

Open letter to Train Operating Companies

18 December 2014

Dear Sir or Madam,

Disabled People's Protection Policy compliance and approval process

I am writing to set out changes to the Disabled People's Protections Policy ('DPPP') approval process to reflect some lessons learnt to date and to advise you of areas where you may not be compliant with the requirements of Condition 5 of the Passenger and Station licences and the Statement of National Regulatory Provisions ('SNRP')¹.

In July we published a Regulatory Statement² that said that we would review the DPPPs of those operators who had already submitted their policies to us for re-approval, with the aim of approving them by October.

Following the intended approval of that initial batch of DPPPs, we said that we would publish the lessons that we had learnt through the process and then ask other operators to review, and where necessary change, their policies in light of those lessons.

In practice, the review process to date has raised points of principle and detail, some of which are common to most TOCs and some are more specific. As a result we have not been able to approve the majority of DPPPs submitted to us.

The annex to this letter sets out the issues and gives our views on how they should be addressed. The annex is structured as follows:

Section A - Issues of interpretation that are relevant to all aspects of the 2009 Guidance on *'How to Write Your Disabled People's Protection Policy: A Guide for Train and Station Operators'*³ (the Guidance).

¹ <http://orr.gov.uk/what-and-how-we-regulate/licensing/licensing-railway-operators/model-licences-and-statements-of-national-regulatory-provisions-snrps>

² http://orr.gov.uk/_data/assets/pdf_file/0010/13996/dppp-regulatory-statement.pdf





Section B - Specific requirements of the Guidance that we would expect to see addressed in your ‘*Making rail accessible: Helping older and disabled passengers*’ (‘the *Passenger Document*’).

Section C - Where we expect more detailed explanations within your policy document “*Making Rail Accessible: A Guide to our policies and practices*” around organisational culture and structure and promoting awareness (‘the *Policy Document*’).

Section D - Concerns about how your policies may be applied in practice, which arise from a number of incidents that have recently been brought to our attention.

For ease of reference, each section of the annex refers to the relevant part of the Guidance.

We are now asking all TOCs, including the ones we have already been in discussions with, to review their DPPP in light of the Guidance and the annex to this letter, and provide us with revised policies by **23 January 2015**.

We also remind you here of your separate legal obligations in respect of accessibility of rail vehicles⁴. *The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010* contain both operational and technical requirements. For example, where a wheelchair-compatible doorway in a relevant rail vehicle is open at a platform at a station, a boarding device must be fitted by the operator between that doorway and the platform, if a disabled person in a wheelchair wishes to use that doorway. These obligations are enforced through ORR’s health and safety regulatory framework.

If you do not think that your current policies or practices meet with our view of full compliance, you should explain this to us and discuss what changes need to be made and how quickly they can be introduced as services to passengers. We will agree individual dates with these operators for submitting revised policies to us.

Discussions with us should occur as quickly as possible and any action plans to change your services so that they are fully compliant, should be agreed with us by **23 January 2015, with those actions taking effect by 31st March 2015**.

We understand that there are some concerns around our interpretation of the obligations on assistance at unmanned stations. ATOC has indicated that its Disability Working Group has requested that it meet with ORR to set out its view of the obligations and how they

³ http://orr.gov.uk/_data/assets/pdf_file/0015/5604/how-to-write-your-dppp.pdf

⁴ <http://orr.gov.uk/what-and-how-we-regulate/health-and-safety/regulation-and-certification/rail-vehicle-accessibility>



have been interpreted by TOCs. We would be happy to meet with ATOC or with individual TOCs to hear these views, but our primary focus must be to ensure that policies and practices are capable of delivering industry's core obligations to its disabled passengers.

Please contact John Trippier on 0207 282 2122 if you would like to discuss this further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Larkinson', is positioned below the text 'Yours sincerely,'.

John Larkinson
Director, Economic Regulation

Annex – DPPP compliance

Section A – Issues of interpretation

The requirements of the Guidance are expressed in two main ways:

- Where the Guidance states that operators “must” provide information or offer a service; and,
- Where the Guidance states that operators are “expected” to provide information or offer a service.

We have given careful consideration to what these two requirements mean and how they should be interpreted by operators when designing the service that they will offer to disabled passengers.

For those requirements described as must we consider that operators are obliged to always provide that service or information as part of their usual practice.

For those requirements described as an expectation, we consider that operators are obliged to provide that service or information as part of their usual practice unless there are circumstances that from time to time may hinder the ability of the operator to meet that requirement in full.

Such circumstances should be managed on a day to day basis in a practical manner, bearing in mind the need to protect the interests of disabled passengers. However, our interpretation of the Guidance means that we expect this to arise as an exception to normal circumstances and for a limited period of time.

The focus of operators on continuous improvement in the provision of their DPPP obligations should lead to any recurrent issues or risks being addressed, with such risks identified through their own monitoring. In all cases, we expect the advice to passengers booking assistance to be clear, simple and effective in meeting their needs.

We set out below two key examples (provision of assistance at unstaffed stations, and provision of luggage assistance) where questions of interpretation have delayed the approval process and where we believe the same interpretation issues will be most relevant to other TOCs when they come to review their own policies.

We consider that TOCs need to meet both the obligations and expectations of the Guidance in order to meet the minimum standards sufficient for ORR to grant approval of a DPPP and to remain compliant with condition 5 of the licence.

Provision of assistance at unstaffed stations

The relevant part of the Guidance is Part C2. It states that:

“In their DPPPs, operators must state their commitment to participate in APRS.

Operators should provide an explanation of the system, which should clearly set out what assistance they can and cannot offer to ensure that passengers are informed and that their expectations about what the system and operators can deliver are realistic.

Operators are also expected to make the following commitments in their DPPP in relation to providing passenger assistance:

[a-c]

d. provide assistance, when booked in advance through APRS, at any station during the hours that trains are scheduled to serve that station, and ensuring that details of these times are available on Knowledgebase; [...]

This is an expectation (as defined above) on operators to provide **the full range of assistance at all stations during the hours that trains are scheduled to serve that station**, where the passenger has booked assistance in advance. This includes:

- providing staffed assistance at stations that are normally unstaffed, and, providing assistance outside of normal staffing hours at stations that are usually staffed, **if this is necessary to meet the needs of the passenger**; and
- drawing passengers' attention clearly and easily to the existence of such assistance in the DPPP and when booking assistance through Passenger Assist.

Where the station is accessible to the disabled person, alternatives (such as providing a taxi to a staffed station) may only be used **if this is acceptable to the passenger**.

We recognise that there may be circumstances that temporarily hinder the ability of the TOC to provide staffed assistance. However, our interpretation of the Guidance means that we expect this to arise as an exception to normal circumstances and for a limited period of time.

In addition, operators should note that where a station is classed as 'inaccessible', this does not mean that staffed assistance should be excluded as a matter of policy. Assistance should be based on the needs of the individual passenger. For example, visually impaired passengers or those with a learning disability might require staffed assistance at stations classed as 'inaccessible'.

Provision of luggage assistance

The relevant part of the Guidance is C6.6. It sets out that:

“Luggage can be difficult to manage for many disabled people, and operators must ensure that staff will be available to help where this assistance has been arranged in advance (for example through APRS).”

Operators must provide details of their policy for assisting disabled passengers with luggage in their DPPP, including the points between which operator's staff are able to provide help and whether there is a charge for doing so. It is expected that operators' policies should be consistent with the relevant sections of the National Rail Conditions of Carriage."

This is expressed as an absolute requirement and, therefore, TOCs must always provide luggage assistance to disabled passengers who have booked that assistance in advance through Passenger Assist. This obligation attaches to your obligations to provide assistance at unstaffed stations (see above). As such, luggage assistance should be provided at any station during the hours that trains are scheduled to call.

It is, therefore, not acceptable to have words such as "we aim to" or "where staff are available" within your policies.

Consistent with the limits set out in the National Rail Conditions of Carriage⁵, we expect passengers to be informed that they will be assisted with "a single item of hand luggage that must be capable of being held in your lap if required, plus up to 2 items of luggage each not exceeding 30 x 70 x 90 cm in size".

Section B – The Passenger Document

In this section we set out other areas where we consider the wording of the Passenger Document does not sufficiently and with clarity reflect the intentions within the Guidance. We are seeking here to ensure that disabled passengers can engage with train operating companies in full knowledge of what services are available and, therefore, empower more confident use of the railway. We provide examples of where wording in these documents could be improved.

Description of the assistance available (Part C2)

Operators are required to give a commitment to participate in Passenger Assist and to clearly set out what assistance they can and cannot offer, to ensure that passengers are informed and that their expectations about what the system and operators can deliver are realistic.

The descriptions of the types of assistance available to passengers in the introductory section of Passenger DPPPs often fail to fully explain the extent of the assistance available. This description should, as far as practicable, set out the full range of assistance available and invite passengers to contact the operator to discuss their particular needs if the type of assistance they require is not listed.

⁵ <http://www.nationalrail.co.uk/static/documents/content/NRCOC.pdf> Paragraph 47. Accompanied luggage, articles and animals

Notice period for Passenger Assist bookings (Part C2 b.)

The Guidance states that operators are expected not to require passengers to give more than 24 hours' notice when booking assistance. It is not compliant to request, as we have seen in a number of policies, "a minimum of" or "at least" 24 hours' notice. This should not interfere with your ability to accept bookings made at the passenger's request with a longer notice period nor should it interfere with your ability to respond in a shorter time consistent with practices we have seen amongst a number of TOCs who have significantly reduced the notice period for travel confined to their own networks.

Operators should also make provision to allow for assistance to be booked, with 24 hours' notice, for travel on 27th December.

Passenger Assist booking methods (Part C2 c.)

Passengers should be able to book assistance by telephone and an "electronic means". This is an expectation of the Guidance and we consider electronic means to include one or all of the following: email; web based form; or, app based form (via a smart phone). All TOCs must offer at least one electronic means of booking assistance. Over time we will continue to review whether the objectives of this requirement can be met by email.

Un-booked assistance (Part C2 f.)

We have raised our concerns with the interpretation commitments at unmanned stations for booked assistance. Here we are concerned with how the assistance provided to disabled passengers who have not booked assistance in advance is described within Passenger DPPPs.

Operators are expected to provide assistance to disabled passengers who arrive at a station and require assistance in order to travel, where reasonably practicable. What we have seen so far in Passenger DPPPs does not set out the obligation to passengers clearly enough. We would expect, for example, for passengers to be made aware that assistance will be provided to them even when assistance has not been booked, although some delay may be incurred such as time to arrange a taxi if the station is inaccessible to the passenger.

Alternative Accessible Transport (Part C3)

The Guidance sets out three specific circumstances where operators must commit in their Passenger DPPPs to provide, without extra charge, an appropriate alternative accessible service to take disabled passengers to the nearest or most convenient accessible station from where they can continue their journey (inaccessible station; provision of substitute transport; and, short notice disruption).

This additional service for disabled passengers must be described in DPPPs in terms that passengers who are not familiar with the railways, or DPPPs in general, can quickly and easily understand. The term "alternative accessible transport" is unlikely to achieve this

objective and operators should explain what that means, for example using a taxi to the nearest accessible station.

Tickets and fares (Part C5)

Operators must commit to ensuring that, where disabled passengers are unable to buy a ticket at a station before their journey (by virtue of their disability) they are able to buy a ticket without penalty on the train or at their destination. This information must be presented to passengers in the Passenger DPPP as an additional service available to assist them in overcoming any barriers to purchasing a ticket that would not affect those without a disability. It should be presented in a way that provides additional confidence to disabled passengers, rather than as part of a general warning on ticketless travel. For example, this additional service should not be explained within the context of and under the heading of 'Penalty fares'.

Ramps (Part C6.8)

Operators must commit in their Passenger DPPP to making ramps available that are fit for purpose at all staffed stations (either at the station or on board the train) to facilitate the boarding or leaving of the train by wheelchair users, whether assistance has been booked in advance or not.

The Passenger DPPP must make it clear to passengers that, at staffed stations, they will be able to use a ramp without pre-booking. The Passenger DPPP should also explain to passengers how they should summon assistance at their destination station where no advance booking has been made.

Where assistance to board or alight from a train using a ramp at an unstaffed station has been booked through Passenger Assist, the operator must ensure that they make a member of staff with a ramp available to deliver the assistance. The circumstances where booking is required need to be made clear to passengers.

Aural and visual information (on trains) (Part C7.1)

The Guidance sets out that operators should give details in their Passenger DPPP of their policies for the provision of aural and visual information on trains. This must include a commitment to providing, wherever possible, clear and consistent aural and visual information on the approach to stations, and in the event of delays or disruption.

The provision of running information (announcement of station stops, delays, etc.) on board trains is a subject that has been raised with us by the representatives of disabled people on several occasions. Operators should set out their policies on the provision of aural and visual information in order to let people know what type of information to expect on their different types of rolling stock, as well as to empower customers to make a complaint in the event that announcements are not made.

Policy on Mobility Scooters (Part C7.3)

Operators must state in their Passenger DPPP their policy regarding the carriage of scooters for mobility-impaired people on their trains and the policy that applies in the event of planned or unplanned disruption.

Planned disruption: Where operators do not carry scooters during planned disruption (for example where buses are used in place of trains), they need to make this clear to passengers.

Unplanned disruption: Operators must provide an explanation of what arrangements are in place for when disruption occurs during a journey and it becomes necessary to provide alternative transport such as taxis or buses, which do not allow for the carriage of the scooter along with the passenger. Passengers must be made aware of what happens in such circumstances including the arrangements for reuniting the scooter with the owner (i.e. whether it will be delivered to the passenger at a later date or whether the passenger will need to collect it).

Section C – The Policy Documents

Organisational structure and culture

In our July Regulatory Statement we explained that we intend to implement an approach based on improving organisational culture and that this will involve focusing on the internal arrangements that an operator has in place to deliver its obligations. We went on to say that when approving DPPPs we want operators to demonstrate to us that their arrangements and approach reflect an organisational culture which drives effective delivery and continuous improvement.

When reviewing the Policy Documents submitted to us for approval, we will pay particular attention to how internal arrangements are described. We will require these to demonstrate convincingly that the operator has embedded arrangements to deliver effectively in the interests of disabled passengers, along with the means to identify how well it is performing.

For example, we will want to understand:

- the arrangements in place (and the robustness of these) for:
 - delivering assistance, promoting awareness of the assistance available and facilitating travel by those with disabilities (including those with less visible disabilities);
 - monitoring and evaluating performance in respect of the above (for which we will want to understand the operator's own benchmarks for what it considers to be successful performance), and the processes in place for acting on this to drive continuous improvement;
 - capturing and responding to feedback from customers and making improvements as a result of this;
 - how the organisation is structured to deliver these arrangements; and,

- the extent to which the operator has the right organisational values and behaviours towards disability. This includes the extent to which its senior management team is engaged with and provides leadership and support to the frontline staff that deliver assistance, and ensures that the right processes and systems are in place.

Policy Documents, therefore, need to be in sufficient detail to provide us with that assurance.

By way of example:

- where a policy states “*The Customer Service Manager is responsible for...*”, it should provide detail on the scope of that responsibility. This should include the extent of that person’s ability to make improvements to the process; and, the procedures in place for assessing how well the policies are working in practice; and how that is communicated internally.
- Where policies state – “*we review complaints...*” we would want to understand the process for doing this, including how operators respond as an organisation to these reviews.
- Where policies state “*we engage with stakeholders...*” we would want to understand the engagement framework i.e. operators engage, in what circumstances, with whom, and importantly what is done with the feedback received.

Communications Strategy (D8)

This section of the Guidance concerns obligations on operators to promote awareness. Operators will be aware of criticism that awareness of the additional assistance and services that rail offers to disabled passengers is low (as noted in our July Regulatory Statement). Many disabled people will be infrequent travellers and material that could give them confidence to use rail may not be reaching them.

The Guidance requires operators to provide details in their Policy Document about how they consider the needs of disabled people in their communications. Operators need to demonstrate that the varied needs of disabled passengers are taken into account when considering how information is communicated. The Guidance provides examples of targeted communications: advertising; sending information to public information sources; and working with local authorities, charities, and local access groups.

Your Policy DPPP’s need to provide us with more assurances in this area that information about relevant services is actively being communicated to disabled passengers. As a minimum in the short term, operators must ensure that their websites provide clear and easily accessible information on the assistance that is available.

Section D - Policies in practice – areas of potential concern

Allow assistance bookings through a single point of contact (Part C2 h.)

The Passenger Assist system is intended to facilitate bookings for journeys involving multiple operators, to be made through a single call by the passenger to any one of those operators. The DPPP's that we have seen do seem to reflect this principle. However, in light of a complaint made to ORR regarding this aspect of DPPP's, we would like to remind operators that passengers must not be expected to contact more than one TOC as part of the booking process.

Provision of aural and visual information (Part C6.2)

The Guidance states that operators must commit to provide, wherever possible, clear and consistent aural and visual information of train departures and other relevant messages, particularly in the event of delays or disruption. In light of recent plans to trial the removal of aural announcements at London Waterloo Station, we would like to take this opportunity to remind all operators of this obligation⁶.

Ticket Machines (Part C6.4)

Operators must commit to ensuring that, where automatic ticket machines are provided at stations, they have the facility to issue tickets at the reduced rate to holders of a Disabled Persons Railcard and to the holder's companion. At least one operator has been unsure as to whether its ticket machines have this functionality. In the event that an individual operator is operating ticket machines that do not meet this criterion, it should bring this to the attention of ORR within the timescale set out in the covering letter with a plan for bringing those machines into compliance.

Disruption to facilities and services (Part C9)

The Guidance sets out that when disruption does occur, operators are expected to do everything possible to ensure that, wherever possible, disabled passengers are able to continue their journey and are not left stranded. Operators' Passenger DPPP's should set out how they will assist disabled people when disruption occurs with no notice. They must credibly explain how disabled people will be assisted when disruption occurs with little or no notice. In particular, we need to be assured that robust mechanisms are in place to ensure that in these circumstances disabled passengers, especially those who have booked assistance, will be promptly contacted and assisted. For example, if a train is re-platformed after a disabled person has been assisted to board, your systems should guarantee that staff will return to that passenger and assist them to re-board at the new platform.

⁶ http://orr.gov.uk/_data/assets/pdf_file/0004/16366/orr-letter-to-south-west-trains-160914.pdf



Monitoring and Evaluation (Part D3)

In parallel to this letter we are also working with operators to develop a core data set. The core data will provide information to ORR on how operators are delivering on their obligations. As we said in the Regulatory Statement, this will form part of our monitoring approach to provide on-going assurance from operators that their internal arrangements are delivering good outcomes for their customers. Those discussions will continue and we would like to remind operators that this information is intended to provide a consistent means of measuring key elements of performance.

Monitoring and evaluating performance in delivering services and facilities to disabled passengers, and acting on the results, are crucial to ensuring that the standards committed to in DPPPs are being met. Operators must set out in their DPPPs what mechanisms they have in place to monitor and evaluate performance, which should include the use of measurable criteria where appropriate.