further detail to your answer above**The proposals seem reasonable and only make operators comply with current regulation, does the provision to enable information at the station on the website also include apps.

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPP's and CHP's**

- Option 3 - To retain the conditions but to adopt a proportionate approach to the approval of DPPP's and CHP's and in the monitoring of continuing compliance.

- 
- **Please provide further details to your answer above**This seems the more proportional response as some operators do not have as much interaction with disabled passengers or provide services requiring as much interaction.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Yes

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

Easier to move from one service to another as the proposals should ensure service provided are equal.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

No

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- Yes
- 
- **Please provide further detail to your answer above.**It is an alternative to deregulation but not a good option compared with current situation as ORR is therefore just a complaints company.

## **PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

None

**Q13: Organisation Type**

- **Other (please specify)**None

**Q14: Point of Contact within your Organisation (please include contact information)**

Annette Eggington  
Competition and Consumer Policy  
Office of Rail & Road  
One Kemble Street  
London  
WC2B 4AN

The Quadrant:MK  
Elder Gate  
Milton Keynes  
MK9 1EN



20 January 2017

By email to: [competition@orr.gsi.gov.uk](mailto:competition@orr.gsi.gov.uk)

Dear Annette

**Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies**

Network Rail welcomes the opportunity to respond to ORR consultation on options for how it regulates obligations relating to Disabled People's Protections Policies (DPPPs) and Complaints Handling Procedures (CHPs) for station licence holders and charter operators. No part of this consultation response is confidential and we are happy for it to be published in full.

We note that the scope of this consultation is limited to licence holders who only hold station licences, namely: Prestwick Airport; Ashford International; Southend Airport; Tyne and Wear Metro (TWM); and Pre-Metro Operations at Stourbridge and charter operators who run non-scheduled passenger services. As such the DPPP and CHP obligations that apply to Network Rail (as a holder of both a network and station licence) are not currently subject to consultation.

Having reviewed ORR's proposed policy options with regard to the above matters, Network Rail supports ORR's intended approach. We have no further representation to make.

More generally, the consultation sets out ORR's commitment to look for circumstances where regulation is not needed, for example where existing laws or industry self-regulation are sufficient to protect consumers and additional regulation would be superfluous. In this regard we would welcome a conversation with ORR about its ongoing approach to the regulation and monitoring of complaints handling and inclusive service. We are particularly concerned that the DPPP guidance, which was last reviewed in 2009, imposes obligations on licence holders that are now duplicative of current legislation, notably the Equality Act 2010. Having raised this concern with ORR, we are disappointed that it does not currently intend to review this guidance within the next financial year. In light of the commitment set out in this consultation, we would encourage ORR to review this decision.

Should you have any questions regarding any aspect of this response, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Shona Beattie', with a stylized, cursive script.

Shona Beattie  
Strategic Reporting Analyst

## Tyne & Wear Metro

### Response to ORR consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies

1. Tyne & Wear Metro welcomes the opportunity to the consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies.
2. As the ORR acknowledge in the consultation, the Tyne & Wear Metro falls under regulatory scrutiny for 11 stations on the Pelaw to South Hylton extension. The other 48 stations on the Nexus network, and the passenger trains themselves, fall outside the scope of the regulatory scrutiny.
3. The majority of the Tyne & Wear Metro system was designed and constructed in the late 1970s and with wheelchair accessibility as a key part of the design. All new stations were designed with step-free access to the platform, and between the platform and train. Where existing stations were incorporated into the system, upgrades took place to improve their accessibility. In this context, the nature of the system is different to a great deal of the national rail infrastructure, as is evidenced on a day-to-day basis where many passengers with a disability, including wheelchair users, are able to use the system independently without assistance from Tyne & Wear Metro staff.
4. Recent station refurbishments have included accessibility improvements such as dual handrails, tactile platform surfaces, improved seating and installation of further lifts. The Tyne & Wear Metro also voluntarily applies its existing DPPP to the 48 stations which fall outside regulatory scrutiny. This includes providing pre-booked assistance at six working hours notice, and appropriate alternative transport for passengers where required.

5. Tyne & Wear Metro notes that the ORR's proposed policy option is that all operations remain within full regulatory scrutiny, as each forms a component of a passenger's end to end journey and the policy approach will aid consistency of approach for the passenger.
6. Tyne & Wear Metro interprets this consistency of approach in two ways:
  - i. Within the National Rail network
  - ii. Between National Rail and Metro
7. Tyne & Wear Metro considers that whilst maintaining consistency within the National Rail network is an appropriate objective to pursue, this is not relevant to Tyne & Wear Metro operations. The 11 stations on the Sunderland extension, whilst being situated on the National Rail network, are only called at by Tyne & Wear Metro services; no other operator's services call at these stations. Tyne & Wear Metro therefore considers its position is different to the other station licence holders in the scope of the consultation (except Stourbridge), who have other operator's services call at their stations.
8. In relation to Stourbridge, it is understood this consists of one station, providing a service which links directly to a National Rail station. Whilst Tyne & Wear Metro calls at Sunderland station (for which Northern is the Station Facility Owner and licence holder), for a passenger boarding the Metro at Sunderland their alighting station may or may not fall under the scope of DPPP and CHP dependent on their destination.
9. Tyne & Wear Metro considers its position is more akin to London Underground. It is noted that London Underground's DPPP only applies to 14 stations, where other operator's services call. If this same principle was applied to the Tyne & Wear Metro, no Tyne & Wear Metro stations would require a DPPP.
10. The ORR's proposed policy approach will also not ensure consistency of approach between National Rail and Metro, given the station licence only

applies to 11 stations and the other 48 stations on the Nexus network fall outside regulatory scrutiny.

11. In this instance, if the 11 stations remained within the scope of DPPP and CHP requirements, Tyne & Wear Metro would take cognisance of the principles underpinning the DPPP and CHP across the other 48 stations contained within the Nexus network. Tyne & Wear Metro would implement the DPPP and CHP measures on these 48 stations on a voluntary basis where reasonably practicable to do so. However this could potentially lead to an inconsistent approach between these two 'groups' of stations and thus not fulfil the ORR's objective.
12. Therefore, in the context of the accessible nature of the network and that remaining within regulatory scrutiny may not give a consistency of approach, Tyne & Wear Metro does not agree with the ORR's proposed option and instead proposes that the conditions relating to DPPPs and CHPs should be removed from the stations licence for the 11 stations operated by Tyne & Wear Metro. If this option were adopted, Tyne & Wear Metro would continue to take cognisance of the principles underpinning the DPPP and CHP across all 59 stations and implement the measures on a voluntary basis where reasonably practicable to do so.
13. However, if the ORR concludes that the 11 stations should remain within scope for a DPPP and CHP, Tyne & Wear Metro feels a proportionate approach to the ORR's monitoring would be required and that it is important that the particular circumstances of the Metro are recognised on an ongoing basis by the ORR. Examples of these include but are not limited to:
  - i. Not being a member of Passenger Assist (as acknowledged in the ORR's consultation)
  - ii. Not requiring TVM's to issue tickets at a reduced rate for holders of Disabled People's Railcards, as Metro is not part of the national rail ticketing system.

14. Tyne & Wear Metro also feels that recognition of the particular circumstances should include the fact that Tyne & Wear Metro has not fallen in scope for some areas of activity in the past, but is proposed to do so in the future. The main example of this is the submission of 'core data' to the ORR. Recent engagement with the ORR has identified that current IT systems cannot supply data that precisely matches the core data requirements and to do so would either require substantial manual analysis or costly IT system changes. In addition, it would be exceedingly resource intensive on an ongoing basis to separate the data which applies to the 11 stations that fall under regulatory scrutiny from the main data set of Tyne & Wear Metro complaints. In this context, a proportionate approach in such areas would be welcome as it will continue to ensure resources are directed to maintain and improve service delivery rather than on increased administration and system costs.

## PAGE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes

- 
- **Please provide further details to your answer above** As a heritage rail operator we welcome the ORR's approach to regulation. NYMR has equalities and accessibility policies in place, an implicit requirement of legislation and an explicit requirement to maintain its accredited museum status and successfully apply for funding. It also monitors customer complaints and Trip Advisor feedback. The requirement for ORR approval of its policies and provision of monitoring information is regarded as disproportionate.

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- Unsure

- 
- **Please provide further details to your answer above** The main requirement, in our view, is not to duplicate regulation.

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Reactive Approach

**Q4: Do you think there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- No

- 
- **Please provide further details to your answer above** NYMR estimate that compliance with the monitoring and approval processes would incur a significant cost in volunteer/staff time. It's difficult to quantify these costs, but they would be in the region of 20% of a full-time post. NYMR suggests that the burden on ORR would not be insignificant.

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Unsure

- 
- **Please provide further detail to your answer above** NYMR fully agrees that train and station licence holders should have and comply with an Equalities/Accessibility policy and a Complaints Handling Procedure. It is suggested that the term "Disabled People's Policy" is dropped as the term may cause offence and doesn't reflect the need to ensure, so far as is reasonably practicable, accessibility for all.

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPP's and CHPs**

- Option 2 - To remove the conditions relating to either or both of DPPP's and CHPs from the operating licences

- 
- **Please provide further details to your answer above** As mentioned above, the requirement for these policies and procedures is recognised by NYMR and the costs and bureaucracy of approval and monitoring are regarded as disproportionate. The requirement to comply with the Equality Act 2010 has superseded the requirement for approval by a third party.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Yes

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

As above, NYMR already has processes in place so there won't be a positive impact. We are also proactively seeking Heritage Lottery funding for improvements, such as accessible coaches. There could arguably be a negative impact with a focus on collating data rather than interacting directly with passengers.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

No

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- Yes

- 
- **Please provide further detail to your answer above.** This is a possible option. Perhaps a requirement to provide copies of policies and monitoring processes.

**PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

North Yorkshire Moors Railway

**Q13: Organisation Type**

- Charter Operator

**Q14: Point of Contact within your Organisation (please include contact information)**

Liz Parkes Head of Operations & Safety North Yorkshire Moors Railway 12 Park Street Pickering North Yorkshire YO18 7AJ ✉ @nymr.co.uk ✉

# **Rail Delivery Group**



## **Rail Delivery Group**

Response to:  
ORR

**Date: 20<sup>th</sup> January 2017**

## Rail Delivery Group response to consultation:

### Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled Person's Protection Policies

**Organisation:** Rail Delivery Group

**Address:** 200 Aldersgate Street, London EC1A 4HD

Business representative organisation

**Introduction:** The Rail Delivery Group (RDG) was established in May 2011. It brings together Network Rail and passenger and freight train operating companies to lead and enable improvements in the railway. The purpose of the RDG is to enable Network Rail and passenger and freight train operating companies to succeed by delivering better services for their customers. Ultimately this benefits taxpayers and the economy. We aim to meet the needs of:

- Our Members, by enabling them to deliver better outcomes for customers and the country;
- Government and regulators, by developing strategy, informing policy and confronting difficult decisions on choices, and
- Rail and non-rail users, by improving customer experience and building public trust

The RDG welcomes the opportunity to respond to the ORR's consultation on options for regulating obligations relating to Disabled People's Protections Policies (DPPPs) and Complaints Handling Procedures (CHPs) for station licence holders and charter operators.

We acknowledge that the scope of this consultation is limited to licence holders who only hold station licences and do not form part of the core National Rail managed network.

Having reviewed ORR's proposed policy options with regard to the above matters, the Rail Delivery Group supports the view of ensuring consistency within the industry as part of a customer's end to end journey. We welcome the opportunity to provide a more seamless experience for customers travelling with charter operators that interact with the main railway.

In terms of the scope of the consultation, the RDG believes there would be merit in the ORR looking at DPPP guidance, which has not been reviewed since 2009. We believe that existing legislation is duplicated by the current DPPP guidance and would greatly encourage the ORR to explore the option of reviewing this guidance. The RDG would be happy to support the ORR in any review that takes place.

Yours faithfully,

# Rail Delivery Group



For enquiries regarding this consultation response, please contact:

**NAME:**

**JOB TITLE: Accessibility and Inclusion Customer Experience Manager**

**EMAIL:**

**PHONE:**

**Rail Delivery Group**

2nd Floor, 200 Aldersgate Street

London EC1A 4HD



Competition and Consumer Policy  
Office of Rail and Road  
One Kemble Street  
London WC2B 4AN

**DB Cargo (UK) Limited**  
Ground Floor McBeath House  
310 Goswell Road  
London EC1V 7LW

**Access Manager**

Telephone:  
Fax:  
Mobile:

23 January 2017

Dear Sir/Madam,

**CONSULTATION ON THE SCOPE OF REGULATION FOR SOME CATEGORIES OF LICENCE HOLDER FOR COMPLAINTS HANDLING PROCEDURES AND DISABLED PEOPLE'S PROTECTION POLICIES**

This letter constitutes the response of DB Cargo (UK) Limited ("DBC UK") on behalf of its sister Company, Rail Express Systems Limited ("RES"), to the consultation document issued by Office of Rail and Road ("ORR") in October 2016 entitled "*Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies*"

**1. Opening remarks**

1.1. RES is one of a small number of railway undertakings that operate charter passenger services across the national railway network. Such services generally consist of irregular non-scheduled excursion trains or privately hired trains that operate on a bespoke basis and therefore do not carry passengers at ordinary fares. RES operates around 220 such services per annum. Of these, around 70% could be categorised as providing 'day out' trips for customers to specific locations whilst the remaining 30% consist mainly of tours for 'railway enthusiasts' where the customers' prime reason for taking the journey is to travel on the type of train itself and/or the railway lines over which the train is planned to travel.

1.2. The operation of charter passenger services represents a very small part (less than 0.5%) of the overall mileage operated by all passenger trains across Network Rail's network. However, charter passenger services do have an important role to play in meeting the unique and bespoke requirements of customers (including tourists) and promoters that are not served by regular timetabled passenger services.

1.3. Although RES operates charter passenger services under its passenger licence and track access contract with Network Rail, it actually has very little contact with the passengers themselves or with the provision of the rolling stock within which they travel. RES's customers consist of the charter passenger train promoters and organisers who own, lease or hire the passenger vehicles to be used on the train, market and sell the



tickets to passengers and provide the customer facing staff on the trains. RES's role is to provide the operational capability (usually including locomotive and train crew) to ensure that the train is operated on the railway network safely and efficiently.

1.4. Given the nature of its charter passenger operation outlined in the paragraph above and its lack of a direct commercial relationship with the passengers travelling on the charter passenger trains or the rolling stock within which they travel, DBC UK fully endorses ORR's proposal to remove the need for regulation for the majority of charter passenger train operators (including RES) by obviating the need for such operators to hold and maintain a Complaints Handling Procedure ("CHP") or a Disabled Persons Protection Policy ("DPPP") under their operating licences. As acknowledged in paragraph 2.19 of the consultation document, RES is already permitted not to hold a CHP.

## 2. ORR's specific requests for views

*Whether or not you agree with our proposals with respect to the operations listed, providing full reasoning.*

2.1. DBC UK agrees with ORR's proposal to remove the need for the majority of charter passenger operators to hold a CHP or a DPPP under their operating licences. This is because such operators have little or no involvement with the passengers that travel on the charter passenger trains that they operate (i.e. they do not market or sell tickets to the passengers, they do not own, lease or hire the rolling stock used and they do not provide the customer facing staff on the trains).

- *Which of options 1, 2 or 3 you would support – in the case of our approach to each of DPPPs and CHPs.*

2.2. DBC UK supports option 2 in respect of DPPPs and CHPs for the majority of charter passenger operators.

- *Whether you agree with our categories of licensed operation.*

2.3. DBC UK agrees with ORR's categories of licensed operation.

- *Whether you agree with the criteria we have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt such as footfall i.e. the number of consumers likely to be affected by our proposals.*

2.4. DBC UK agrees with ORR's criteria that it has applied on whether an operation falls in or out of scope.

- *What is the predicted impact on passengers, including passengers who need assistance, of our proposals?*



2.5. In respect of ORR's proposals to remove the need for the majority of charter passenger operators to hold a CHP or a DPPP under their operating licenses, DBC UK believes that there will be minimal, if any, impact on passengers. This is because customers on charter passenger trains will normally consider that the charter passenger train promotor or organiser from whom they bought their ticket, who provides the rolling stock within which they travel, and who provides the staff they see on the train, is the party who is responsible for their journey and from whom they would expect assistance or to whom they would submit any complaints, and not the Train Operator with whom they have little if any contact. This can be demonstrated, for example, by the fact that RES has not been required to hold a CHP for a number of years now without any negative impact on passengers who would expect to submit complaints, if any, to the charter train promotor or organiser.

2.6. Furthermore, given the nature of the rolling stock that tends to be used on charter passenger trains which usually consists of heritage-type vehicles, access for disabled passengers in wheelchairs is very difficult to achieve as the doors and gangways are just not designed to accommodate the modern wheelchair. However, this lack of provision can be explained to customers at the booking stage by the charter passenger train promotor to avoid the possibility of any difficulties in this respect on the day. That is not to say, however, that passengers with mobility problems cannot be accommodated (including those who use wheelchairs) on the majority of charter passenger trains. Provided the passenger is able to transfer from his/her wheelchair from the station platform to a seat on the train then arrangements can be made beforehand for the customer-facing stewards on the train to provide any necessary assistance as well as providing storage for the wheelchair in the brake coach.

- *Whether there are any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary.*

2.7. DBC UK is not aware of any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary. In fact, DBC UK believes currently the opposite to be the case (i.e. additional regulation is currently in place which arguably is unnecessary, hence DBC UK's support for ORR's proposals to reduce regulation for the majority of charter passenger operators).

- *For those operations we propose to retain within scope of regulation, how and to what extent we should adopt a proactive approach to on-going monitoring (the collection of core data and reporting annually by way of our Measuring Up Report) or whether we should adopt a more reactive stance which would mean us interacting with the undertaking only in response to complaints/intelligence about failures in service.*

2.8. Given that RES is not an operator that ORR proposes to retain within the scope of regulation, DBC UK is not best placed to comment on this aspect of the consultation. However, that said, DBC UK would hope that the administrative burden both for ORR and the Train Operators concerned would be minimised as far as reasonably possible to avoid



unnecessary time being spent on investigating, collecting and collating data that is having little or no benefit for the travelling public.

- *Whether a lighter touch approach to regulation (described variously above) could be an alternative approach to de-regulation.*

2.9. DBC UK would not view 'lighter touch' regulation as an alternative approach to de-regulation but rather as another option in ORR's armoury as there will no doubt be cases where full regulation is required, 'lighter touch' regulation is appropriate or no regulation is necessary (e.g. as proposed in the case of DPPP's and CHPs for the majority of charter passenger operators).

- *Whether there is merit in taking a decision on de-regulation at a later period (for example after 18 months of monitoring) when we would have more evidence of how these operators are performing in these areas, and, therefore, the extent to which regulation continues to be necessary.*

2.10. In the case of the proposal to remove the need for DPPP's and CHPs from the majority of charter passenger train operators' licences (including RES's), DBC UK sees no benefit in delaying the timing of ORR's decision to a later date. As stated already within this response, the commercial/customer facing relationship for passengers on the majority of charter passenger trains is between the charter passenger train promotor or organiser and not with the Train Operator. This situation is unlikely to change significantly, if at all, over the next 18 months.

- *The costs that we have assumed within our Impact Assessment at Annex A, providing alternative estimates of cost with full workings where applicable.*

2.11. DBC UK considers that ORR's cost estimates set out in Annex A of the consultation document appear reasonable.

### 3. Concluding remarks

3.1. In conclusion, for the reasons set out in this response, DBC UK supports ORR's proposal to remove the need for maintaining DPPP's and CHPs from the majority of charter passenger train operators' licences.

3.2. If you require any further information please let me know.

Yours faithfully,

**Access Manager**

...

**From** ✕

**Sent:** Wednesday, January 11, 2017 9:30 AM

**To:** ✕

**Subject:** Rail Ops Group - Survey Response

### GE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes
- **Please provide further details to your answer above**As a Charter Operator who has recently been through the Licensing process, including the approval of DPPP/CHP, it became clear that these requirements needed an element of additional flexibility to accommodate the relationships between charter operator, booking agents and Tour organisers. The use of 'heritage' rolling stock

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- No
- **Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- No Preference

**Q4: Do you there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- Yes
- **Please provide further details to your answer above**Whilst all charter operators have not yet submitted and received approval for CHP/DPPP, ORR do not yet have full picture of the extent to which each organisation understands the issues around DPPP or handling of complaints. It may be worthwhile ensuring each organisation has undertaken the groundwork to establish a 'base-level' of compliance and understanding first. A more informed view on removal of requirements can then be taken. As one of the operators who has undergone approval of DPPP/CHP, we feel that (whilst the process was protracted and sometimes painful) we have benefited from exploring these issues in depth.

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Yes
  - **Please provide further detail to your answer above**The lessons learned on both sides during our licence submission clearly indicated the difficulty of applying existing guidance on DPPP/CHP to small charter operators
- Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPPs and CHPs**
- Option 3 - To retain the conditions but to adopt a proportionate approach to the approval of DPPPs and CHPs and in the monitoring of continuing compliance.
  - **Please provide further details to your answer above**As one of the operators who has undergone approval of DPPP/CHP, we feel that (whilst the process was protracted and sometimes painful) we have benefited from exploring these issues in depth.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes
- **Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Yes
- **Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

Minimal

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

No

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- Yes

**PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

Rail Operations Group

**Q13: Organisation Type**

- Charter Operator

**Q14: Point of Contact within your Organisation (please include contact information)**

Stephanie Ferry



Competition & Consumer Policy Executive

Office of Rail & Road | Tara House | 46 Bath Street | 2<sup>nd</sup> Floor (west) |  
Glasgow | G2 1HG

[ORR.gov.uk](http://ORR.gov.uk) Follow us on twitter [@railandroad](https://twitter.com/railandroad)

**From:** Competition  
**Sent:** Friday, January 20, 2017 3:44 PM  
**To:** ✕  
**Subject:** ScotRail: Consultation on scope of regulation re CHPs and DPPP

Hi both,

Response from ScotRail below.

Thanks,

**From:** ✕  
**Sent:** 20 January 2017 14:36  
**To:** Competition  
**Cc:** ✕  
**Subject:** Consultation on scope of regulation re CHPs and DPPP

Dear Sirs,

I refer to your Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies. In view of ASR's relatively limited involvement with the subject matter of this consultation, I am writing to provide a high level summary of our views on this issue only.

- A. **Proposal to keep Station licence holders within the scope of regulation, but adopt a proportionate approach to approvals and monitoring.** Ultimately we believe it is for the ORR to determine the appropriate approach to regulation which achieves its statutory objectives and compliance with the general law. However, this proposal seems to us a reasonable approach, assuming that for licence holders such as Prestwick they will be able to develop integrated policies which are applicable to the wider airport and thereby avoid any unnecessary duplication.
  
- B. **Proposal for Charter Operators to remove them from the scope of regulation re DPPP and CHPs, with a possible exemption for West Coast Railway Company Limited.**
  - a. We would note as a general comment that we have a significant level of interaction with Charter services on our network. It is also true to say the volume of such services operated by WCRC is generally much greater than the other operators mentioned and there may therefore be a possible justification for a differentiated approach. However, it is important that all operators who interact with our stations and services are subject to appropriate levels of regulation. As noted above, we ultimately think ORR is better placed than us to determine how that is best achieved.
  - b. Many of our practical issues in supporting Charter operators at our stations relate to late or insufficiently detailed requests for station access out with the timescales provided for in the contract. This makes it difficult for us to ensure that services such as mobility assistance or despatch, where required from ScotRail, can be planned and

delivered. We would suggest that improving Charter operators' compliance with the station access process could yield significant passenger benefits and would be an appropriate area of focus for any deregulated regime.

**Regards**

Head of Legal, ScotRail  
50 Waterloo Street, Glasgow G2 6HQ  
Tel. ☎  
Mob. ☎

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Abellio ScotRail Limited. Registered in Scotland Number SC450732. Registered office: 5th Floor, Culzean Building  
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Competition and Consumer Policy  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

20 January 2017

Dear Sirs,

**Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies**

Thank you for consulting with Stagecoach South Western Trains Limited (SSWT) in respect of above. Our comments are as follows:

**Station licence holders**

- Station Licence holders who only hold station licences and are not bound into CHP or DPPP obligations by virtue of also holding passenger train licences. SSWT has no comment on the scope of regulation of the licence holders who fall under this category.

**Charter operators**

- SSWT recognises the resource implication for the current level of regulation for Charter operators who run non-scheduled passenger services that fall under this category, and that the obligations and costs may not be proportionate to the scale of their operations. We also recognise that Charter operators will continue to have legal obligations under the Equality Act 2010 to provide protection to disabled passengers.
- SSWT would however disagree with paragraph 2.21 of the consultation, which states that there is minimal interaction as part of the mainline network. SSWT frequently receive requests by a range of Charter operators to call at stations where we are SFO. As part of our own CHP policy, SSWT commits to providing a high quality service to our customers by coordinating any correspondence relating primarily to another operator with that relevant organisation. Although rare this would extend to Charter operators and SSWT therefore believe that it is important for there to be a level of consistency of

approach across the passenger's end to end journey, and that this should extend to the level of regulation.

- Accordingly, it is important that any deregulation of Charter operators in this area does not result in a lower quality response or treatment of any customer under these policies, which might occur at stations where the operator (such as ourselves) remains subject to a higher-level of regulation.
- As such, SSWT does not consider that complete deregulation of Charter operators obligations in respect of CHP and DPPP is an appropriate step, as this would potentially import an unbalanced approach across the industry. We believe this would potentially increase the risk to the consumer which would be a negative step.
- Therefore SSWT's preference would be Option B, adopting a 'light touch' approach to regulation, which would still require Charter operators to submit CHPs and DPPPs to the ORR, but with a more proportionate approach to measurement and costs for the Charter operators involved.
- SSWT supports the proposal to retain West Coast Railway Company within the full scope of regulation in this area.
- SSWT are, at this stage, unable to advise on the monetary value of the impact of the proposed options presented within this consultation.

Yours sincerely,



Andy Teesdale  
Senior Regulated Procurement Manager  
Stagecoach South Western Trains Limited

## AGE 1: Questions from consultation document

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- Yes

---

• **Please provide further details to your answer above**We agree with the scope that's been proposed.

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- Unsure

---

• **Please provide further details to your answer above**Obviously only having one station, we don't have the volume of passengers others operators have. We would welcome some type of threshold value? but we are unsure what level this would be.

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Proactive Approach

**Q4: Do you think there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- No Preference

---

• **Please provide further details to your answer above**18 months is maybe not long enough? 2 years plus might get a better understanding.

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- Yes

---

• **Please provide further detail to your answer above**We think your proposals are fine.

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPP's and CHP's**

- Option 1- To keep the existing categories within the full scope of regulation

---

• **Please provide further details to your answer above**We are happy to adopt option 1.

**Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes

---

• **If 'No' please explain why**The categories are fine.

**Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Yes

- 
- **Please provide further details to your answer above**We agree with criteria documented in the consultation document.

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

We believe the impact should improve the passenger experience when using stations.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

No

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- No

- 
- **Please provide further detail to your answer above.**There needs to be good strong regulation throughout both CHP & DPP polices. We believe what has been drafted will service the industry well.

## **PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

Stobart Rail Ltd

**Q13: Organisation Type**

- Station Licence Holder

**Q14: Point of Contact within your Organisation (please include contact information)**

✕, Operations Director ✕

Competition and Consumer Policy  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

Transport Focus, 2-6 Salisbury Square  
London, EC4Y 8JX

w [www.transportfocus.org.uk](http://www.transportfocus.org.uk)  
t 0300 123 0860 f 0207 583 9848  
e [info@transportfocus.org.uk](mailto:info@transportfocus.org.uk)  
direct 0300 123 0830  
e

16 January 2017

## **Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies**

I am responding on behalf of Transport Focus to the above consultation. Transport Focus is the independent consumer watchdog representing the interests of rail users throughout Great Britain; bus, coach and tram users across England, outside London; and users of the Strategic Road Network in England

### **Station Licence Holders**

*Q: Whether the proposed criteria ORR has applied for considering the scope of regulation are appropriate*

ORR proposes that operators who only hold station licences should remain within the scope of regulation but that this should follow a proportionate approach to approval and monitoring.

From our perspective the issue is whether the removal of the regulation will have a negative impact on passengers. We agree with ORR that each of the stations covered could potentially form part of a passengers' end to end journey and, therefore, their removal could leave part of the journey 'unprotected'. Hence we agree with ORR's stance.

*Q: Whether there should be a further option to remove some of these operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply*

We are not convinced that footfall alone is sufficient to exclude a station from regulation. There may be few people but the impact on these few could be extreme – especially when it comes to accessibility. The scale of the impact also needs to be considered.



*Q: The need to adopt our proactive approach to on-going monitoring (the collection of core data and reporting annually by way of our Measuring Up Report) or whether we should adopt a more reactive stance which would mean us interacting with the undertaking only in response to complaints/intelligence about failures in service.*

We understand the desire for proportionality when it comes to data provision and the time/effort involved in producing it. However, moving simply to a purely reactive stance risks the 'authorities' never hearing about a problem in the first place. So we feel there is still a need for some basic data to be provided – even a basic level of transparency still adds value.

### **Charter Operators**

Charter operators have been excluded from the remit of Transport Focus. As we do not have any engagement with passengers on these services or with the operators themselves we have refrained from answering the charter specific questions.

ORR also asks about the generic principles adopted with a view of these being used as a template for future decisions. We would suggest that the following are key issues to be considered:

- End to end coverage.  
Where the operator in question is part of a through journey then regulation should cover the entire journey. It will be important not to create any holes in regulatory protection.
- Hardship.  
To re-iterate the point on footfall above, it will be important that the scale of any actual or potential hardship is taken into account when reviewing regulation. The bigger the 'hardship factor' the higher the threshold for its removal.
- The presence/extent of alternative protections and the extent to which these are publicised.  
We acknowledge that some regulatory protections are mirrored by statutory provisions. For example, the Consumer Rights Act provisions could well replicate some of the Complaint Handling Process protections, while equality legislation provides safeguards for accessibility.

However, even if the decision was made to exclude items from regulation we think there should still be some residual agreement/duty on the operator to have to notify consumers of these alternative sources of protection. For instance some



explanation of how the company would deliver its legal requirements on accessibility or where they can find out more about consumer law provisions. If needs be this 'signposting' could just be part of any transition process, though we think there is merit in it being a longer-term requirement.

Regards,

Mike Hewitson  
**Head of Policy**

**PAGE 1: Questions from consultation document**

**Q1: Do you think that the proposed criteria ORR has applied for considering the scope of regulation to be appropriate?**

- No
- **Please provide further details to your answer above** We believe that the ORR should be monitoring disability access more, not less. Reducing the clarity around regulation and complaints procedures will only serve to reduce the confidence of disabled and older passengers accessing these services and leave more room for failings and abuses.

**Q2: Do you think ORR should include a further option to remove some of the existing operations from regulatory scrutiny entirely by virtue of footfall and if so what threshold value we should apply?**

- No
- **Please provide further details to your answer above** No public carriers should be free from regulation and scrutiny with respect to their duties towards disabled and older users, or to their complaints handling procedures which must be clear and accessible if there is to be a clear picture of operator performance.

**Q3: Going forward should ORR adopt a more proactive approach to monitoring (reporting core data annually via Measuring-Up Report) or a more reactive approach (only interacting with the undertaking only in response to complaints/intelligence about failures in service)**

- Proactive Approach
- **Q4: Do you there is merit in taking a decision on de-regulation at a later period (for example after 18 months) when we would have more evidence of how operators are performing in the specific areas?**

- Yes
- **Please provide further details to your answer above** There certainly isn't enough evidence at present to get a clear view of the impact this change will have on individual service users (as opposed to just the financial impact on operators and the ORR).

**Q5: Do you agree with the proposals set out in ORR's consultation document with respect to our approach to CHP's and DPPP's?**

- No
- **Please provide further detail to your answer above** We believe that all Licence holders should be required to have clear CHPs and DPPP that have been developed in consultation with Disabled passengers and their groups.

**Q6: Which of options 1, 2, or 3, detailed in ORR's consultation document, you would support in the case of our approach to each of DPPPs and CHPs**

- Option 1- To keep the existing categories within the full scope of regulation
- **Q7: Do you agree with the categories of licensed operations listed in ORR's consultation document?**

- Yes
- **Q8: Do you agree with the criteria ORR have applied on whether an operation falls in or out of scope, or whether there are any additional or alternative criteria we could adopt?**

- Adopt an alternative criteria

- **Please provide further details to your answer above** We believe that disabled persons railcard use is not an accurate measure of the number of disabled passengers on the rail network. It does nothing to measure demand for use of those who are not confident in the assistance they will receive at the station, and since it pays for itself in a single journey it doesn't necessarily indicate users are confident in using the rail network-we hear from many people who buy the card for their first rail journey, but choose not to travel again because of poor experiences. There is also a problem around using the number of complaints to measure the quality of service, many of the disabled and older users who contact our helpline have given up on the complaints process altogether, or did not realise they were able to raise a complaints due to lack of clarity around their rights and the complaints process. While it is, of course an indicator we believe that proactively surveying users would give a far clearer picture of the quality of service. We also believe that the availability of alternative transport is an irrelevant measure. Disabled users require the same choice in modes of transport as non-disabled users, reducing the regulations on transport providers simply because there are other modes of transport which may be less appropriate, or take more time, or be more crowded will unfairly reduce the opportunities of disabled and older users.

**Q9: What do you feel could be the predicted impacts on passengers, including passengers who need assistance, of ORR's proposals**

We feel that these proposals will only reduce clarity around operator's duties towards disabled and older transport users at a time when there are already many failings in disabled passenger provision. Passengers requiring assistance should be able to expect a quality service at all stations and with all rail providers.

**Q10: Do you feel there any gaps in passenger protection not covered by the legal provisions and where regulation might, therefore, be necessary?**

Yes, in particular the lack of clear regulations around passenger assistance in station only licence holders. We believe that passengers needing assistance should be able to expect a clear standard of integrated service on every journey and at every station in the rail network. There must be much clearer regulation around standard of service that people can expect (including stations that are managed by station only and Charter operators), close monitoring of the delivery of the service and an effect.

**Q11: Do you think a lighter touch approach to regulation (described in ORR's consultation document) could be an alternative approach to de-regulation?**

- No

- **Please provide further detail to your answer above.** We are not against a pragmatic approach to many areas of regulation, but in this case we can't see that deregulation or reduced oversight would result in anything other than a reduction in clarity around service provision for disabled and older transport users and therefore a reduction in the accessibility of their services.

**PAGE 2: Respondent's Details**

**Q12: Name of Organisation**

Transport for All

**Q13: Organisation Type**

- **Other (please specify)** London based Disability rights charity that champions the rights of Disabled and older people to travel with freedom and Independence.

**Q14: Point of Contact within your Organisation (please include contact information)**

✕ Director of Transport for all

**From:** Competition  
**Sent:** Friday, January 20, 2017 2:13 PM  
**To:** ✕  
**Subject:** TRANSPORT SCOTLAND: Consultation Response: Scope of regulations for DPPP & CHP

**From:** ✕  
**Sent:** 20 January 2017 14:00  
**To:** Competition  
**Cc:** ✕  
**Subject:** Consultation Response: Scope of regulations for DPPP & CHP

Hi

Thank you for inviting transport Scotland to respond to this consultation. Please see our views below for consideration:

## **DPPP**

### **Proposal**

To continue to include the station licence holder for Prestwick Airport under requirements to produce a DPPP for annual approval. Not required to directly provide Passenger Assist but have agreement in place with passenger service operator.

### **Response**

Agreed. ScotRail currently operates the station as well as being the passenger operator and so already produces DPPP and provides Passenger Assist.

### **Proposal**

All charter train operators to be removed from regulation requiring DPPP with the exception of west coast rail Company. WCRC. has greater interaction with the main line connections and should retain DPPP. However, a proportionate process and requirement should be agreed to reduce the existing process WCRC must comply with.

### **Response**

Agreed. Although under regulation, the consultation advises that charter operators, including WCRC, have amended and less onerous requirements to provide DPPP. For example, as use of these services is through booking only, customers should be asked if they have any specific needs, but the operator is not part of the mainstream Passenger Assist service. The specific attributes supporting why WCRC should continue in this manner seem reasonable.

## **CHP**

### **Proposal**

To retain the status quo which will require these operators to;

1. Submit CHP policies for our approval
2. Establish and submit a full set of core data for monitoring purposes
3. Be subject to scrutiny, compliance checks and possible enforcement action; and
4. Be within scope of our Measuring Up report

Response

Agreed.

Our views are shared by the Mobility and Access Committee Scotland who considered the consultation but who are not responding directly.

Many thanks.

Regards

✘

Rail Accessibility Manager

Rail Directorate

Transport Scotland

T - ✘

M - ✘

By email



Victoria Square House,  
Victoria Square,  
Birmingham B2 4DN

Competition and Consumer Policy  
Office of Rail and Road  
One Kemble Street  
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WC2B 4AN

20 January 2017

**Consultation on the scope of regulation for some categories of licence holder for Complaints Handling Procedures and Disabled People's Protection Policies**

Thank you for including us as a consultee in relation to the above consultation.

This response is on behalf of West Coast Trains Ltd which trades as Virgin Trains.

We consider that the approach which ORR proposes to take in respect of how it regulates the obligations relating to Disabled People's Protections Policies (DPPPs) and Complaints Handling Procedures (CHPs) for the applicable station licence holders and the listed charter operators, is a sensible and pragmatic one. We are therefore happy to support the proposals.

Where we have any interface between our own operations and those of the operators within the scope of the consultation, which in our particular case is limited to charter operators only, we would clearly expect those operators to continue to alert us to anything they would expect us to provide in order to assist any of their customers at our stations.

We have no wish to make this consultation response confidential in any way.

Yours sincerely

Franchise and Public Affairs Manager  
Virgin Trains

**From:**

**Sent:** 15 December 2016 10:00

**To:**

**Cc:**

**Subject:** Re: ORR Consultation on the scope of regulation for some categories of licenc...

Further to our telephone conversation, we thank you for the opportunity to respond to your consultation. In simple terms, West Coast Railways (WCR) would support your option 2, ie. "to remove conditions relating to either or both of DPPP and CHPs from the operating licences, where this is unlikely to impact upon consumer protection."

In addition to well-publicised Terms & Conditions, at the point of sale for tickets (both web- and telephone-based), WCR has its own Complaints Handling Procedure, which, when combined with DPPP and Environmental & Social Responsibility policies, ensures customer protection is maintained.

Persons travelling on our trains do so for very different reasons to those that travel on franchised services. As optional or leisure travellers, they purchase tickets for specific trains as a 'day out', where the travel on the train is an integral part of the experience, rather than a simple form of interchangeable travel to be undertaken as quickly as possible.

We do get complaints, from time to time, and by far the largest number relate to the specialised area of steam operation, where a steam locomotive has failed and a diesel has been substituted. Compensation is not normally offered to individual passengers but we do liaise with the relevant tour promoter, to follow their lead, and refunds do occur in some circumstances.

Our aim is for every complaint to be treated fairly and to be responded to in a timely manner. The following WCR documents apply:

WCR/PD 007 Complaints Handling Procedure

WCR/PD 004 Environmental & Social Responsibility Policy

WCR/PD 002 Disabled Peoples Protection Policy

Best

WCR