

# Responses to accessibility of rail replacement services consultation of December 2019

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

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## **Accessible Travel Policy Guidance - Accessibility of Rail Replacement services. Abellio Response.**

Thank you for the further opportunity to provide comment on the ORR's Consultation on the accessibility of Rail Replacement services. Abellio are actively engaged with the ongoing discussions around PSVAR and we remain committed to improving access to our services.

As there is no certainty of the legal position beyond 30<sup>th</sup> April 2020, (when the current exemption from PSVAR for operators expires) we have sought to provide responses to the specific questions within the consultation, noting that this position may change as certainty over the future of PSVAR becomes clearer.

We would welcome a further opportunity to discuss our response in more detail with the ORR and provide any further detail, particularly in relation to the specific areas raised in Questions 1 and 2.

### **Question 1**

*Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?*

In our previous response, we provided a high level summary of the vehicles used on Rail Replacement across Abellio in 2018. In 2019 we provided vehicles for over 32,500 planned and emergency Rail Replacement duties<sup>1</sup> with a slight increase in the percentage of vehicles operated by coach to 83.5% (up from 80.5% in 2018). This reflects the longer distance nature of the East Midlands Railway Network, which Abellio Rail Replacement began supplying in August 2019.

Of the remaining supply in 2019, 9.1% was provided by smaller vehicles (under 22 seats and notably exempt from the requirements of PSVAR) and 7.2%

In January 2019, we sought to use the exemption from PSVAR in order to supplement compliant services and made clear to our suppliers we would operate a 'PSVAR first' approach to booking both planned and emergency Rail Replacement.

We have undertaken an exercise to inform our response to this consultation. Working with key suppliers we have sought to compare the total number of coaches available through our supply chain pre January 1<sup>st</sup> 2020 and the total number of PSVAR compliant coaches from our supply chain post January 1<sup>st</sup> 2020.

It is our estimate that the PSVAR compliant coaches available represents approximately 15% of the total coach fleet available from our suppliers pre 1<sup>st</sup> January. We also note this figure is based on an assumption all these vehicles are solely available to Abellio so have not been

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<sup>1</sup> A duty is a series of journeys operated by a single operator as a daily timetable for that vehicle. This can be a single journey or, more commonly, multiple trips over the same route(s) during any given day.

able to quantify the impact of competitor demand or other external factors which may affect availability.

Looking ahead to known blockades in 2020, we are aware the coach numbers required (per day) for weekends in March in Scotland (Fife) exceed the total number of available PSVAR compliant coaches across our UK supply chain.

During February/March 2020, Abellio will continue to engage suppliers to continue to better understand the opportunities to encourage supply and the challenges our suppliers face in doing this.

## **Question 2**

*How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?*

In our previous submission, we set out a number of ways in which we believe the available supply can be best utilised. We continue to believe these to be a pragmatic set of proposals, recognising that a 'one size fits all' approach is unlikely to be suitable across all our areas of operation.

Whilst we do not intend to restate these options as part of this submission, we have sought to further explore additional ideas which may maximise opportunities for passengers:

### **a) Major blockade exemption process**

We recognise that the very largest blockades tend to require the highest number of vehicles as well as being the most likely to involve multiple train operators/routes. These possessions are often carried out at quieter times of year for rail passenger numbers, but at times of greater external demand for coach travel (for example Easter and August Bank Holiday).

We therefore believe that these blockades, (namely Type 2/3 possessions as defined by Network Rail), represent the likely longest lead times until we are able to ensure a fully compliant service. As such, we believe there is merit in further exploring the options and unique challenges these present. We are willing to work with the ORR to further explore and define this option.

### **b) Community Transport/Minibus Operators**

West Midlands Trains have lead efforts to engage Community Transport providers (where they have an O-License and can operate commercially) as a potential source of accessible vehicles. We have now sought to replicate this across the Abellio Group as we believe these vehicles offer a potential source of supply. Whilst these vehicles are generally excluded from PSVAR (due having fewer than 22 seats), they offer an opportunity to provide accessible vehicles for passengers, whilst ensuring that concerns over segregation through the current provision of accessible taxis are addressed.

### **Question 3**

*(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?*

*(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.*

*(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.*

Abellio welcomes the inclusion of this question within the Consultation and we are interested to see the conclusions drawn from responses. We wish to ensure that the deployment of PSVAR compliant vehicles meets the needs of all disabled customers. We also recognise that the ongoing issue of supply will add further uncertainty, particularly against a picture of access to station pick up/set down points which does not necessarily mirror that of the current access to trains.

As this is a complex and likely changing picture, we would reaffirm our commitment to working with the ORR and other interested parties to ensure that any policies continue to be in the best interests of ensuring disabled passengers can plan and travel with confidence.

### **Question 4**

*Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?*

Abellio supports the industry-wide initiative to report data additional to that already provided to the ORR by Train Operators. Abellio Rail Replacement as the approved supplier to all the Abellio Train Operators is compiling this data which is submitted to the Rail Delivery Group (RDG)

### **Question 5**

*We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?*

Abellio are working with Network Rail to review all the currently planned blockades for the next 12 months. We will seek to look at demand and supply in both the affected and surrounding areas in order to provide a full view of the likely impacts on possessions and are willing to share this work with the ORR once complete.

### **Question 6**

*Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?*

We support the ORR's proposal not to duplicate enforcement of PSVAR.

### **Question 7**

*How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?*

Given the ongoing uncertainty around the legal position on PSVAR, whilst we welcome the proposal not to duplicate the enforcement of PSVAR, we cannot see that simply mandating compliant vehicles through contracts between TOC's and suppliers will lead to any change in supply.

Our discussions with suppliers about how best to incentivise supply are ongoing however there are wider issues of the available supply of vehicles in the marketplace (even where suppliers are willing to source vehicles) and the wider impact of Ultra-Low Emission Zones and Clean Air Zones on operator's fleet purchasing decisions.

We welcome the principle of seeking to improve access to Rail Replacement Services but believe this needs to be discussed in the wider context of the ways in which supply can be improved, based on the outcome of the ongoing legal discussions around PSVAR.

### **Question 8**

*Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?*

We believe the proposition of a 12 week limit will create a number of practical issues for Abellio and our suppliers:

Firstly, in that the Rail Replacement Teams will not always have full details of timetables from which to provide schedules 12 weeks prior to the disruption. There are a number of reasons behind this and we would welcome the opportunity to explore these further with the ORR.

Secondly, that within the Consultation Document, the ORR has not clearly defined 'planned disruption' or 'unplanned disruption' so it is unclear to which work this requirement would be applied or how Operators would be required to meet this commitment for late notice possessions or timetable amendments which materially alter the service after the 12 week deadline.

Finally, we note that as Abellio do not directly control the supply of vehicles for Rail Replacement, that there may be changes to a suppliers fleet availability after the 12 week deadline has passed which have an impact on supply. This again may materially alter the service offered to passengers with significantly greater variability than there is within train fleets.

We are not opposed to the principle of ensuring that all passengers can plan to travel with confidence, however we feel a blanket 12-week restriction will not achieve this principle aim and would welcome the opportunity to further explore the options with the ORR once the legal position on PSVAR is clear.

**Question 9**

*What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?*

Abellio strongly support Proposal 5 and have already actively participated within the working group set up by the Rail Delivery Group for Rail Replacement suppliers. It is our view that there are a number of critical issues where there is a compelling case for Operators to work together, including in the scenario set out by the ORR as part of Proposal 5.

One additional area is around the development of standardised National Travel Policies for station and vehicle access and Abellio has been at the forefront of seeking to bring the industry together. We are now working with the Rail Safety Standards Board to look create and deliver best practice guidance for the industry in order to ensure passengers are able to travel without facing un-necessary complexity of differing standards between Operators.

We welcome the principles set out in Proposal 4, and would suggest that the practical delivery and standardisation of information again, would fall within the remit of the Group outlined in Proposal 5.

**Question 10**

*Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?*

Abellio are continuing to engage suppliers, many of whom are SME's. We will continue to work with them to understand the issues and many external factors involved in their fleet decision making process and to seek to articulate this. Our next round of supplier engagement is in late February/early March and we are happy to share the output of this with the ORR.

**Question 11**

*Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?*

No response

**Question 12**

*Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?*

No response

Dear Sir/Madam,

## Accessible Travel Policy Guidance - accessibility of rail replacement services: a consultation

Thank you for the opportunity of responding to the latest ATP guidance relating to Rail Replacement Services.

I am responding as a coach operator provider of Rail Replacement Service in North Wales and a very active rail user travelling on the West Coast Mainline from Colwyn bay to London at least 2-3 times a month.

I have taken the format of the CPT response to make my own comment where applicable.

### Question 2

How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

Firstly, one must differentiate the difference between coaches & buses, whilst buses are PSVAR compliant, they are often not tachograph enabled & their drivers work on Domestic Drivers Hours rather than EU Hours and as such, are not permitted to undertake none regular scheduled local bus work.

I have long believed that the provision of Rail Replacement Services to be wholly inadequate across the UK. It has primarily worked as a result of the relationships fostered by provider organisations and the operators themselves.

The provision of Emergency Cover is often undertaken in rather dubious circumstances with owner operators providing out of hours services themselves when often they should not legally be working at night because they have been working in the office or workshops all day.

I personally believe the best solution is to invest money into a network of retained providers across the country at strategic locations, who guarantee to provide PSVAR compliant vehicles on request with legally compliant drivers on a 24 hour a day basis.

Likewise, this same network of operators would have a fleet of PSVAR vehicles at their disposal.

There is currently no way that you can be even 50% compliant within the next 10 years without a major rethink of the whole Rail Replacement network & procedure.

### Question 3

(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?

(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.

(c). Do you have a preference for the type of replacement service you receive? If so, please explain why



As a rail user who has been delayed and has used RR services, I and the 80+ other passengers were glad of a service on a cold wet December night, nobody cared if it was PSVAR compliant or not.

Likewise, nobody would have wished to have waited another 2 hours for a PSVAR complaint coach to arrive from several miles away.

The service received was excellent.

#### **Question 4**

Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?

We have never carried disabled passengers unable to board our coaches as we do not have PSVAR compliant coaches & do not operate buses.

#### **Question 5**

We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

Not sure what you are asking here.

#### **Question 6**

Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

I can assure you that if you were to insist on only PSVAR complaint vehicles to replace trains during emergency as well as planned maintenance situations, you would leave passengers stranded.

For an operator to guarantee the provision of PSVAR accessible vehicles when required, 100% of their fleet must be PSVAR compliant.

There are physically not enough vehicles & drivers available now to cope with events such as Storm Ciara, if the vehicle pool were to be reduced by 90%, passengers would simply be stranded.

#### **Question 7**

How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?

Despite the assertion by CPT that Rail replacement is an important part of most coach operators' businesses, this is completely incorrect. For most coach operators, RR is totally irrelevant in the wider picture due to procurement practices and the total lack of continuity.

#### **Question 8**

Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?

The harsh reality is that RR providers cannot schedule beyond the following week let alone 12 weeks advance.

**Question 9**

What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

I would reiterate the CPT line that RR work does not provide the continuity of revenue required to drive investment.

A more pragmatic approach would be for RR providers to ensure a percentage of supply is accessible.

**Question 10**

Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

I would reiterate my response to question 2, I would suggest the establishment of a network of retained fully compliant operators who can guarantee to supply a fully compliant service within strict timescales based on a structured SLA.

**Question 11**

Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

I personally feel that to disadvantage and endanger the safety of the vast majority of rail users by the over zealous application of legislation would be to discriminate against the able bodied.

**Question 12**

Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

Alpine Travel are the largest coach operator in North Wales operating around 80 passenger carrying vehicles of varying types and sizes.

Alpine Travel continually invest in the latest low emission coaches and have recently changed buying policy to ensure that all new builds are PSVAR compliant. This week we ordered a brand-new accessible touring coach and the earliest build date that we could secure was November 2020!

All investments must be justified with long term revenue and profitability, there is currently no business plan to acquire PSVAR accessible vehicles to undertake Rail Replacement duties due to the minimal revenue streams generated.

This consultation is perhaps the ideal opportunity to revolutionise a woefully inadequate system.

Good Luck

Arup's Inclusive Environments team has collated a response to the accessible travel policy guidance. For ease of understanding the response has been formulated in bullet pointed notes with references to citations of text in the consultation document.

#### General thoughts and comments

- Overall reflection is that PSVAR is not as well developed as it could be and from our understanding unlikely to have been intended to apply to rail replacement services.
- There is an insufficient number of PSVAR vehicles available – they give an estimate of 600 in the country, not all of which will be available for rail replacement services.
- Increasing the availability of PSVAR coaches would require a significant market shift (the manufacturing would have to be significantly multiplied to meet demand – this does not just impact coach operators). Although this may be a desirable outcome for general disability inclusion, this is unlikely to be achieved by a change to ATP guidance and would take many years to achieve.
- The overall consultation discusses accessible travel for disabled people, naturally there is a big emphasis on fostering the inclusion of disabled people. There may be a need to mention provisions for other groups who may face access and inclusion issues e.g. people traveling with children or luggage as solutions for one group may directly be beneficial to another group.
- In an ideal situation there should be provisions for train operators to have a stock of PSVAR accessible vehicles at key locations around the country allowing vehicle to arrive at a range of locations in a suitable time frame. (To get around the lack of compliance by bus and coach company's around the PSVAR mentioned on p30 and again on p31 with train providers accounts of if PSVAR vehicles were a requirement of the ATP that they would be unlikely to provided rail replacement services due to the low availability of these vehicles). If this is not feasible, a potential solution suggestion would be for train operating train companies to have partnerships with companies for this at short notice – especially important for unexpected railway disruptions this would link into a means of using collected data to set an ideal number of PSVAR compliant vehicles which are accessible based on the actual need of such vehicles from passed journeys. If this is not feasible train operators could have a framework or map type in place of the most local and suitable providers and operators would be useful for both planned and unplanned disruptions.
- Other non- access needs on rail replacements e.g. some unaffected by disability or illness prefer traveling in quiet areas of trains this also applies to some other users e.g. a train user with autism how would this be addressed in a bus or coach style vehicle. The consultation could be

the opportunity for complete reconsideration of vehicle suitability – to rethink, redesign the overall design of existing rail replacement vehicles. Considering other factors such as luggage, toilets, seat belts evacuation of these vehicles in emergency situations. Are there provisions for a degree of adaptability to the vehicles such as easy removable seats or retractable seats so vehicles can be configured to meet different needs e.g. rural stations may have more people traveling for leisure day trips that stations near airports or larger train terminus – people are to be more likely to have luggage.

- There is room for significant improvements for booking assistance requests (request 3 p24). From our understanding this can currently be organized via phone or textphone either through national rail or directly with the train operator. ([https://www.nationalrail.co.uk/stations\\_destinations/disabled\\_passengers.aspx](https://www.nationalrail.co.uk/stations_destinations/disabled_passengers.aspx)). Could there be provisions to consider an online system or application. As part of this it is important to consider what processes are in place if a customer does not book assistance or does not do so in the 24 hours recommended for example for last minute unexpected travel plans. Also, to highlight it is not only people who need assistance for day to day travel (on a train) that might need something accessible during replacement services (on bus or coach or taxi, and thus different vehicle type and experience). This includes examples highlighted in point 1 of people with pushchairs/children, older people etc. as well as example of people with autism or other neurodiversity requirements.
- Brainstorming or workshop activities (with customers and industry representatives) may be beneficial in highlighting the pros and cons to allow more informed decisions in vehicle choice to be made. This could cover factors such as route specific provisions, passenger tailoring, instead of going with vehicle type that is readily available which may dis-benefit passengers and the general running of services if these are not suitable. An example of a task that could make up a brainstorming task could be as followed.

#### Pros bus

Usually have wheel chair space provisions as standard

Capacity is not defined by the number of seats only – standing occupants are allowed

#### Cons bus

Less luggage space for luggage busy routes such as airport rail replacement

#### Pros coach

Provides luggage capacity at luggage busy routes

Toilet facilities – (Though these are hardly ever accessible)

Increased space

#### Cons coach

Wheelchair user provisions may be limited

Access for ambulant disabled may be difficult as coaches usually have steps up.

#### Other coach

Seat belts required by law

- The consultation the importance of connecting infrastructure to the overall approach to rail replacement. This should be tied back into station / approach design guidelines this could include the design of pick up and drop off points, Kerb dimensions, visibility of rail replacement stops and even positioning of station entrances in relation to road that would need to be accessed for rail replacement routes. These could be factored into as part of reasonable adjustment works and / or third party (coach/bus/taxi) connections, this should be detailed as part of plans.
- The consultation document focuses on buses and coaches - but the same process (and this applicability of our comments too) should be applied to taxis given their importance in this strategy. However, there is a follow-on question on this as well relating to sustainability / green goals and how this is impacted by using taxis
- Existing requirements essentially mean that people unable to use coaches are provided with a taxi. I would argue this is not detrimental to disabled people, but more accessible to a PSVAR coach or bus on the basis that:
  - A taxi is more likely to be immediately available (they are usually held 'in reserve' at the station), preventing the need to wait in the cold or a crowded area.
  - The journey time is generally quicker, travelling directly to the destination (and usually to the passenger's destination rather than the destination station).
  - While a toilet is not available in a taxi, the driver will stop at a service station or other suitable facility (it is unlikely that PSVAR coaches will have accessible toilets, so this is no less than provisions provided on coaches)
  - There can be lack of infrastructure for PSVAR coaches to stop close to more rural stations (unlike taxis which are not limited in road access).
- p32 item 2.27 of the document mentions 'no formal mechanism in place to establish whether PSVAR compliant infrastructure is in place...' - access and inclusion audits should be commissioned to help establish this.

### Summary of comments

Proposal four seems the most sensible as it's essentially just tightening up current practice and improving communication with disabled passengers – at least until DfT fixes PSVAR. Whether PSVAR applies is untested – our assumptions would be that vehicles used for rail replacement services are only used for that purpose for a minute amount of days in the year and outside of that are unregulated private coaches. There is a separate issue of whether private coaches should be regulated to improve accessibility, but this would not be the best mechanism to achieve that. The proposed changes currently are unlikely to would be of benefit to disabled people or people from any other protected group; the only tangible impact seems to be increased disruption and cost for rail operators to provide a worse service to disabled and non-disabled passengers alike. This seems to be driven by a need to comply with the letter of the law rather than improving access and inclusion, with perverse consequences.

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## **EXECUTIVE SUMMARY**

First Trenitalia West Coast Rail Limited (“Avanti”) thanks the ORR for the opportunity to respond to the *Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation dated 20 December 2019* (the “Consultation”).

Avanti has provided as much relevant information in answering each question posed by the Consultation. Particular attention is drawn to the fundamental barrier to a fully compliant rail replacement service: there are not enough compliant coaches available in the UK. Avanti sees it as unlikely that this barrier can be surmounted in the short term, even with increased government funding. This is because current legislation stifles any compelling reason for coach operators to operate PSVAR compliant coaches. Further, the amount of time and investment that is required to build and finance a PSVAR compliant coach industry is not practical in the short to medium term. Coach operators currently take on rail replacement work in addition to their usual work, however rail replacement work is not a core part of any coach operators’ business.

Avanti agrees with the ORR that Buses can and do play a key part in providing rail replacement services. There are however challenges to using buses for such services. These include, amongst others discussed below, the availability of buses, passenger comfort, luggage capabilities and the availability of drivers. Bus operators currently work with the TOCs however they have their own business and regulatory pressures that must consider and are not able to make rail replacement services a primary consideration when running their businesses.

Given the fundamental lack of supply of PSVAR compliant vehicles, particularly coaches, Avanti sees the best course of action as continuing to provide the best possible service to all its customers. This can only be done where Avanti has the discretion to address the individual requirements of each passenger in the best way it sees. This may mean that some passengers are carried by taxis where buses or coaches are not right for the passenger, like Avanti currently does. Requiring adherence to more stringent requirements is likely to harm Avanti’s ability to provide the best possible service to each passenger.

Avanti agrees that more can be done by government, the ORR, TOCs, bus, coach and taxi companies to assist those passengers with disabilities. Avanti is constantly looking at new ways to improve its services to all its passengers. Avanti however does not agree that the rail industry can solve this problem by itself.

Avanti provides a short response to each of the five proposals put forward by the ORR in the Consultation, however further detail on these proposals can be found in the response to the twelve questions.

**Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.**

It is unclear what constitutes “appropriate steps” and therefore assessing the viability of this proposal is difficult. Should this mean contractually requiring compliant vehicles to the exclusion of all other vehicles, this proposal could not be implemented without addressing the fundamental supply shortage of compliant vehicles, particularly coaches.

**Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.**

This proposal would require the process of planning for disruptions to start approximately eight (8) weeks earlier compared to what currently happens. This will fundamentally require Network Rail’s cooperation, as without such cooperation this proposal could not be implemented.

**Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).**

Avanti currently seeks to do exactly this. This proposal however only addressing planned disruption and those passengers that have pre-arranged assistance. This proposal does not address emergency disruption or passengers that do not pre-arrange assistance.

**Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.**

Avanti sees this proposal as achievable. It will require the coordination between Avanti and the bus/coach operators to confirm the precise vehicles that will be provided.

**Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).**

Avanti sees such a forum as a possible way to identify how best to manage the limited supply of compliant vehicles. However, each TOC has a responsibility to its passengers to deliver services and without any mechanism to resolve the fundamental supply shortage of compliant vehicles, such a forum may have limited impact. Any such forum should include passenger groups.



Given the above and the answers to the below questions, Avanti's view is the Accessible Travel Policy Guidance should not be changed. To do so would oblige all TOCs to standards they cannot currently meet due to factors outside of their control. Further, Avanti sees it as the role of the government to address the fundamental lack of supply of compliant vehicles by providing the legislative framework to facilitate such a change in the coach industry.

Again, Avanti thanks the ORR for the opportunity to provide our view on this complicated and important consultation.

**Mark Reach**

Head of Government Partnership, First Trenitalia West Coast Rail Limited

## Question 1

### Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

Availability of PSVAR compliant vehicles and the use of PSVAR compliant vehicles are two different issues.

The key considerations for the availability of PSVAR compliant vehicles are:

- Supply of compliant vehicles;
- Coach operator business models;
- The cost of change to coach operators;
- Bus operating companies' existing obligations.

The key considerations for the use of PSVAR compliant vehicles are:

- Quality of service to passengers (including passenger comfort and convenience);
- Infrastructure limitations;
- Compliance with other regulatory requirements, namely the EU tachograph and driver hours regulations; and
- The accessibility of vehicles for passengers with other disabilities.

## Availability

### Supply

The ORR noted in Chapter 1 of this consultation the supply of accessible vehicles, particularly coaches, is a key challenge for the industry. To illustrate this key challenge at a TOC level, rather than an industry level, the following table details the lack of availability of PSVAR complaint coaches in coach company fleets.

TOC	FTS Core Coach Operators <sup>1</sup>	Estimated Fleet Size of Core Coach Operators	No of PSVAR coaches	% of coach fleet which is PSVAR complaint
Avanti	1203	649	28	4.3%

The percentage of compliant vehicles get better when we include buses into rail replacement services, although doing so presents other challenges that are discussed below. The following table is a snapshot from January 2020.

<sup>1</sup> Core Coach Operators are those operators that most reliably supply coaches for rail replacement services.

<b>Date (2020)</b>	<b>Vehicles Required</b>	<b>Compliant Booked</b>	<b>Non-Compliant Booked</b>	<b>% PSVAR Compliant</b>
1-5 January	21	11	10	52%
6-12 January	13	1	12	8%
13-17 January	17	3	14	18%
18-24 January	13	3	10	23%
25-31 January	13	0	13	0%
<b>January Total</b>	<b>77</b>	<b>18</b>	<b>59</b>	<b>23%</b>

This table highlights that even with the addition of buses, there is a significant way to go before a fully compliant service can be provided. There is also a significant disparity across different TOCs. For example, TOCs in the south of the UK (SWR, Southern, South Eastern and GWR) have large parts of their networks in or close to London where stations are closer together (allowing higher use of buses) and where more coach operators frequent. Conversely, TOCs in the north of the UK (TPE, Hull Trains LNER, Northern, Avanti and ScotRail) have much longer distances between stations (resulted in a greater need for coaches) and fewer coach operators close to where rail replacement services are needed. Consequently, we see a disparity in compliance rates as evidenced in the above table.

It must be noted that the above table tells the story for January 2020. Particularly for TOCs in the south of the UK, the level of compliant vehicles is directly related to where rail replacement services are required. If services are required closer to London, like in January, we see higher compliance rates. If services are required in more remote or rural areas, compliance is much lower and comparable to that of northern TOCs.

The clear message from these tables is it is not possible to run a fully compliant rail replacement service using coaches in the UK. Adding buses to rail replacement services goes some way to filling the gap but is not enough to make services fully compliant. Buses in most situations are not appropriate vehicles for rail replacement services due to the lack of storage capacity for luggage, lack of comfort during long distances, lack of toilet facilities, and other regulatory requirements such as those under EU Regulation No 165/2014 (Tachographs in Road Transport) and EC Regulation 561/2006 (the so-called Driver Hours regulations).

The supply of compliant vehicles is the key factor that must be addressed. While several options are discussed later in this response, the two ways the supply of PSVAR compliant coaches can be increased are:

1. Legislatively remove the current exemptions the coach industry relies on for tour operations and private hires under the Transport Act 1985 and the PSVAR; and
2. Government funding provided to retrofit existing vehicles and/or buy new compliant vehicles.

### Coach Operators' Existing Business

In the UK, coach operators' primary business is tour operations and private hire work. As discussed above, these activities are exempt from the purview of PSVAR. Based on the understanding from our supplier, CMAC<sup>2</sup>, rail replacement services make up a marginal part of the business for coach companies. Therefore, the problem becomes how can coach operators be influenced to use compliant vehicles without causing them to withdraw from the rail replacement market all together. The answer that delivers long term change and the best result for passengers who use wheelchairs and mobility scooters is legislative change coupled with government funding for more compliant vehicles.

It has been suggested that the TOCs can simply pay higher rates for PSVAR compliant vehicles. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC. We do not believe this will influence the coach operator's existing business operations enough to incentivise the retrofitting of existing fleets or purchase of new compliant fleets – the costs associated with doing so far outweigh the increase fees the TOCs may pay.

### Cost of Retrofitting Existing Fleets and Buying New Fleets

The following table provides a summary of the cost and time required to retrofit an existing non-compliant coach or buy a new compliant coach.

<b>ACTION REQUIRED</b>	<b>COST PER VEHICLE</b>	<b>TIME PER VEHICLE</b>
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

According to the ORR's consultation paper at paragraph 1.8 of chapter 1, non-compliant coaches were used 55,176 times in the last 12 months for rail replacement services in the UK<sup>3</sup>. If we assume, for the purposes of putting an approximate figure on the total cost of retrofitting existing coaches or buying replacement coaches, that the number of unique vehicles that provided rail replacement services in the last 12 months is one tenth (1/10) of this number, there are approximately 5,500 unique coaches providing rail replacement services.

<sup>2</sup> CMAC source rail replacement vehicles for Avanti.

<sup>3</sup> The ORR states this figure does not include 6 TOCs who were unable to provide full PSVAR vehicle information.

Using this assumption, the cost of a fully compliant coach industry is therefore:

- If all current non-compliant vehicles are retrofit - £165,000,000 (approximately); or
- If all current non-compliant vehicles are replaced with new vehicles - £1,375,000,000 (approximately).

A further consideration for coach operators is the increasing prevalence of clean air zones in many cities and required compliance with emission standards. Coach operators are fined for breaches the requirements of clean air zones. Coach operators are required to either convert or replace aging vehicles that do not meet the latest emissions standards. Both concerns carry financial costs for the coach operators and affect their primary business in a way that PSVAR compliance does not (due to the aforementioned exemptions). If faced with a requirement to comply with emissions standards (affecting their core business) and a requirement to comply with the PSVAR (affecting a marginal part of their business), it will be up to each coach operator to decide which requirement takes precedence. However, we anticipate many coach operators to prioritise compliance with emissions standards over PSVAR – therefore further limiting the supply of compliant coaches.

#### Bus Operating Companies' Existing Obligations

According to the ORR, 99.96% of buses used for rail replacement services are PSVAR compliant. Most, if not all, of these buses are owned or used by bus operating companies who are obliged to provide regular local bus services. This obligation comes from the traffic commissioner in each local area and the provision of these regular local bus services is a requirement to maintain the operating licence held by each bus operating company.

Consequently, bus operating companies' top priority is to ensure it has enough buses to operate the bus routes it has committed to operate. This leaves few buses to procure for rail replacement services. This lack of supply is more acute on week days as more regular local bus services are run on week days than on weekends.

The net result of bus operating companies' existing obligations to run regular local bus services is it is not always possible to procure buses for rail replacement services, especially for emergency rail replacement service and/or on week days. It is not in the business interest of bus operating companies to have a higher percentage of their fleet on stand by in case rail replacement services are needed. Like coach operators, rail replacement services do not form a core part of bus operating companies' businesses – it is considered an additional service that may be provided if buses are available.

#### Use

##### Quality of Service to Passengers

The quickest path to a fully compliant rail replacement service is to primarily use buses. As the ORR states, 99.96% of buses used currently for rail replacement services are PSVAR compliant. Putting aside the availability issues discussed above, using buses has a significant impact on all passengers.

Buses have less seating capacity than most coaches. Consequently, more buses are required to transport the same number of passengers than coaches. This additional need feeds back into the availability issues discussed above and from a passenger perspective means a greater risk of delays in service, especially in the case of emergency rail replacement services.

Buses are not designed or built to the same level of comfort as coaches. For example, coaches are fitted with air conditioning while buses tend not to be. This difference in specification means in the case of longer rail replacement services passengers are less likely to be comfortable sitting on a bus than a coach. For example, a rail replacement journey between Preston and Carlisle normally takes 2 hours on a coach. Compared to the intended journey by rail or using coaches for rail replacement services, using buses will result in passengers travelling in less comfort for longer. This is likely to result in lower passenger satisfaction and an overall worse service for passengers.

Buses do not have the same luggage capacity as coaches. Most coaches have significant luggage storage compartments in the undercarriage of the coach. Buses are not designed in the same way and require passengers to leave the luggage in a smaller defined area. Therefore, if a wheelchair user is in the defined area on a bus, other passengers are required to put their luggage on or under seats which often times results in a further reduction in seating capacity. This practice creates safety issues as the luggage is normally not secured when in the aisle of the bus, therefore there is the potential for unsecured luggage to harm other passengers in the event of a traffic incident.

Buses do not have seatbelts. Coaches are required to be fitted with seatbelts and standing passengers are not permitted.

Buses do not have toilet facilities on board. This issue is more acute the longer the rail replacement journey is. For example, as mentioned above Preston to Carlisle take 2 hours on a coach. During that time, it is highly likely passengers will need to use toilet facilities and if unavailable passenger comfort and satisfaction will drop.

The use of more buses to provide rail replacement services may bridge the compliance gap in the short term. However, the above impacts on passengers must be considered and addressed if/where possible.

### Infrastructure Limitations

The ORR makes reference, at paragraph 2.27 of the consultation, to some of the limitations presented by ageing station infrastructure. We believe more detail is required to flesh out these issues as the challenges presented are significantly more acute in more remote regions.

The first issue here is the ability for compliant vehicles to pick up and drop off passengers at stations. Some stations have varying curb heights or are designed in a way that prevents vehicles from stopping close to the curb. Varying curb heights mean there are different heights that passengers need to step up or down, presenting risks of tripping or falling – this is especially acute with passengers that use movement assistance tools such as walking sticks or crutches. The distance between the curb and the vehicle will primarily affect the use of passenger lifts and ramps used to allow wheelchair and scooter users to embark and disembark the vehicle. Lifts have a limitation to how far out from the bus and how far down to the ground they can go. For example, if a station has a low curb that is below the clearance

of the coach, the lift may not reach to the ground and the wheelchair user may not be able to use the lift. This prevents the compliant vehicle from performing the very function it was hired to do.

The second issue with infrastructure is the availability of step free access. Elevators and ramps at all stations is vital to make all stations accessible for all passengers. Currently all stations do not have step free access. This issue becomes particularly acute when passengers are required to change platforms and there are no elevators or ramps available. Often this will mean some passengers cannot change platforms and subsequently cannot use the service they have paid for.

Specific examples where Avanti has challenges with infrastructure are:

- The station front at Carlisle is often congested and does not offer an area where both coaches and buses can consistently operate lifts and ramps. This results in delays for all passengers as it takes longer for passengers to embark and disembark as vehicles need to manoeuvre around the station.
- The station at Glasgow is often very busy and congested and does not offer enough space for coaches and buses to access the station on a consistent basis.

Station infrastructure is a key issue in addressing accessibility for disabled passengers because it can prevent passengers from being able to use rail replacement services, even when fully compliant vehicles have been procured. Even if more compliant vehicles are available for rail replacement services, some station infrastructure does not allow for compliant vehicles to pick up and drop off passengers.

#### Compliance with Regulations: EU Tachograph Regulations and EU Driver Hours Regulations

EU Regulations concerning the use of tachographs and driver hours create additional complications in the use of PSVAR compliant vehicles.

Turning to the EU tachograph regulations first, it is a requirement that any vehicle operating a “regular service” or a “special regular service” (as defined in the Regulation) over 50 kilometres (route length) or any vehicle operating any “non-regular service” (as defined in the Regulation) must have a tachograph installed and that the tachograph must be used by the driver. For the purposes of rail replacement services, we understand the DVSA believe rail replacement services to be a “special regular service”. Therefore, any rail replacement service over 50 kilometres must be provided by vehicles with a tachograph installed.

We understand most, if not all, coaches in the UK have tachographs installed, however most buses in the UK do not have tachographs installed. Bus operators have informed us the routes they are required to operate for local communities are less than 50 kilometres, therefore these buses are caught by the exemption and need to comply with the UK drivers’ hours rules as set out in the Transport Act 1968. Where this becomes a problem is where TOCs are required to contract buses for rail replacement services that are over 50 kilometres. If a bus does not have a tachograph it would not be used for a service over 50 kilometres. Consequently, the ability to use buses for rail replacement services is limited to services that are under 50 kilometres.

EU Driver Hours regulations require that drivers' work a maximum of 56 hours in any one week and 90 hours in any two week period. This restriction is relevant where rail replacement services are driven by drivers who are employed by bus or coach operators to drive on a full-time basis.

For example, a driver is employed to drive a regular bus service Monday to Friday on 9 hour shifts (we are told by bus and coach suppliers this the normal shift length), then accepts to drive rail replacement service for 8 hours on the Sunday of the same week, the driver would be unable to work their full number of hours the following week for their employer.

The driving of the rail replacement service causes the driver to become subject to the EU Driver Hours regulations. Because this unavailability of drivers adversely impacts the bus operators' ability to deliver the services it is required to deliver, bus operators can refuse to allow their drivers to drive rail replacement services. This leaves TOCs in a position where they have a compliant bus but no driver. The vehicle cannot be used and therefore the procurement of the vehicle is meaningless.

The consequence for the TOCs is bus and coach companies may be more reluctant to supply their drivers to drive rail replacement services. Vehicles and drivers are inseparable as one does not work without the other. Therefore, TOCs must be able to procure not only vehicles but the drivers to drive the vehicles. We are told by our suppliers they already face driver shortages and to further limit driver availability will result in an inability to meet the minimum levels of service they are obliged to provide. This issue is more acute for bus operators due to their commitments to local traffic commissioners.

### Accessibility of Vehicles for Passengers with other Disabilities

The PSVAR requirement for vehicles to be accessible in accordance with Schedule 1 is specifically targeted for wheelchair accessibility. This focus while important does exclude those passengers with other disabilities, especially those with hidden disabilities. These passengers have a range of specific needs depending on their disability and can include a need to avoid loud noises, announcements to be made verbally, screens to be used for written instructions and announcements. These specific needs are currently managed by the TOCs and tailored solutions are provided to passengers that request them where possible. Often times these specific needs are met through the use of accessible taxis. Taxis provide a tailored service to the passenger where a coach or a bus cannot.

All TOCs continue to improve their services for all passengers with the goal being a fully accessible service for all passengers. However, until this is realistically possible, TOCs should have the freedom to address the specific needs to passengers that require assistance in the best way they can.

### **Question 2**

#### **How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The data and analysis provided by the ORR within the consultation document clearly demonstrates that there is insufficient supply of PSVAR vehicles available to meet demand for rail replacement vehicles.



The best way to allow journeys to be taken on PSVAR compliant vehicles is to increase the number of vehicles that are available. This solution will take significant time and significant investment.

Until this happens, the following options may be available, however it must be noted that many of these options required the cooperation of Network Rail.

### Increase supply of PSVAR vehicles

#### 1. Determine the requirements for rail replacement services earlier

Avanti use a third-party operator to procure vehicles for rail replacement services. Currently, we receive the requirements for planned rail replacement services 6 to 10 weeks before the services are needed. To have a better chance to procure compliant vehicles, the requirements for planned rail replacement services would be needed 16 weeks before the services are needed. This extended time line may give our third-party supplier the opportunity to source compliant vehicles and still meet the ORR reporting requirement of 12 weeks before the services are needed.

This may enable us to secure more PSVAR compliant coaches from operators by booking them earlier and whilst more are still available. This will be particularly important during the peak coaching season in June and July. However, this would not guarantee that we can secure all accessible PSVAR vehicles, due to the lack of supply of compliant vehicles discussed in our response to Question 1.

To meet the extended timeline of 16 weeks, Network Rail would need to finalise possessions much sooner and TOCs would have to finalise timetables at T-16 instead of the current T-12 practice.

By determining the requirements for rail replacements services 16 weeks before the services are needed Avanti has a better chance to secure compliant vehicles as suppliers may have more vehicles available at T-16 than at T-6 – T-10.

#### 2. Shorter Distances required for Rail Replacement Services

Changing the amount of track that is possessed will reduce the distance Avanti is required to provide rail replacement services for. Shorter distances make the use of buses for rail replacement service much more viable. The passenger comfort and safety issues discussed in Question 1 diminish with shorter distances. The risk of EU tachograph regulations applying to the vehicles is reduced to zero (if the route distance is below 50 kilometres). If coupled with rail replacement requirements being known at T-16, the number of compliant vehicles available increases – bus operators can better plan to accommodate these services using their vehicles with more time.

Given the nature of Avanti's business on the WCML it should be noted that the distance between many stations usually exceeds 15 miles, often by a considerable length. Reducing possession mileage, even if this is achievable by Network Rail, might not necessarily lead to a reduction in the distance that rail replacement is required to operate.

#### 3. Structure of services

Today, rail replacement services are operated to emulate the rail service it is replacing, i.e. vehicles stop at each station on the route. Rail replacement services could be redesigned to allow for the use of more compliant buses. Compliant coaches would still be sources where possible to operate the long-distance parts of the route, or a direct service from end to end, while buses could be used to operate shorter journeys along the route.

For example, a possession requiring road transport to operate between Crewe and Preston:

PSVAR coaches could be recruited to operate direct (non-stop) between Crewe and Preston, with PSVAR buses used to service the intermediate stations.

While this structure of rail replacement services gives Avanti a better opportunity to run a fully compliant services, there are drawbacks. Some customers may need to change vehicles part way through their journey, likely causing dissatisfaction. Frequent changes may also cause issues especially for those older or disabled customers who may struggle with the transfer, especially if travelling with luggage, or may be concerned or anxious about connections.

#### 4. Higher rates and incentives

As discussed in Question 1, it has been suggested that all TOCs could incentivise the coach industry to use compliant vehicles by paying higher rates. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC.

An alternative to higher rates being paid by the TOCs is for funding to come direct from the DfT to coach operators to incentivise coach conversions and the purchase of compliant coaches. An example of a similar fund is the Access for All fund.

Another alternative may be to incentivise coach companies subsidising the cost of compliant coaches. An example of a similar incentive is used for the purchasing of electric vehicles, reducing the cost to the buyer.

#### Reduce demand for PSVAR vehicles:

##### 1. Scale of pre-planned engineering blocks

Currently, when possessions of the line are taken to facilitate engineering works, train services can be withdrawn from whole branch lines when the works may be taking place on a small section of the track. For Avanti, where a short section of track is being worked on between Carlisle and Carstairs the lack of viable transfer points means rail replacement services must operate between Carlisle and Glasgow.

Consideration could be given to mandating that the minimal possible section of track is possessed to facilitate works, with train planning teams then looking at how best to continue to offer the maximum possible train service, recognising that this may be impacted by resources, including the quantity of units, drivers and conductors who may be available.

It could also be the case that possessions take the 'little and often' approach, rather than larger possessions, reducing the quantity of vehicles needed, however this may protract the timescales and costs of delivery of infrastructure improvements.

## 2. Quantity of pre-planned engineering blocks taking place simultaneously

Network Rail schedule engineering works according to maintenance plans, ensuring that the railway is functioning and available to support train running. To maximise the number of compliant vehicles being used for rail replacement services, Network Rail should be required to consider the ability of TOCs to procure compliant rail replacement vehicles when planning engineering blocks. Currently, no consideration is given to how passengers will complete their journeys when engineering blocks are planned and TOCs are left to plan around engineering blocks as best they can. A requirement to consider how engineering blocks will impact passengers and TOCs would allow more availability of compliant vehicles by reducing the demand.

## 3. Use of diversionary routes

Avanti seeks to use diversionary routes per its Franchise Agreement, however there are significant challenges that are associated with the use of diversionary route. These challenges are:

- Operating on these diversionary routes requires significant driver and traincrew knowledge. This knowledge also needs to be maintained;
- Services using diversionary routes are required to 'slot in' to the existing timetable for that route. This can be challenging, particularly on busy commuter routes;
- The resulting journey time is, in most cases, much longer than the originally intended journey;
- The capability of the rolling stock on the diversionary route's tracks can be a factor where the train is electric and the diversionary route is not electrified.

## 4. Ticket Acceptance

Consideration of what is deemed reasonable for an alternative journey should be considered. Currently, we will offer RRS if we deem it will be quicker for the passenger to travel part of the journey by coach, rather than going by alternative routes by rail. However, it is recognised this may cause inconvenience through increasing end to end journey times and is reliant on other operators having the capacity to accommodate the extra passengers.

For example, where there is a blockade from Milton Keynes south to Euston, one option for passengers travelling from London to Manchester could be to travel from London to Leeds, then Leeds to Manchester. This option relies on other TOCs agreeing to carry those passengers while maintaining a safe service for all other passengers.

### Question 3

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

**It is recognised that this question is aimed at customers.**

We would encourage the ORR, Department for Transport (DfT) and any other government bodies involved in decisions affecting the provision of rail replacement vehicles to undertake an all-encompassing assessment of customer needs, with engagement with Transport Focus, so that any new approach considers the needs of ALL customers.

### Question 4

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

Specific data on the number of disabled passengers and the number of overall passengers using rail replacement services is not currently recorded. The number of accessible taxi's used to assist passengers is recorded.

On average, 11 accessible taxis are booked for passengers in each rail period. There is a noticeable increase in this number during large scale possessions or blockades. It must be noted that this data does not record the type of passenger that utilised the taxi. The passengers may be a wheelchair or mobility scooter user, however it is just as likely that the passengers are elderly, have a hidden disability or have another type of mobility impairment.

### Question 5

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

The ORR notes there are significant planned engineering works that are scheduled to take place in 2020. Each of these planned engineering works will require the use of rail replacement services. The following table details the number of possessions that are currently planned for Avanti from January 2020 to 17 May 2020 and the number of vehicles that will be required for rail replacement services.

Week	Date	Block	Vehicle Route	Required Vehicles	Standbys	Total
40	01.01.20	Crewe to Warrington	Crewe -Warrington - Wigan	12	6	18
41	05.01.20	Kidsgrove to Stockport	Macclesfield - Wilmslow	8	2	10
42	12.01.20	Kidsgrove to Stockport	Macclesfield - Wilmslow	8	2	10
43	19.01.20	Kidsgrove to Stockport	Macclesfield - Wilmslow	8	2	10
44	26.01.20	Kidsgrove to Stockport	Macclesfield - Wilmslow	8	2	10
1	04.04.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	20	10	30
	05.04.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
2 (Easter)	11.04.20	Wolverhampton	Wolverhampton - Tipton	10	4	14
			Wolverhampton - Stafford	6	2	8
		Weaver Jn to Wavertree	Warrington - Runcorn	6	2	8
		Wigan to Preston	Warrington - Preston	14	5	19
		Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
	12.04.20	Wolverhampton	Wolverhampton - Tipton	10	4	14
			Wolverhampton - Stafford	6	2	8
		Weaver Jn to Wavertree	Crewe - Runcorn	6	2	8
			Crewe - Liverpool	15	6	21
		Crewe to Weaver Jn	Crewe - Warrington - Wigan	12	6	18
		Wigan to Preston	Warrington - Preston	7	4	11
		Preston - Penrith	Preston - Carlisle	15	8	23
		Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
	13.04.20	Wolverhampton	Wolverhampton - Tipton	10	4	14



			Wolverhampton - Stafford	6	2	8
		Weaver Jn to Wavertree	Crewe - Runcorn	6	2	8
		Crewe to Weaver Jn	Crewe - Warrington Wigan	6	3	9
		Wigan to Preston	Warrington - Preston	14	5	19
		Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	15	40
3	18.04.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	20	10	30
	19.04.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
4	25.04.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	20	10	30
	26.04.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
5 (Ex May BH)	02.05.20	Wolverhampton	Wolverhampton - Tipton	10	4	14
			Wolverhampton - Stafford	6	2	8
		Wigan to Preston	Warrington - Preston	14	5	19
		Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
	03.05.20	Wolverhampton	Wolverhampton - Tipton	10	4	14
			Wolverhampton - Stafford	6	2	8
		Wigan to Preston	Warrington - Preston	14	5	19
		Preston to Penrith	Preston - Carlisle	15	8	23
		Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
6 (VE BH)	09.05.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	20	10	30

	10.05.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35
		Rhyl - Holyhead	Rhyl - Holyhead	8	4	12
7	16.05.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	20	10	30
	17.05.20	Lockerbie to Carstairs	Carlisle - Lockerbie - Glasgow	25	10	35

The distances of these rail replacement services mean that coaches are the best type of vehicle for passengers, although as discussed above in Question 1, sourcing compliant coaches will be challenging.

Current planned engineering, especially when considering blockades, involves the possessions of large parts of rail network for extended periods of time which are not restricted to weekend only possessions. A recent example of this is the renewal of Acton Grange Junction in July 2019. This possession lasted for 16 days and resulted in extensive use of rail replacement services.

Avanti agrees that the work Network Rail does to maintain and upgrade the UK rail network is important and in the long term is to the benefit of all passengers. However, during possessions, replacing services for extended periods of time is already challenging. If these possessions were pushed to all occur on weekends the result would be a series of costly weekend blocks for upgrade projects, heavy track renewals, station development and re-signalling work. The cost of these possessions would need to be met by the ORR and DfT. Such a program could also force the company into agreeing to double disruption on many routes.

The alternative to the current program of engineering possessions or pushing all possession to weekends is for Network Rail to reprogram engineering work to consider the availability of replacement services. As discussed in Question 2, engineering possessions should only be scheduled where it is possible to obtain compliant vehicles to operate rail replacement services. Failing this, Avanti will be forced to reconsider proposed possessions any may be required to reject possessions due to the lack of available compliant vehicles.

Accommodating current engineering possessions is challenging. Should Accessible Travel Policies mandate the use of compliant vehicles only, and the current way of scheduling engineering possessions continues, Avanti will be forced to either reject engineering possessions or issue 'Do Not Travel' notices to passengers. Neither result is good for passengers.

## Question 6

### **Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

The approach proposed by ORR is sensible and duplicate enforcement would not be appropriate. DVSA are the enforcement body for PSVAR across the bus and coach industry and should continue in this role.

## Question 7

### **How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The lack of supply of compliant vehicles, as detailed in Question 1, means that imposing additional contractual requirements on vehicle suppliers is very unlikely to increase supply. Also, in our response to Question 1 we detailed the challenge faced by the existing business models of vehicle suppliers. In the case of coach companies, their core business is tour operations and private hires. Neither of these operations is required to be compliant with the PSVAR. In the case of bus operators, their existing commitments to run regular local bus services makes rail replacement services a secondary priority.

If Avanti were to impose stricter contractual arrangements on coach and bus operators to mandate the use of compliant vehicles only, we expect many operators to simply decline the business offered by Avanti. Rail replacement services are not a core part of any coach or bus operators' business. When coupled with the risks associated with the PSVAR and the Equality Act 2010, we understand an even greater number of suppliers to decline the business offered by Avanti.

As discussed in Questions 1 and 2, the proposal for all TOCs to pay a higher rate for compliant vehicles would result in very little improvement in the supply of compliant vehicles. The costs associated with retrofitting existing non-compliant vehicles or purchasing new compliant vehicles are far too high to be solely borne by the TOCs paying higher fees for rail replacement services. Further, any increase in fees paid by the TOCs would ultimately need to be compensated for by DfT under existing Franchise Agreement payments (Schedule 4 and Schedule 8 specifically). Therefore, such an incentive is actually an increase cost to the DfT.

Finally, contractually mandating the supply of compliant coaches is very unlikely to be enforceable in the event of a contractual dispute. In the current market, most suppliers are simply not capable of supplying compliant vehicles, particularly coaches.

These factors mean that incentivising bus and coach operators through contractual arrangements is unlikely to result in any change. If TOCs imposed a requirement to source only compliant vehicles, suppliers could not meet the requirement. Therefore, the bus and coach operators would immediately be in breach of the contracts.



The best approach with regard to contractual arrangements with bus and coach operators is to mirror the obligations of TOCs in their Franchise Agreements. This type of obligation allows the TOCs to provide the most tailored service to the customer's needs. A more prescriptive obligation on bus and coach operators is highly likely to cause operators to decline rail replacement work resulting in a worsening supply compliant vehicle.

### Question 8

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

The proposed 12-week time limit may have benefits however such a time limit is completely dependant on when Network Rail finalises their possessions schedule and when Network Rail and the TOCs finalise the affected timetables. Presently, Network Rail and each TOC endeavour to agree the timetables at T-12 weeks. This allows the TOC plan rail replacement services and procure vehicles to operate these services in time for the planned possessions. Planning is finalised, and vehicle requirements sent to suppliers between T-10 weeks and T-6 weeks, depending on the extent of rail replacement services required. Vehicle operator tenders are usually received and finalised by T-4 weeks.

To comply with the proposed 12-week time limit to demonstrate all appropriate steps have been taken to assess requirements and to procure compliant vehicles, the above T-4 week timeline where vehicle operator tenders are finalised will need to move to T-12 weeks. This will have a direct knock on effect on the previous steps in the process, beginning with when Network Rail finalise their plans for work.

Consequently, to comply with a 12-week time limit reporting requirement, the following revised timelines will need to apply:

- Network Rail to finalise planned engineering work schedule by T-24 weeks.
- Network Rail and TOCs finalise timetables at T-20 weeks.
- Rail replacement service planning and resource requirements determined and sent to suppliers by T-18 to T-14 weeks.
- Tenders finalised and awarded by T-12 weeks.

Without this wholistic time line in place, a 12-week time limit to report will not be possible.

### Question 9

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We have ranked the proposals and what we see as the advantages and disadvantages in the table below. It must be noted however that none of these proposals address the cores issue: there are simply not enough compliant vehicles and without legislative change or government funding, this situation will continue.



<b>Proposal</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Ranking</b>
<b>One</b>	Places a contractual obligation to maximise the no. of psvar vehicles	Unlikely to increase the no of psvar vehicles	5
<b>Two</b>	Requires TOCs to demonstrate they have taken reasonable steps to procure psvar at 12 weeks  Will require NR and TOCs to finalise timetables much earlier  Should increase the number of psvar vehicles due to earlier recruitment	NR and TOCs will need to change their planning timescales for RRS  Last minute changes to RRS by NR and/or TOCs is unlikely to be possible	3
<b>Three</b>	Passengers requiring assistance could receive individual messages to sort travel.	Increased resources needed at the contact centre and at stations  NR and TOCs will need to change their planning timescales for RRS	2
<b>Four</b>	Rail passengers will know which RRS journeys will be operated by psvar vehicles  An impact of the earlier timetable planning should be an increase in the number of PSVAR-compliant vehicles	Will require development of the Rail Industry CIS systems  NR and TOCs will need to change their planning timescales for RRS	1

	due to earlier recruitment		
<b>Five</b>	Forum could be a good initiative if it encourages better planning and co-ordination by NR and across TOCs to manage demand for vehicles.	Needs to have a defined objective	4

### Question 10

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

The fundamental issue is the coach industry has exemptions from PSVAR to conduct their primary business operations: tours and private hires. This directly translates into a lack of compliant vehicles available for rail replacement vehicles where the ORR has stated only 175 out of 55,351 rail replacement coach journeys were compliant in the last 12 months.

To address this fundamental issue either legislative change will be required to remove these current exemptions, or more vehicles will need to be made compliant or compliant vehicles bought. With both paths forward, significant investment will be needed, primarily coming from the DfT. As stated above the following estimates represent the costs involved with making an assumed 5,500 coaches compliant:

<b>ACTION REQUIRED</b>	<b>COST PER VEHICLE</b>	<b>TOTAL INVESTMENT REQUIRED</b>
Retrofit an existing coach	£30,000 (approximately)	£165,000,000 (approximately)
Buy a compliant coach	£250,000 (approximately)	£1,375,000,000 (approximately)

The only option we believe will make a significant impact and improve the accessibility of coaches in the UK is significant investment by the DfT into the coach industry because coach operators are currently not incentivised to spend the amount of money required to operator compliant coaches.

### Question 11

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

The ORR should consider in their assessment the needs of all customers. Prioritisation of the needs of those who require level access could cause significant and damaging detriment to the accessibility of the service for those with hidden and potentially complex disabilities.

The focus must be on providing a service which meets the needs of all customers, providing a range of vehicles to meet varied needs, tailored to allow flexibility and encourage use of the most suitable vehicles, rather than a focus on compliance.

For example, the addition of quiet carriages on many services allows those customers who do not cope well in noisy environments to use the railways in a way that is comfortable and safe for them. Quiet carriages are cannot be replicated when using buses or coaches for rail replacement services and therefore these passengers may find a taxi more appropriate to their needs.

We strongly believe that equality can be achieved, with dignity and comfort for all by using practical solutions, without imposing compliance standards that may not fully consider the impact on all rail passengers.

### Question 12

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

As a general comment, we do not believe mandating restrictive policy guidance or regulations about the types of vehicles to be used for rail replacement services will result in a better service for all passengers. Fundamentally, the vehicles to operate a fully compliant rail replacement service do not exist in the UK. Without more compliant vehicles, TOCs cannot procure compliant vehicles.

The current system of using accessible taxis has worked with success across the entire UK rail network. The advantages of using accessible taxis are:

- In most cases, a taxi can transport the passenger to their end destination (home or otherwise), not just to the passengers intended station of departure;
- Taxis can stop at motorway services or the like for comfort breaks to suit the individual needs of the passenger;
- Taxis can be quiet environments with greater ease than a bus or coach, thereby allowing noise sensitive passengers a more appropriate method of travel; and
- Taxis can accommodate blind passengers with guide dogs easier than a bus or coach can.

Like buses and coaches, the use of taxis present unique challenges:

- availability in rural and regional areas can be limited; and
- there can be delays where taxis are not pre-booked or where passengers requiring assistance do not notify the TOC of their needs in advance;

The use of taxis is a proven way to assist passengers who require assistance. Mandating the need to use compliant buses or coaches has the potential to force all passengers onto these buses and coaches. This will have the unintended consequence of reducing the accessibility of the railways for those passengers that require assistance, but do not have mobility restrictions.

## Office of Rail and Road consultation

### The applicability of PSVAR 2000 to Rail replacement services

Response to O R R's provisional legal advice dated 26<sup>th</sup> September 2019

#### Separate fares

1. In order for a PSV to be regulated by PSVAR 2000 it must be used on a local or scheduled service for the carriage of passengers at separate fares. If separate fares are not paid the service is not regulated. If the vehicle is not a PSV it is not regulated. Those allowed to operate coaches hired by a T O C have an Operator's licence to do so and are bound by the terms of that Operators licence. Abellio Rail Replacement is a T O C but does not have an Operator's licence to operate the Coaches it hires from the Coach Operator
2. A Public passenger Vehicle is defined by the Public Passenger Vehicles Act 1981 as a motor vehicle adapted to carry more than 8 passengers (other than a tram car) used on a road for hire or reward only under a PSV operator's licence granted in accordance with the provisions of the PPVA 1981.
3. A TOC's obligations to its disabled and other passengers are regulated by the Rail Vehicle Accessibility regulations 2010 and represented in the NRCOT and individual Accessibility policies governed by the ORR Accessible Travel Policy Guidance for train Operators July 2019. They allow for the use of accessible taxis in the event that a Coach is not accessible. Until this consultation and possibly causing it, it was assumed that a Rail replacement service was not regulated by PSVAR 2000.
4. A coach hired by a TOC must be accessible if it is used on a PSVAR regulated service and the Coach operator is liable to enforcement and penalty if either it breaches the PSVAR 2000 or its Operator's licence. A TOC may, as Ms Leventhal states, be liable also if it cause or permits the use of a coach in contravention of PSVAR but is not affected by the terms of the Coach operator's licence
5. If the coach service provided to a TOC for Rail Replacement is not regulated because the accessibility provisions of PSVAR do not apply to it the coach can be used in accordance with the Coach Operators licence
6. If separate fares are not charged, regardless of the distance covered by the service, the service is not regulated and the Coach company and the TOC are not liable for breach of PSVAR
7. In paragraphs 26-43 of her advice Counsel addresses the issue of separate fares and concludes that a Rail replacement service falls within the meaning of the phrase '*a service for the carriage of passengers by road at separate fares*' and reaches this view by reference to statute and case law. I do not arrive at the same conclusion. I accept that the TOC charges a fare for travel on the Rail network and makes no further charge to the passenger using a rail replacement coach or

taxi. Also that the coach operator does not charge any passenger but instead is paid a daily fee by the TOC. I don't accept that the TOC is entitled to charge a fare for the use of a Coach that it does not operate. The question is whether the payment by the TOC to the Coach operator constitutes a separate fare. Tracing the legislation through I consider that a distinction must be drawn between a PSV hired as a whole for a fixed or agreed sum (which does not constitute separate fares) and a PSV used on a service where fares are paid by the coach operator's passengers, which does constitute separate fares.

8. S.61(1) Road Traffic Act 1930 divides PSVs into
  - (a) Stage carriages carrying passengers for hire or reward at separate fares (less than one shilling) stage by stage and stopping to pick up or set down passengers along the line of route at separate fares not being an express carriage. I would suggest that this corresponds to what we understand to be a 'local service'
  - (b) Express carriages carrying passengers for hire or reward at separate fares (greater than one shilling) stopping only to take up or set down passengers paying the appropriate fare. I would suggest that this corresponds to what we understand to be a scheduled service eg National Express
  - (c) Contract Carriages carrying passengers for hire or reward under a contract for the use of the vehicle as a whole at or for a fixed or agreed rate or sum. I would suggest that this applies to a contractual fee being made to the Coach Operator in the place of separate fares which are excluded from the definition. I would suggest that this relates to journeys which are not local or scheduled services such as tours and excursions which are expressly excluded later in PSVAR 2000
9. Counsel refers to the definition in S.61(2) Road Traffic Act 1930 of 'separate fare' as: "*where persons are carried in a motor vehicle for any journey in consideration of separate payments made by them, **whether to the owner of the vehicle or to any other person**, the vehicle in which they are carried shall be deemed to be a vehicle carrying passengers for hire or reward at separate fares....."* However she does not refer to the proviso immediately following whereby "provided that a vehicle used on a special occasion for the occasion of a private party shall not be deemed to be a vehicle carrying passengers for hire or reward at separate fares by reason only that members of the party have made separate payments which cover their conveyance by that vehicle on that occasion. I would suggest that the contracted coach where a single fee is paid by the other contracting party retains the identity of non-separate fare whether or not the individual passengers have made any payment to that other contracting party such as the TOC contracting rail replacement coaches from the coach operator
10. The Road Traffic Act 1930 was repealed and partially replaced by the ss117-118 Road Traffic Act 1960. S 117 (1-3) RTA 1960 retains the description of stage and express carriages carrying passengers at separate fares and provides at s117(4) "for the purposes of this Act a contract carriage is a public service vehicle not

carrying passengers at separate fares'. I would suggest that the identity of a tour or rail replacement vehicle being one not carrying passengers at separate fares remains. S.118 RTA 1960 has to a great extent replaced S.61(2) RTA 1930 but it refers to fares being paid on vehicles carrying passengers at separate fares which I say do not relate to contract carriages.

11. She goes on to consider cases cited (Wurzel v Wilson 1965) where the use of a minibus without a Road Service licence under s.134 RTA1960 was examined Wurzel was determined on the basis of S.118. S.118 is directed in my view towards the meaning of 'hire or reward' on a vehicle carrying passengers at separate fares services dependent upon whether a payment is made either singly or as a member of an association. I suggest that this case can be distinguished from that where a contract carriage (rail replacement/tour) carries not at separate fares because:

- a) A minibus, in being carrying less than eight passengers is not a public service vehicle for the purposes of either s.62 RTA 1930 or s.117 RTA 1960
- b) A minibus is not a contract carriage which in turn does not carry passengers at separate fares
- c) A road service licence cannot relate to a contract carriage only to a stage carriage or express carriage

12. The RTA 1960 was repealed the Public Passenger Vehicles Act 1981. It relates to PSVs used on a road (excluding a tram car) and not to trains. S.1 PPVA 1981 describes a PSV as a motor vehicle (a) adapted to carry more than eight passengers carrying passengers for hire or reward. The s.117 RTA 1960 reference to stage, express and contract carriages do not appear in the same form. It is clear that a coach operates for hire or reward. The minibus exemption is retained. The hire or reward provisions hitherto in s.118 RTA 1960 are broadly retained. The question is whether a contract carriage vehicle not operating at separate fares retains its identity and remains unaffected by the provisions as to payments by passengers in s.1(5)(b) PPVA1981. To examine this one must look for consideration of separate fares given directly or indirectly by the PPVA 1981 or subsequently. More contemporary guidance as to the understanding of separate fares however is available, and would be in any case considering such, as a result of the PPVA 1981. It introduces at S.12 the Operator's licence whereby only a (coach or bus) operator may operate such a PSV and must do so in an Operator's licence granted in accordance with the provisions of the Act. Since then any (Coach) Operator's licence is issued pursuant to the PPVA 1981. The VOSA guide to the Operator's Licence defines separate fares as :

**" separate fares mean an individual payment by each passenger to the driver, conductor or agent of the operator for the journey undertaken.....separate fares are not involved where the vehicle is hired as a whole and individual passengers make no contribution"**



13. In my view therefore the concept of a contract carriage where the vehicle is hired as a whole is carried through the legislation and is identifiable as a PSV Coach or bus hired as a whole in return for payment of a fixed fee by a TOC contracting with the coach company for rail replacement. Separate fares do not apply. The next consideration is the subject of this ORR consultation and the legal position of the TOC and Coach Operator carrying out rail replacement and whether or not PSVAR 2000 applies to that rail replacement service, the TOC hiring the coach, and the Coach Operator.

14. Separate Fares.

PSVAR 2000 relates to a regulated PSV carrying passengers at separate fares on a local or scheduled service. In view of the argument above I would suggest that a rail replacement coach is not operated by the coach operator under its operators licence at separate fares and therefore neither the coach operator for operating the rail replacement service nor the TOC for permitting it are in breach of either PSVAR or the operator's licence. It is operated as a contract carriage under a private hire agreement between the TOC and the Coach Operator.

15. Local and scheduled service

These correspond in my view to the categories of stage and express carriages. A local service has the meaning given in s.2 Transport Act 1985 covers a straight line route of fifteen miles or less. This must be aimed at a local bus service where passengers are picked up at various points along the route and charged accordingly. The Operator in such a situation cannot know whether there will be a demand for an accessible vehicle and must operate the local service with an accessible vehicle compliant with PSVAR 2000. However S.2(4) TA 1985 provides that a service shall not be regarded for the purposes of the TA1985 as a local service if the conditions in part 111 of Schedule 1 of the PPVA 1981 are met. There is no need in this argument to recite the conditions fully but the conditions introduce the concept of private hire defeating the definition of a local service, whereby if the conditions are met, whether by a TOC hire or a school hire, the local service ceases to be regulated by PSVAR as is the case with tours and excursions which are specifically excluded on the same basis. In my submission if the nature of the service provided by the coach operator is such as to exclude it from the definition of local service it should also apply to a scheduled service where the conditions are more likely to be met. The conclusion however is that local services at least are not regulated by PSVAR 2000 in certain conditions. If the Wurzel case were to be considered today, notwithstanding that it involved a minibus, it could be decided differently on the basis of the 'local service' argument alone and a private hire of a vehicle on a closed contract where the sole purpose of the journey was to take passengers employed by the hirer to their place of work, and back, without picking up other members of the public on the way.

## 16. Hire or reward

Furthermore consideration is given in the VOSA guidance as to what other services may be purchased as part of the fare and include a theatre ie the purpose of the making of the journey. I would suggest that it is this which should be considered 'other matters in addition to the journey' in S.1(5)(b) PPVA 1981 . In support of this I would refer to the specific exclusion from the PSVAR 2000 of tours for which a payment is made for not only travel on the coach but also stays at a hotel, attendance at a venue, and food and drink. Therefore I respectfully disagree with counsel at paras 28-31 of her advice where she concludes that in buying a fare from a TOC the passenger is also buying a right to travel on a coach operated by a coach operator whose coach is hired by that TOC, for the following reasons:

- a. A TOC is not a Coach Operator and cannot sell a fare to travel on a vehicle not operated by it
- b. A TOC is not an agent of the Coach Operator in principle and in any event could not be unless the specific coach operator operating the specific coach used on rail replacement on the day of sale had appointed the TOC as agent
- c. A rail replacement service is not an additional matter as envisaged by the PPVA 1981
- d. A rail replacement is not additional it is a replacement
- e. The fixed fare of the TOC is the same whether or not a rail replacement service operates on that day, and there is no variation of that fare to include the travel on rail replacement
- f. An additional matter in a rail fare ie refreshments would be included in a higher priced fare (ie first class)
- g. As with the submission of First to the ORR on 18<sup>th</sup> October 2019 at para 5 a train ticket is evidence only of a passengers entitlement to travel on the national rail network. This is not a right to travel by road or on a coach not operated by the TOC

17. In the circumstances of Rail Replacement services I would say that PSVAR does not apply to the coach service hired by the TOC for the following reasons:

- a. The passengers are passengers of the TOC operating the rail service not of the Coach Operator operating the coach service
- b. The passengers do not pay the Coach Operator
- c. Any payment by the TOC passenger to the TOC is not passed on to the Coach Operator
- d. The fee paid by the TOC to the coach Operator is paid independent of the amount of any fares paid to the TOC by its passengers and whether or not any TOC passenger uses the replacement coach
- e. No payment is made to the coach driver or agent of the coach operator by any individual passenger, only by the TOC itself

- f. No payment is made by any individual passenger for the 'journey' only for the service and this is paid by the TOC
- g. The TOC does not charge a fare to its passenger for the coach service but provides it free (at no extra cost to you)
- h. The sole purpose of the train fare is the train journey

## 18. Conclusion

The TOC has obligations under RVAR 2010 as to accessibility on trains and provides for accessible taxis in the event that its Rail replacement service cannot provide an accessible coach. The ATP guidance does not insist on an alteration to this position. The TOC is not obliged under RVAR 2010 to provide accessible coaches as Rail replacement. The TOC may choose to contract with a Coach Operator to hire a Coach and Driver. It need not and would be foolish to do so if it permitted the operation of a Coach by the Coach Operator in contravention of PSVAR rendering both TOC and Coach Operator liable to prosecution.

Since a fixed daily fee is paid by the TOC to the Coach Operator the Rail Replacement Service does not operate under separate fares and therefore neither the Coach Operator nor the TOC are liable to prosecution.

The payment by the TOC passenger of the train fare cannot constitute a payment of a Coach fare. For the sake of clarity and certainty however I would suggest that on a train journey between Stations A .....B.....C.....D, where the maintenance works are carried out between stations B and C, train tickets are sold for rail travel from A to B and from C to D. The TOC cannot sell a train ticket for train (or coach) travel between B and C. To compensate the train passenger for being unable to make his total journey by train the TOC should clearly state that the Rail Replacement Coach is provided to its passengers Free of Charge.

The coach travel is not an addition to the train journey.

The Coach Operator makes no charge to the TOC passenger and has no contract with him. It only allows TOC passengers to travel and doesn't charge any fare, it's only payment being the fixed daily fee paid by the TOC.

The Rail Replacement Vehicle provided by the TOC in the event of a demand by a wheelchair user must be accessible. It can be a taxi and thought should be given as to how such a taxi can be made permanently or immediately available at a station within a reasonable time of knowing of the demand. The TOC can provide this by hiring an accessible coach to meet the demand of the wheelchair user and again thought should be given as to the number and position of such accessible coaches over stations A to D above, consideration being given as to whether the 'standby coach' always available to TOC Rail relief staff should be an accessible coach.

1.9% of the UK population are wheelchair users and the majority of these use minibuses provided by community transport. The demand for wheelchair access is in fact small and there must be a degree of proportionality in the response to this issue. Because of the extra costs of accessible coaches only about 3% nationwide of coaches are accessible. There is no resistance in principle to

meeting the requirements of the accessibility regulations but the industry cannot comply because of insufficient coaches. A 53 seat coach with a wheelchair space and access through the hoist doorway necessitates the removal of four rows of seats reducing the 53 seat coach to 45 plus the wheelchair. If every coach had to be accessible the carrying capacity of each coach would be reduced by 15% which would have corresponding cost implications to the TOC hiring the coaches. This makes the idea of an accessible taxi or the availability of an accessible standby coach more proportionate.

Schedules 1 and 3 of PSVAR 2000 apply to coaches, schedule 1 requires the wheelchair hoist being fitted at a cost of £20-£25,000. This for any coach operator providing rail replacement a non-starter and the Rail Relief service would fail. By way of compromise the ORR might consider making regulations whereby only schedule 3 works were required to be carried out to coaches used on rail replacement. These are works enabling the non-wheelchair user to board the coach safely by the provision of correctly and clearly placed handrails, steps and signs at a non-prohibitive price.

3<sup>rd</sup> February 2020

To

[ATP@orr.gov.uk](mailto:ATP@orr.gov.uk)

[orr.gov.uk /rail/consultations/open-consultations/consultation-on-accessible-travel-policy-guidance-accessibility-of-rail-replacement-services](https://www.orr.gov.uk/rail/consultations/open-consultations/consultation-on-accessible-travel-policy-guidance-accessibility-of-rail-replacement-services)

<b>Paper to:</b>	Office of Rail and Road
<b>Response by:</b>	Trenitalia c2c, 115 Houndsditch, London, EC3A 7BR
<b>Subject:</b>	Office of Rail and Road consultation into: “Accessible Travel Policy Guidance – accessibility of rail replacement services”
<b>Date:</b>	14th February 2020

### Summary

This paper outlines Trenitalia c2c’s response to the Office of Rail and Road’s consultation regarding the accessibility of rail replacement services forming part of the Accessible Travel Policy guidance that was published in July 2019.

We understand the importance of providing an inclusive experience for all customers at every stage of their journey.

After revised advice was issued by the ORR in the latter part of 2019 regarding PSVAR application to rail replacement services, we have worked hard to ensure that the replacement vehicle fleet we procure is accessible. In the unusual event that we are unable to procure the necessary volumes of compliant vehicles for a period of disruption (planned or unplanned) and the exemption process needs to be relied upon, we always ensure that an accessible vehicle will run in tandem with any vehicle that was not accessible.

### Response to consultation questions

***Question 1: Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?***

The Trenitalia c2c route runs from London Fenchurch Street to South Essex. We estimate the volume of accessible buses available from our suppliers in this area is approximately 226. This proves challenging as there is significant competition for accessible vehicles in this area, both from other rail operators and because of the other markets bus operators serve. This means train operators running Rail Replacement Services are vulnerable to failing to comply with PSVAR legislation.

On the c2c route, we mostly run buses as opposed to coaches because of the short distance nature of the route. We are very aware that accessible coaches are in short supply nationally. Whilst we are fortunate that the shortage of coaches is a lesser issue for us, we have nonetheless taken and continue to take careful steps to ensure we secure sufficient accessible buses for our Rail Replacement needs. Please refer to Q2 answer for further information.

***Question 2 How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?***

The limited number of compliant vehicles in the region means there is always a risk that we and other TOCs are unable to obtain sufficient accessible vehicles.

At c2c our Train Planning team book Rail Replacement Buses well in advance in order to secure accessible vehicles. In addition we have recently been working closely with our neighbouring TOC Greater Anglia and Network Rail to try to avoid planned disruption from taking place at the same time on both networks so as to reduce the demand for compliant vehicles. Where engineering works are planned on parallel routes we have worked, and continue to work, with our neighbouring TOC to coordinate our demands on the Rail Replacement bus market.

***Question 3 (abc.) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?***

As previously noted, we mostly run buses as opposed to coaches. Due to the length of our route, the short distance between stations and the high volumes of passengers travelling with us, we find that buses are more suitable for our customers than coaches.

As we aim to procure PSVAR-compliant vehicles, we rarely use taxis. In the event that we do, we have from time to time found that the volume of accessible taxis in the Essex area of our route to be limited.

***Question 4 Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?***

We supplied ORR with Rail Replacement data on Monday 16th September 2019.

There are relatively very few disabled passengers travelling on the c2c network. To illustrate using an example of the most disruptive possession that we have recently had, on Sunday 19th January 2020 we ran no train services until after 14:00, and Rail Replacement bus services were in operation throughout our route. On this day, 12,807 passengers travelled with us. Our monitoring found no passengers were mobility impaired or used a wheelchair.

***Question 5 We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?***

Due to c2c's proximity to other London South East TOCs, in the event of lines requiring emergency engineering works carried out by Network Rail, the regulation leaves TOCs competing over the same pool of

accessible vehicles. In this situation, if a TOC is unsuccessful in obtaining accessible vehicles, it would mean 'do not travel' advice should be issued to all customers. This is something that c2c does not endorse - it is financially detrimental to the business and takes the opportunity to travel for customers without disabilities.

As previously noted, we are working with Greater Anglia to ensure that planned engineering works are not scheduled for the same time period on parallel routes.

***Question 6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?***

We do not support the duplication of enforcement within the ATP. The PSVAR-compliance regulations sit within the remit of DVSA and DfT, and so it is not necessary for the ATP to also enforce these.

***Question 7 How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?***

c2c does and will continue to work hard to source PSVAR-compliant vehicles. Our main challenge is lack of available vehicles and there is a limit to the extent to which this can be resolved through contracts with suppliers.

The consultation document states that whilst the supply of PSVAR-compliant coaches in the UK is low (0.3% of all Rail Replacement vehicles used), ORR believe that introducing these regulations for TOCs will likely lead the coach industry to have a stronger business case for investing accessibility modifications to their fleet as there will be more of a market for vehicles. We consider there is no guarantee that the coach industry will respond with what would need to be a massive investment of modifications to their fleet, not least because coaches serve multiple markets of which Rail Replacement is only one.

***Question 8 Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?***

The 12-week time limit does not take into consideration emergency engineering works, unplanned disruption or delays in confirming track possessions due to Network Rail. TOCs sometimes have to respond much more quickly and would be vulnerable to not being able to achieve this requirement.

There are occasions where TOCs are notified by Network Rail about planned disruption less than 12 weeks before the affected day. The wording 'where reasonably practicable' would be favourable for the 12-week time limit to support situations like these.

***Question 9 What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?***

***Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.***

Proposal one does not take into consideration the small number of PSVAR-compliant vehicles and has the potential to put a TOC in breach of the PSVAR regulations. We consider this proposal to be more workable if replaced by a requirement to 'use reasonable endeavours'.

***Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.***

Please refer to the response in question 8 which explains why the 12-week limit is sometimes not appropriate as sometimes major engineering works are planned less than 12 weeks out.

***Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).***

We currently adopt this process and are supportive of it.

***Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.***

We support this proposal.



***Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).***

As described earlier, we already coordinate our Rail Replacement needs with other in the industry. TOCs also actively discuss accessibility issues and activities with each other through groups and calls managed by the Rail Delivery Group. RRS coordination could be incorporated into these discussions.

However, any form of discussion does not alter the key issue of there not being enough PSVAR-compliant vehicles in the UK.

***Question 10 Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?***

We are aware that the Rail Delivery Group is in discussions with coach and bus operators to explore how the supply of PSVAR-compliant coaches could be stimulated. We believe it is essential that the vehicle supply shortage is discussed with and addressed at source within the bus and coach industries.

***Question 11 Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?***

There are stations across the network where the physical station infrastructure is not compatible with the requirements set out for PSVAR-compliant vehicles which should be noted.

The PSVAR regulations do not specifically address the needs of passengers who have hidden disabilities. We believe this should be considered by you in your equality and regulatory impact assessment.

***Question 12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?***

As noted throughout our response, we are committed to using PSVAR-compliant vehicles where possible. We are working with the Rail Delivery Group to gather data and evidence to support our responses with the intention of finding a solution that will be acceptable for passengers with and without disabilities.



## ***ORR Consultation on Accessible Travel Policy Guidance - accessibility of rail replacement services***

**February 2020**

The Chartered Institute of Logistics and Transport is a professional institution embracing all transport modes whose members are engaged in the provision of transport services for both passengers and freight, the management of logistics and the supply chain, transport planning, government and administration. Our principal concern is that transport policies and procedures should be effective and efficient, based on objective analysis of the issues and practical experience, and that good practice should be widely disseminated and adopted. The Institute has a number of specialist forums, a nationwide structure of locally based groups and a Public Policies Committee which considers the broad canvass of transport policy. This submission draws on contributions from all these sources.

### **Question 1 Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

Ideally, all rail replacement vehicles should be accessible. Any other solution puts disabled passengers at a significant disadvantage and facing discrimination, albeit unintended. Legally all vehicles used for the carriage of passengers at separate fares, whether rail or coach/bus, should now be either (i) compliant with the Public Service Vehicle Access Regulations 2000 (applying to coaches registered after 2005), (ii) be exempted from the PSVA Regulations, or (iii) have short term dispensation to meet particular circumstances such as non-availability of compliant vehicles in a specific market area (this precedent has been set for school transport services mainly in rural areas).

The majority of rail passengers are understood to prefer coaches over buses for replacement services for longer distance journeys. Unfortunately, whilst buses used for local services will almost certainly be compliant, most full size coaches operated by small and medium sized companies in the contract hire market are not because their businesses do not normally carry passengers paying separate fares.

It is important to note that there are many disabled people who are able to travel by train but who are **not** able to board a high floor coach. These people will not necessarily have booked assistance if they can travel independently. Their need for an accessible coach will not therefore be known in advance.

A second issue, even with accessible high floor coaches is that (unlike trains) they do not have accessible toilets. It is therefore vital that if such vehicles are used for long distance journeys,

passengers are informed in advance of this limitation and departure times give disabled people full opportunity to use toilet facilities at the station of departure.

Appropriate accessible pick up points for accessible high floor coaches must also be assured by TOCs and also Open Access Operators ("OAOs"). Space to deploy a lift on level ground etc. is not always easily found in station car parks, for example.

We are aware that there is a very limited stock of available PSVAR compliant coaches compared with the number of buses and coaches used for rail replacement services. Even if all of the available PSVAR compliant coaches were available to TOCs and OAOs rail there would be a significant number of services which would need to be operated by non-compliant coaches. Given current manufacturing capacity it would take a number of years to produce sufficient coaches for all relevant rail replacement services to have the possibility of being fully PSVAR compliant.

**Question 2 How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The ideal solution would be for rail operators to be able to use long term contracts for bus and coach provision specifying accessible, ideally toilet equipped, vehicles with disability trained staff and by estimating demand over the longer term to stimulate investment in accessible vehicles. However, there needs to be a sufficient demand for coach operators to invest in such vehicles, given that rail replacement services generally only operate at weekends i.e. only 2 out of 7 days, requiring coach operators to find other income producing use for the coaches on the other 5 days. Either the coach hire contracts become very expensive (with the costs eventually passed onto the fare paying passengers) or the coach companies do not tender for the rail replacement service contracts.

In the shorter term it may be appropriate to seek out "on call" arrangements for smaller accessible vehicles (although these will not be toilet equipped) when the TOC/OAO has advance knowledge of passengers asking for assistance when booking but also possibly from a staff check on the train communicated to the station from whence the rail replacement service commences.

**Question 3 (a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

See the response to (b) below.

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

We have received the following account of a passenger with MS (a wheelchair user) who had booked assistance. This is typical of many distressing experiences faced by disabled passengers: *"She was abandoned in an isolated station with her 2 daughters mid evening. Fortunately, it was a summer evening but she was distraught and everyone she spoke to, (the conductor on the train, the staff operating the replacement coaches and by phone to the assistance line) denied that it was their problem. As she was in a wheelchair and the replacement coach did not comply with PSVAR the only*

*option, and one that she thought she had booked through passenger assistance was a taxi but there was no taxi waiting for her. Eventually a taxi appeared in the car park and he agreed to take her to Huntly once he had an order number from Scotrail. It was also eventually agreed that if the train had left Huntly the taxi would continue the whole way to Inverness. This was not something the assistance staff were keen on, they said that she should be left in Huntly for the next service, a 2 hour wait in a station with no toilets which would have resulted in her arriving in Inverness after midnight “*

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

For planned engineering works etc., it should be possible for rail operators to make appropriate arrangements in advance to contract in as many suitable vehicles as may be available.

Where there is unplanned disruption, the use of accessible taxis or community transport vehicles (widely available around the country and accessible) could be considered. In the case of accessible taxis availability may be limited at school opening or closing times as they are widely used for special needs pupils whilst community transport is only an option if their (often volunteer or part time) staff are available and that this clearly commercial use does not contravene either the operator and driver licensing requirements or the charitable objectives of the community transport organisation.

It should be noted, however, that while accessible taxis and low floor buses are acceptable for short distance journeys, they are not always suitable for longer distance or high-speed journeys. Similarly, community transport vehicles may be limited in speed in some instances and capacity to meet additional demand may also be a problem.

Whatever vehicle type is used, the service should retain the same train-to-train links and should not introduce a possibility of being unable to complete the journey.

**Question 4 Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

N/A

**Question 5 We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

N/A

**Question 6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

Although it could be seen as a “belt and braces” approach, we believe that it would, nonetheless be helpful to reinforce the requirement for PSVAR compliance in the ATP Guidance. However, this needs to acknowledge the potential lack of PSVAR complaint vehicles available for such services.

**Question 7 How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

Train operators could require PSVAR compliant vehicles as a condition of contract. For planned engineering works, requirements for accessible vehicles should be known well in advance. The contract would need to acknowledge the current availability of PSVAR compliant vehicles, with an increasing number of vehicles to be provided over the term of the contract.

For unplanned works, train operators could have contractual arrangements for on-call accessible but not necessarily PSVAR compliant alternatives, which may include community transport vehicles or accessible taxis (subject to our comments on such vehicles in Question 3) should be considered. However, these on-call requirements would need to work around other more regular uses of the vehicles, such as school transport.

**Question 8 Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

Given how long the requirements have been known, this would seem more than adequate. Any longer extension would simply encourage further procrastination. We believe that the major fault in respect of the fundamental problem lies with the coach hire companies who have conducted their businesses in ignorance or defiance of the PSVAR 2000 regulations. The train operators can only contract for the vehicles that are available and there is no obligation on the coach hire companies to respond to any tenders for such vehicle supply, particularly where it is not economic for the coach operators to do so.

**Question 9 What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

The proposals are all sensible and appropriate.

However, in the context of proposal 3, it should be noted (as mentioned above) that there will be disabled passengers who do not book assistance because they are able to use trains independently but who would not be able to access high floor coaches not equipped with lifts. It is therefore vital that information about replacement services is not only communicated to those passengers who have booked assistance but is publicised more widely through websites, social media and at stations.

**Question 10 Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

TOCs and OAOs must ensure that all non-emergency contracts for journeys over c.25 miles specify the use of accessible coaches with toilets. Not all travellers, particularly if they are disabled will be able to use toilets on a moving coach. The major need is to alert people in advance and give them access to appropriate toilet facilities before they leave the station.

For emergency contracts the availability of accessible coaches may be unlikely and low-floor buses or taxis may be accepted. The use of proportionate and dissuasive fines on rail operators for non-

compliance should be introduced unless they can demonstrate that they have taken all reasonable steps and that non-compliance is beyond their responsibility.

Whilst there is an argument that compensation at a reasonable hourly rate and out-of-pocket expenses if applicable should be paid to all disabled passengers unable to complete their journeys using the rail replacement services provided, this may result in a limited replacement service being available.

**Question 11 Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristics?**

Beyond the requirements of those people with physical disability, it is also important to note that rail replacement services, like any form of disruption or departure from the norm can be enormously distressing for people with intellectual impairment or mental health conditions. Similarly, people with vision or hearing impairment may be significantly disadvantaged.

Staff training in appropriate and sensitive ways to communicate with passengers and to support those in need must be a priority. This should include the staff of Network Rail, coach/bus and accessible taxi operators as appropriate.

This is crucial both for planned – and unplanned – disruption. In the latter case, in particular, people with some disabilities may be significantly disadvantaged and/or distressed and staff handling of the situation can make a significant difference.

One recent example of the importance of staff knowing how to handle difficult situations involved an unplanned requirement for rail replacement due to a landslide. At the station used for transfer to coaches the train pulled into the platform that required passengers to use an overbridge to leave the station. A number of passengers could not manage steps and staff had both to handle the anxiety and distress of these passengers and to find a workable solution to get them to the coaches.

**Question 12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

No

Submitted by:

Daniel Parker-Klein

Director of Policy and Communications

The Chartered Institute of Logistics and Transport

February 2020

14 February 2020

Dear Stephanie

## **Accessible Travel Policy Guidance - accessibility of rail replacement services: a consultation**

Thank you for the opportunity to comment on this matter. This is the response of the Confederation of Passenger Transport (CPT). CPT is the national trade association for the bus and coach sector in the UK and represents around 1000 bus and coach operators and suppliers to the industry.

### **Question 1**

Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

We have previously provided data to the ORR and cannot provide anything further on this point at this time.

### **Question 2**

How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

The proposals for amending ATP guidance contain some pragmatic approaches to do this, specifically proposals 2, 3 and 5. It is noted that whilst PSVAR aims to address a range of accessibility issues apart from the use of a wheelchair, a fleet of PSVAR accessible coaches providing the same capacity as a longer distance train will generally have significantly more wheelchair spaces than the equivalent train.

### **Question 3**

- (a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?
- (b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.
- (c). Do you have a preference for the type of replacement service you receive? If so, please explain why

We feel that this question is more appropriate for other stakeholders

### **Question 4**

Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?

Anecdotal evidence from members is that numbers are extremely low but we cannot provide any data.

**Question 5**

We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

We are not in a position to provide further information on this point.

**Question 6**

Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

We agree with this proposal. It is acknowledged in para 23 of the consultation document that mandating compliance with PSVAR in the ATP Guidance would be likely to lead to a substantial reduction and possibly even cessation of rail replacement services in some cases. Legislation currently allows for special authorisations to be granted in certain circumstances. Duplicating the requirements in the ATP Guidance could therefore conflict with that legislation and result in passengers becoming stranded.

**Question 7**

How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?

Rail replacement is an important part of many of our coach operating members' business. However, in most cases, it does not underpin the business. A contractual commitment could help to justify the significant investment in PSVAR compliance that may be required. Realistically this would need to guarantee a certain amount of work at a price level above traditional rates.

**Question 8**

Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?

Train operators will be better placed to answer this but for a coach operator, the availability of PSVAR compliant vehicles 12 weeks ahead will vary according to seasonal factors. At certain times of the year, the fleet may already be fully committed at this stage. In some cases, vehicles may be available at weekends but operators may not have any driver availability due to weekday commitments and drivers' hours rules.

**Question 9**

What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

We believe that the proposals are on the whole pragmatic and could be used in combination. We should reiterate our previous comment that rail replacement is an important part of many of our coach operating members' business but does not generally underpin the business. A requirement for PSVAR compliance in tenders and contracts would generally need to be accompanied by a commitment to a minimum level of work and price in order to justify the investment that would be needed by the coach operator; longer term commitments would clearly be preferable.



**Question 10**

Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

We have nothing further to add to our comments above.

**Question 11**

Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

The consultation document makes reference to the fact that a disabled passenger may prefer to use a taxi and also highlights the importance of train operators retaining the flexibility to respond to the needs and choices of passengers. However, it is worth noting that an accessible taxi alternative will often provide a door to door service for disabled passengers and full PSVAR compliant provision would likely result in the loss of this level of service.

**Question 12**

Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

The consultation document acknowledges that station infrastructure is often unable to accommodate PSVAR compliant buses and coaches. A requirement for all rail replacement coaches to be PSVAR compliant needs to be considered in this context. There will usually need to be a hard flat surface up to three metres wide adjacent to a coach to enable a wheelchair lift to be deployed and a wheelchair user to use the lift.

Coopers Tours Ltd  
Aldred Close  
Killamarsh  
Sheffield  
S21 2JH

11<sup>th</sup> February 2020

Dear Sir/Madam,

Re: Consultation on Accessible Travel Policy Guidance – accessibility of rail replacement services.

Coopers Tours is a coach operator based in Sheffield, and Grimsby. We operate both scheduled and emergency rail replacement services for all the train operating companies (TOCs) across the country. Our current fleet stands at 30 vehicles, of which 1 is wheelchair accessible, but not PSVAR compliant, and not fitted with facilities usually required by TOCs to perform rail replacement duties. The remainder of our fleet comprises 3 70 seater school coaches with 3+2 seating, 3 double decker school buses, which aren't eligible for rail replacement, whilst the remaining 23 8-57 seater coaches are eligible, albeit not PSVAR compliant, and are regularly used to perform duties for TOCs.

Whilst we accept wholly that the requirement for accessible transport is definite when train replacing services are provided, we both request, and advise, that a compromise solution should be sought. The reasoning for our findings are listed as follows:

1 There is a national shortage of c.12,000 PSVAR coaches in the UK. To replace or upgrade these will realistically, across the entire coach network, take approximately 5 years, in order to be able to supply TOCs with the capacity required. The level of investment required is huge, in an industry that as well as not enjoying any contractual guarantees, i.e, operating on a supply and demand basis, also has to be competitive on price structuring to procure hires. TOCs and their agents rarely request services to be conducted at a set price. Instead, they invariably put required services out to tender, and inevitably, the cheapest providers are awarded the contracts first. We would suggest that this current practice does not support coach operators being able to invest in new vehicles.

2 The investment that most coach operators have put into their fleets in recent years has focused on vehicle emissions. Most towns and cities throughout the UK, if not already, are imminently introducing clean air zones. This essentially means, vehicles need to meet a minimum Euro IV standard, but invariably Euro VI in order to enter these zones. As most train stations are the central hub of towns and cities, this is especially relative to TOCs. Retrofitting, if possible, a coach to meet PSVAR will generally cost around £40,000 per vehicle. As well as being cost prohibitive, there are lengthy supply and conversion lead-up times. As an example, Plaxton, who are one of the largest coach body builders in the UK, have estimated they can do 2 conversions a week, and only on certain models.

3 Infrastructure at railway stations is rarely suitable to deploy a coach mounted wheelchair lift. These devices require a 3 metre working space around them. If there isn't space to deploy the lift, it simply can't be deployed. There is also a requirement in most cases, for a 3.5 metre height in lifting. Simple street furniture such as shelters, litter bins, trees, or signage is often enough to prevent lift deployment. They require adequate lighting around them, and the boarding and securing process typically takes up to 30 minutes. Alighting requires the same time. As well as this having a negative effect on the timing schedules, meaning passengers potentially missing onward trains, it has a detrimental effect on driver's hours regulations. While the driver boards or disembarks a wheelchair user, they are reducing the length of time they are available to drive. This means they may not be able to operate the schedule required of them, so extra vehicles would be required. Also, whilst operating the wheelchair lift, the driver is leaving the vehicle unattended, possibly with passengers already on it. This means that each coach would also need an attendant as well as driver, that is fully trained in the working operation on each particular vehicle. Again, this is cost prohibitive, but also, current staffing levels in the coach industry will not support the requirement.

We would suggest that although it is not ideal in terms of inclusion, accessible taxis are utilised at each station affected by a rail replacement requirement. Every replacement service by it's own nature, is a compromise, as passengers are initially intending to travel by rail, not road. Inconveniences are inevitably incurred, but, the whole ethos of rail replacement is getting people from where they are, to where they need to be, using whatever means are possible, and as importantly, practically. The replacement services have to be punctual, and reliable. The utilisation of wheelchair lifts on coaches, is not complimentary to these criteria, and indeed, are not always possible to be used because of infrastructure, or general geographical elements. For coach operators to make the significant investment required for PSVAR vehicles, the rail industry needs to play it's part. The procurement rates of payment need to be increased dramatically, but also, to generate confidence to invest, annual guarantees, possibly with retainer fees payed to approved operators (not suppliers). Suppliers of rail replacement services rarely operate coaches themselves, so a review of how they operate is necessary. As a rule of thumb, TOCs will pay suppliers a set amount to provide replacement services, and the suppliers will then sub-contract the services to the lowest bidders. Coach operators cannot invest substantially in particular vehicle requirements while this is the case, and they have no guarantees.

Yours faithfully,

Graham Cooper.

Managing Director.  
Coopers Tours Ltd.

Consultation on Accessible Travel Policy  
Guidance - accessibility of rail  
replacement services

Response by **Crohn's & Colitis UK**

11/02/2020

**CROHN'S &  
COLITIS UK**

# Background

Crohn's Disease and Ulcerative Colitis are the two most common types of Inflammatory Bowel Disease. These are **relapsing & remitting lifelong** conditions with **no cure**.

The adverse impact on patients and their families can be dramatic.

- **Education** – fatigue, mood, medication side effects.
- **Work and travel** – access to toilets.
- **Relationships** (e.g. stomas – body image, sex, confidence).

## The main symptoms of IBD:

- Frequent and urgent diarrhoea
- Cramping pains in the abdomen
- Fatigue
- Anaemia
- Joints/skin/eye inflammation

Ref [Royal College of General Practitioners IBD Spotlight Programme](#)

Recent data from Wales suggest that around 1:100 patients known to GPs have a diagnosis of, or are being treated, for IBD. This prevalence rate is similar to other recent studies in the South West of England and in Lothian, Scotland.

Ref: **Inflammatory Bowel Disease in Numbers: Understanding the Scale of Crohn's and Colitis in Wales** February 2020 [SAIL Databank](#), Swansea University

**(Publication embargoed until May 2020)**

## Implications.

For people living with Crohn's or Colitis, access to toilet facilities is crucial, often at short notice. People with the conditions report planning their days meticulously to ensure ready and rapid access to toilet facilities. Train transport is particularly useful, especially when long distance journeys are being planned as part of work or for leisure, due to the presence of accessible toilets and toilet facilities on these trains.

You'll appreciate, therefore, that should the rail section of a person's journey be unexpectedly replaced with road transport, this will give rise to heightened anxiety should toilet facilities not be available on the alternative mode of transport.

91% of people with Crohn's or Colitis surveyed reported struggling to undertake or complete journeys due to needing the toilet. 69% report having experienced an

accident or unpleasant symptoms such as pain cramping or discomfort because they could not access a toilet

### **Recommendation**

Given the above, Crohn's & Colitis UK strongly recommends that in any tendering criteria developed for contracts to provide replacement road services that:

1. The presence of toilet facilities onboard coaches is made a mandatory requirement
2. Where rail replacement services are advertised in advance, access to toilet facilities on replacement vehicles should be clear on all information boards / posters etc. This will help ensure people with Crohn's or Colitis feel confident to travel on these days, instead of staying at home due to concern over access to toilets.
3. On the day of rail replacement services toilet facilities are again advertised on information boards and when announcing bus destinations etc, rail staff should include mention that toilets are onboard.

Consumer Policy Team  
Office of Rail and Road Regulator  
25 Cabot Square  
London E14 4QZ

Charles King  
Croydon Mobility Forum  
c/o 6th Floor Zone D  
Bernard Weatherill House  
Mint Walk  
Croydon CR0 1EA

Tel/Typetalk: 020 8726 6000

By email:

[ATP@orr.gov.uk](mailto:ATP@orr.gov.uk)

Date: 11<sup>th</sup> February 2020

Dear Sir, Madam

**Croydon Mobility Forum response to ORR Consultation on accessible buses and coaches when the trains can't run**

The Croydon Mobility Forum was set up by the London Borough of Croydon to represent and assist residents of Croydon with general mobility problems and to liaise with public and specialist transport providers to improve the ease of travel especially on public transport.

Please find our response to the ORR Consultation on Accessible buses and coaches when the trains can't run below.

**Question 1: Please tell us any other issues about accessible buses and coaches that we haven't mentioned?**

**Response** - you have not mentioned:

- The use of alternative train routes by the same or a different train operating company when this would be more suitable for a person with reduced mobility than a replacement bus/coach
- When the replacement bus service is a local scheduled bus service
- When no replacement bus service is provided at all - this often happens with emergencies and failures
- There is no mention of who is responsible for the passenger with reduced mobility? Is it the train company or the bus company? Experience tells us it is often neither each company regarding it as the other's responsibility. In our view this should be the train company's responsibility. If necessary, a member of the train company should accompany a person with reduced mobility on the replacement bus/coach service to ensure the passenger is adequately assisted at their destination or when transferring back to an onward train service

**Question 2: How can train companies make sure that passengers get an accessible bus or coach when the train can't run?**

**Response:** We recognise that given the lack of accessible coaches it is difficult for train companies to provide accessible replacement vehicles of this type. We also recognise that in many circumstances it isn't appropriate to use buses, which are more likely to be accessible. Rail companies should incorporate accessibility into contracts concerning replacement services and this would hopefully encourage coach companies to increase their accessible vehicle pools.

Separate to the above we feel that it is extremely important that staff be present and proactive in providing support to anyone requiring assistance and particularly those with extra mobility needs. We think that where replacement buses/coaches intersect with the railway it is important to have sufficient staff present to provide this assistance. We would also suggest that bus/coach drivers have sufficient training in order to provide appropriate support for passengers with extra support needs.

**Question 3a: What do you think about the buses and coaches that you have used when the train couldn't run?**

**Response:** These have been mixed on some journeys such as the major Brighton line blockage in 2019, the number of buses were more than adequate and within the stock there were sufficient buses with wheelchair access. There was adequate staff at each end of the bus replacement service to ensure passengers with reduced mobility were supported.

However, on many short bus replacement services wheelchair accessible buses are not provided nor is there adequate staff to assist passengers with reduced mobility. This is also a particular issue when the replacement bus service cannot access a station car park and has to drop passengers some distance from the station in an unfamiliar location, especially when there is nobody there to assist them.

**Question 3b: If you have a disability - was the bus or coach accessible to you?**

**Response:** The Vice-chair of the Croydon Mobility Forum is blind and has recently been on 2 journeys which involved the use of replacement coaches. Both journeys involved travel on Greater Anglia trains and both were to Colchester. The engineering works impacted the line out of Liverpool Street.

On the first occasion assistance was booked through GTR and between the passenger and assistant it was determined that a taxi was most appropriate given the customer's luggage and support requirements. In this case the passenger was assisted at London Bridge to the taxi and driven to Ingatestone to connect with the ongoing train to Colchester. At Ingatestone the passenger was assisted by Greater Anglia staff to catch the correct train.

The second journey was not pre-booked and the passenger had less luggage. On this occasion the passenger was assisted by Underground staff at Newbery Park to locate Greater Anglia staff who then assisted the passenger to the coach. At this point the driver was asked to ensure that assistance was offered at Ingatestone. The coach itself was accessible to the blind passenger and the driver was friendly. The passenger's bag was placed on the seat beside him which meant he could keep it with him throughout the journey.



**Question 3c: What sort of transport would you prefer when the trains can't run?**

**Response:** In an ideal world a fully accessible alternative mode of transport meeting the needs of the specific disabled passenger should be available. Sometimes this might be a taxi. In general however, coaches/buses should be accessible and separate to the consultation being undertaken. The law around coach operators clearly needs strengthening given the lack of accessible vehicles. Greater clarity around ticket acceptance on alternative forms of transport is needed when this might provide an accessible solution which meets the needs of the individual passenger. It also requires train company staff to take responsibility and ensure that the alternative journey can be undertaken safely.

**Question 4: Have you any information about the number of disabled passengers who need a bus or coach when the trains can't run?**

**Response:** No, but as you encourage more people with reduced mobility to use trains this will only increase.

**Question 5: Do you have any information about how Network Rail and train companies agree on the timing of engineering works?**

**Response:** No. However, we would urge that on all engineering posters in addition to the changes to rail services and the replacement bus services, information should be provided on accessible alternatives and whom to contact to support those with mobility issues.

**Question 6: The Government's Driver and Vehicle Standards Agency is responsible for checking that only accessible coaches are used for public service work. Are we, at the Office of Rail and Road, right not to check this ourselves?**

**Response:** This should remain with the DVSA, but ORR should work and cooperate with them. This would include onsite inspections while rail replacement services are operating to ensure adequate accessible coaches are in use. We would also urge that both bodies encourage the Government to strengthen the legislation pertaining to coaches given that the market has not increased the availability of accessible vehicles.

**Question 7: How can train companies encourage coach companies to buy more accessible coaches?**

**Response:** It should be a requirement that all coaches be accessible in the UK. But this isn't a matter for train companies it depends on legislation. Rail companies can use contracts with coach companies and in this way encourage the use of accessible coaches.

However, this would require increased expenditure by coach operators, this could only be offset by ensuring they have sufficient long-term contracts that would enable them to recoup their expenditure. This may also require more than one train operator to have joint contracts with a coach operator so that these expensive coaches do not remain parked up for the majority of the time.

**Question 8: What other ways could train companies help to get more accessible coaches when the trains can't run?**

**Response:** Network Rail could offer long term contracts to coach operators so that these coaches could be used across the network not just confined to one train operating company. Alternatively, Network Rail could purchase these vehicles and coach operators could just provide the driver.

**Question 9: What are the good and bad things about each proposal? Which is your favourite proposal? Which proposals should we use? 1-4 ?**

**Response:** Proposals 1 and 2 go well together but in themselves probably won't lead to a dramatic increase in the availability of accessible coaches.

Proposal 3 "Train companies should contact passengers who have booked assistance and work out the best option for them when the trains can't run." Is the most important proposal? Proposals 3 and 4 fit well together and we would suggest adding something specific to posters and other materials concerning support for people with additional support needs. In our view these 2 proposals and particularly the first is the most important.

Proposal 5 is probably the least helpful as there simply aren't sufficient accessible coaches available and asking competing companies to work together won't change that fact.

The one area not covered by the proposals is staffing. We would also suggest that there needs to be something concerning increased staff with a much better understanding of the needs of people with reduced mobility at the points where coaches/buses collect and drop off passengers in order to provide appropriate support to passengers with access needs.

**Question 10: Are there any other ways we could help train companies to use accessible coaches when the trains can't run?**

**Response :** Encourage the government to strengthen legislation so that coach companies are required have a sufficient number of accessible vehicles.

There should be a clearly signed and staffed area where people with reduced mobility can see and go to when they need assistance. This is especially important at large complex stations or where there are large crowds at major bus replacement interchanges. This applies equally to planned engineering works and at times of disruption.

**Question 11: Are there any other things we need to think about to achieve the best result for everyone?**

**Response:** People with reduced mobility have chosen the train as the easiest and best method of travel for them and a replacement bus/coach service can cause more inconvenience and distress than it does for an able-bodied passengers.

More attention should be given to the use of alternative rail services at no extra cost. For example, when Kings Cross or Euston is closed, then passengers with reduced mobility should be offered an alternative train journey to London by another train operator. In the case of passengers from LNER Edinburgh these could be offered journeys on First Trenitalia to Euston. Similarly, passengers from Birmingham on First Trenitalia could be transferred to Chiltern trains. This would avoid a journey on a replacement bus/coach altogether. This applies at many places across the network.

Better advice on alternative train travel is required, seeing as many people would be happy with a longer train journey even to an alternate station, than having to transfer to and from a replacement bus/coach service.

**Question 12: Do you have any other comments?**

**Response:** Too frequently passengers with reduced mobility are just left to get on with it and train operating companies need to realise that adequate numbers of trained staff are needed to assist people and understand their travel needs better.

Yours faithfully

*Charles King*

Charles King MBE, MA

Chair Croydon Mobility Forum

## Disabled Motoring UK response

### Office of Road and Rail

### Accessible Travel Policy Guidance – accessibility of rail replacement services

Disabled Motoring UK was formed in 2005 from the merger of The Disabled Drivers' Motor Club (established in 1922) and The Disabled Drivers' Association (established in 1948). Disabled Motoring UK is the only UK charity specialising in the mobility needs of disabled people. Disabled Motoring UK has approximately 17,000 members across the UK supporting the campaigning work of the charity and is the only charity representing their interests at a national level.

DMUK has only responded to questions 3 and 9.

#### Questions 3

- (a) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?
- (b) If you have a disability, please explain whether, and how this service was appropriate for your needs
- (c) Do you have a preference for the type of replacement service you receive? If so, please explain.

Disabled Motoring UK represents thousands of disabled people so we cannot contribute individual stories to this question, but can give general feedback on the views of our members.

In our experience replacement buses and coaches are rarely accessible. Even if the bus or coach is accessible to board for disabled passengers, it never has accessible facilities e.g. an accessible toilet. On replacement services that cover a long distance it is important that all aspects of the service are accessible.

More often than not an accessible taxi is used for disabled passengers to complete their journey. Many disabled passengers prefer this to using the bus or coach as it will get them to their destination faster. There is also much more freedom to ask the driver to stop if needed.

Not being able to access the same transport as everybody else can be problematic, especially if the disruption is unplanned. We know of one of the charities trustee's that had to wait over an hour for a wheelchair accessible taxi to arrive when the train they were travelling on broke down. The psychological distress this caused would have been avoided if the replacement service was wheelchair accessible.

#### Question 9

What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether or all could be used in combination?

Proposal one – Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.

Proposal two – For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR – compliant vehicles at least 12 weeks before all major planned engineering works.

Proposal three – For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of passenger (which may result in increased use of buses or taxis in some circumstances)

Proposal four – For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.

Proposal five – For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand.

From reading the consultation document it is clear that the supply of PSVAR-compliant coaches and buses isn't suitable to meet demand for rail replacement services. Proposal one would be a good idea to stimulate supply of these types of vehicles. However, it could see bus and coach companies not putting in a tender for the contract if the costs outweigh the business they receive from the train companies.

Communication is key and proposals two, three and four seem to cover this well. As long as disabled passengers are communicated with effectively they can make the best decision for their travel needs. Having advance information on a passengers accessibility requirements would also be beneficial to the train operator so they can better plan replacement services which will make the entire process run more smoothly. However, not all disabled passengers' pre-book assistance. These passengers will not be able to be notified in advance of planned disruption. Once identified these passengers should be spoken to about their access requirements as soon as possible so that an appropriate service can be made available to them at the point in the journey it is needed.

All of the proposals seem well thought out and will no doubt improve the experience of disabled passengers' journeys.

# **A response from the Disabled Persons Transport Advisory Committee ('DPTAC') to the Office of Rail and Road's ('ORR's') consultation on 'Accessible Travel Policy Guidance - accessibility of rail replacement services'**

## **1. Introduction**

The Disabled Persons Transport Advisory Committee was established by the Transport Act 1985 and is the Government's statutory advisor on issues relating to transport provision for disabled people. DPTAC's vision is that disabled people should have the same access to transport as everybody else, to be able to go where everyone else goes and to do so easily, confidently and without extra cost.

Disability affects around 14 million people in the UK. It includes physical or sensory impairments as well as 'non-visible' disabilities such as autism, dementia, learning disabilities and anxiety. For many people a lack of mobility or confidence in using the transport system is a barrier to being able to access employment, education, and health care, as well as being able to enjoy the social and leisure activities open to non-disabled people.

DPTAC welcomes the opportunity to respond to this consultation, and has set out responses to the specific questions raised by the Office of Rail and Road, as well as making a number of more general observations and suggestions in our 'opening remarks' below.

We would welcome further engagement with the ORR as it decides to what extent its recently re-published Guidance to operators on their Accessible Travel Policies ('Guidance') should be further revised, and with other stakeholders on how the current issues with rail replacement services might be successfully addressed.

DPTAC has no objection to our response being published in full by the ORR.

## **2. Opening remarks**

### ***Purpose of our opening remarks***

Whilst we will respond to the specific questions raised by the ORR in its consultation document later in our response, we would like to take the opportunity afforded by the consultation to make some general remarks on this issue, and to suggest some pragmatic and practical ideas for consideration.

### ***The reasonable expectations of disabled people with regard to rail replacement services***

Firstly, we should emphasise that this is a serious issue that creates real barriers to travel for many disabled people, particularly those with mobility and other physical impairments. Sections 1.16 and 1.17 of the ORR's consultation document highlight the relatively small number of journeys involving requests for booked or un-booked assistance that are completed by using rail replacement services or Alternative Accessible Transport. This could be interpreted as reflecting low levels of demand for rail replacement services by disabled people (particularly those that require assistance), but we believe a more likely explanation is that many disabled people simply choose not to travel when rail replacement services are being operated given the additional effort, risks and uncertainties involved.

However, it is an entirely reasonable expectation upon the part of disabled people that they should have equal access to rail replacement services, and the recent challenge to the ORR's Guidance to operators has usefully clarified and highlighted that this reasonable expectation is reflected in the legal duty upon train operators to use PSVAR-compliant vehicles for rail replacement services when those services fall within the definitions of 'local' and 'scheduled' services, as contained in the PSVAR regulation.

We have also previously made the point, which we re-iterate here, that it is still a reasonable expectation that even those rail replacement services that fall outside these definitions (principally unscheduled, long distance rail replacement services) should still be accessible. This may not be a legal requirement, as we understand the advice received by the ORR, but we believe that there is an ethical and moral imperative upon train operators to avoid replacing an accessible and inclusive rail service with something that serves to exclude disabled passengers.

Given that accessible rail replacement services ought to be an integral part of an accessible and inclusive railway, it is very disappointing that the rail industry again finds itself in the position of falling short of providing the kind of accessible services that disabled people have a reasonable (and legal) right to expect.

### ***Causal factors***

Train companies could and should have seen this problem coming, and taken steps some time ago to have addressed it and/or raised concerns that would have allowed other stakeholders to support initiatives to address it. That the problem was not addressed earlier reflects, in our view, the wider and more fundamental obstacles to achieving an accessible and inclusive railway: the lack of an accessibility 'culture' that embeds consideration of accessibility into the rail industry's thinking and behaviours in a similar way to that already achieved for safety; and the lack of a single 'guiding mind' for the industry with sufficient length and breadth of vision to foresee and effectively address issues of this kind.

However, we also believe that it would be unfair and incorrect to place the onus of responsibility for the current problem solely on the shoulders of train operators. The lack of PSVAR-compliant coaches, which we will discuss in more detail shortly, is not the responsibility of train operators but rather reflects the limitations of the current PSVAR regulation when combined with the specific nature and economic realities of the coach market, and the failure of the Department of Transport to address the consequences of this - which include not just in the problems associated with rail replacement services, but also the parallel and similar issues in the educational transport sector. Similarly the lack of WAV-compliant taxis and PHVs (possible alternatives to PSVAR-compliant coaches) has its roots in the relatively weak regulative framework for these vehicles, and a lack of proactive action by central and local government to increase the number of compliant vehicles.

Similarly, we understand that franchise agreements have not typically required train operators to operate PSVAR-compliant rail replacement services, instead requiring the use of 'all reasonable endeavours', and reflecting a less than joined-up approach between different parts of the DfT.

What we seek to illustrate by identifying these causal factors is that the issue of rail replacement services is neither a narrow one, focussed solely on train operators, nor a short-term problem of poor delivery, but instead reflective of wider and more strategic issues, and that, as a result, a holistic, 'whole system' approach is required if the rail replacement service issue is to be properly addressed. We will say more about this later in our response.

### ***The need for a pragmatic and practical approach to achieving accessible rail replacement services***

It is clear that simply amending the current ORR Guidance to mandate the use of PSVAR-compliant vehicles for rail replacement services will not immediately resolve the problem. Chapter 1 of the ORR's consultation document highlights the wide disparity between the very limited number of PSVAR-compliant coaches currently available and the much higher number of rail replacement services currently operated. There are simply not enough accessible coaches available to meet the demand for accessible rail replacement services.

It is equally clear from our wider investigation of this issue, that this deficiency is not easily resolved. We understand that it takes several months to manufacture a PSVAR-compliant coach, and manufacturing capacity is limited. We also understand that it is only very recently that any of the major coach manufacturers has offered a PSVAR-compliant vehicle as a 'standard' product (itself a reflection we suspect of the way that PSVAR regulation is currently structured). However, a probably even more important obstacle is the potential lack of a viable investment case for coach operators to invest in PSVAR-compliant vehicles or vehicle upgrades, in the context of the intermittent and uncertain market for vehicles to be used for rail replacement services.



Given the recently clarified legal obligations upon train operators, this has important potential consequences for disabled rail users, as a change to the current ORR Guidance to require the mandatory use of compliant vehicles for rail replacement services, may mean that there is a significant reduction in the number of rail replacement services offered. As well as adversely affecting the general public this will also affect the many disabled people that do not require a PSVAR-compliant coach in order to be able to use a rail replacement service.

As such, we have concluded that a pragmatic and practical approach needs to be taken to resolving the current issue. However, such an approach must be firmly rooted in the ultimate delivery of rail replacement services that provide equality of access for disabled people. In addition, in the unavoidable transitional period between where the rail industry finds itself now and the delivery of accessible rail replacement services, every effort must be made to make rail replacement services as accessible as possible.

Before going to describe our own suggestions for how the current issue with rail replacement services might be resolved, we believe it worth commenting on the major differences in bus and coach replacement services highlighted by the data and analysis contained in Chapter 1 of the ORR's consultation document. This demonstrates that whereas there is a clear deficiency in the number of coaches currently available to operate rail replacement services, this is not the case with buses where almost 100% of buses used for rail replacement services are PSVAR-compliant, and where around 98% of the total bus fleet is now PSVAR-compliant. Four shorter distance train operators already exclusively use buses for rail replacement services.

This, we believe, brings into focus an important nuance in this issue, in that the problem is focussed in particular on longer distance rail journeys where buses are, in general terms, an inappropriate replacement for rail services. This, in turn, has some implications for how the wider issue of rail replacement services should be addressed.

### ***Some suggested approaches to delivering accessible rail replacement services***

We have set out below our own thoughts on how the rail industry might move to a position where accessible rail replacement services can be delivered on a sustainable basis.

(1) An immediate need is to consider how the ORR's Guidance should be modified. In this context we support all five of the ORR's proposals for enhancing the current ORR Guidance (with no particular priority order, apart from proposal 5, which we comment on further below), but believe the ORR could go further. Specifically, we would suggest:

- In the short term, the ORR revises its current Guidance to include its own five proposals, but also mandates that shorter distance rail replacement services (defined either by journey length or mileage), operated by train companies during periods of planned disruption, should use PSVAR-compliant buses (or coaches). The

number of compliant buses would seem able to support this, and we not believe that it constitutes 'double jeopardy' (we provide a reasoned argument for this view in our response to ORR question 6 below). There is already substantial precedent for this in the widespread use of PSVAR-complaint buses by London and South-East and regional train operators;

- That the revised Guidance includes a strengthened proposal 5, as this seems key to short- and medium-term improvement – perhaps an RDG-led industry steering group, augmented by local operator/Network Rail/ coach operator groups to plan and manage rail replacement services on a geographic or 'line of route' basis;
- The ORR works with the DfT and RDG and other relevant agencies to ensure that its Guidance is further updated as necessary to ensure alignment with the strategic plan being developed by the RDG, once this plan has been subjected to appropriate scrutiny and challenge, and has ultimately been agreed by the Secretary of State.
- A third and final revision to the Guidance will be required once it is clear that the operation of accessible rail replacement services by train companies is an achievable objective. At this point the Guidance should be further revised to mandate the use of compliant vehicles for rail replacement services, putting the ORR into a position where it is better able to use its enforcement powers, as necessary;
- This, in effect, is a phased progression from the current position to one where all rail replacement services use accessible transport, compliant with the relevant regulation.

(2) Whilst it is entirely appropriate that the RDG should lead development of the rail industry's strategy to address the rail replacement service issue, there needs to be holistic, 'whole system' approach to resolving this issue. This means potentially changes to current PSVAR regulations, more effective action to increase the number of compliant coaches and taxis, changes to franchise agreements, changes to the way that Network Rail plans possessions, and so on. Whilst ultimately, RDG should take collective responsibility on behalf of train operators and Network Rail for delivering the agreed strategy, it needs to be supported by aligned and co-ordinated action from other stakeholders.

As an aside it is also worth noting that this issue has partly arisen as a result of a gap between regulatory frameworks, and highlighted the need for a wider, 'outcomes'-based approach to be taken to accessibility regulation that considers the transport network as a whole, rather than on a piecemeal, modal and sub-modal basis.

(3) Train companies and other stakeholders need to think 'outside the box' when considering solutions to the current problem. Would an industry-owned and operated fleet of replacement vehicles make better sense than the piecemeal procurement of vehicles from individual coach operators? Train companies already collectively procure large scale systems and services through RDG, so there is precedent for this type of collective procurement. Furthermore, as most train operators are part of larger, integrated transport

groups that also operate bus and coach services, they also possess the necessary business and operational experience to manage such an approach.

Procurement of such a fleet potentially provides other commercial and other opportunities for use of the vehicles beyond their use for rail replacement services.

There are plenty of options around this idea: most obviously the development of industry-level or sub-industry-level long-term, strategic partnerships with coach operators that might facilitate better planning, but as importantly provide a stronger case for investment in new or upgraded coaches. Again there is a clear role for the RDG in facilitating such approaches.

We believe that it is also worth considering the type of vehicles used. Are coaches always necessary? Could smaller capacity (but we should emphasise **equivalent quality**) vehicles be used in addition to coaches? This may allow the number of vehicles to be expanded more quickly, and with an easier to make investment case. Once again, there is a potential role for the RDG in assessing this option.

A starting point for any of the options above needs to be a much better understanding of the number of compliant coaches and WAVs available and their geographical distribution. Assembling this data would seem to be another key task for the RDG.

Finally, there is a key role for the Department for Transport (and Local Authorities) in terms of increasing the number of WAV-taxis and PHVs, the lack of which is a problem that extends well beyond the rail replacement service market.

(4) Network Rail needs to work with train companies through RDG to review how it plans and uses possessions. Short-duration, planned disruption is now endemic in the rail network and causes problems for all passengers, and has contributed to the rail replacement service issue. Would fewer, but longer possessions (all weekend, all week or longer) be a better approach than lots of shorter-duration possessions? This would certainly potentially make it easier to plan rail replacement services, and could potentially engender a less intermittent and uncertain, and potentially more viable market for investment in new, compliant vehicles. It may also be preferred by passengers more generally. There may be a role for Transport Focus in researching this approach.

(5) As the ORR's consultation document points out, and our own experience supports, as well as the lack of PSVAR-compliant coaches there are significant problems associated with the lack of rail replacement service pick-up/set-down points at stations that can be used by PSVAR-compliant vehicles. A multi-agency approach is needed to address this issue (train operators, Network Rail and, in some cases, Local Authorities), but the DfT has a role to play as well through the possible use of 'Access for All' funds to create and upgrade the necessary pick-up/set-down points.

(6) Whatever strategy is eventually agreed it needs to be robust, practical, achievable, measurable and strictly time-limited. It would run completely counter to the principle of an inclusive and accessible railway for the strategy to be open-ended and/or based on anything other than concrete and measurable actions and goals. It also needs to address both planned and unplanned disruption, as well as booked and un-booked assistance. The clear objective of the strategy should be that rail replacement services provide equal access for disabled travellers on a network-wide, all-service basis.

(7) It seems extremely likely that the finally agreed strategy will involve a further exemption period to be granted by the Secretary of State. This needs to be strictly time-limited in line with the eventually-agreed strategy and have associated conditions that protect equality of service for disabled people during its implementation.

(8) The ORR has a key role in monitoring progress against the strategy, working in concert with other stakeholders to address any areas of non-delivery, and reflecting delivery of the strategy in further revisions to its Guidance as outlined above. We would be happy to advise the ORR on the specific data we believe is required to adequately monitor delivery.

### ***An opportunity as well as a problem***

There are very significant challenges involved in resolving the current issues around the accessibility of rail replacement services. This will be seen by many as a daunting and potentially intractable problem, but it should also be viewed as a major opportunity for the rail industry to demonstrate that it can rise to the challenge of operating an accessible and inclusive railway.

## **3. DPTAC responses to ORR questions**

***Question 1: Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?***

DPTAC does not have any additional data or information to contribute.

***Question 2: How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?***

It seems clear that, as the central issue is that there are insufficient PSVAR-compliant coaches to operate rail replacement services, there needs to be a greater degree of co-operation and co-ordination between train operators and between train operators and Network Rail in order to maximise the effective use of those compliant vehicles that are available.

As our opening remarks highlighted, this is particularly a problem for longer distance, inter-city operators. As such it would seem entirely reasonable and sensible for these and, where necessary other, operators to form working groups with Network Rail (perhaps on a geographic or 'line of route' basis) to forward-plan line closures and ensure that the limited number of compliant coaches and WAV-taxis and PHVs were used as effectively as possible. These working groups could potentially include coach operators as well.

The RDG (of which both train companies and Network Rail are members) could play a useful role in facilitating these arrangements, perhaps through a national steering group. It could also establish a database of compliant coaches to provide the basic information required for train operator-Network Rail working groups to function.

The local working groups suggested would clearly need to have a short-term operational focus, but the RDG steering group could also become the focus for development and implementation of the industry's longer term strategy to ensure that rail replacement services are operated by PSVAR-compliant vehicles. We have already set out in our opening remarks some suggestions for possible approaches that the RDG, train operators and other stakeholders might wish to consider.

**Question 3:**

***(a) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?***

As we have already made clear in section 2 of our response, accessible rail replacement services, whether provided by taxi/PHV, coach or bus, are fundamentally important to the operation of an inclusive railway that provides equal access to disabled people.

In terms of our experience of using these services, we don't have access to research data, so can only provide anecdotal feedback based on personal experience. In this context, our experience of using even PSVAR-compliant coaches with a mobility or physical impairment is mixed at best: coach operators (and drivers) often seem to have little experience in using the wheelchair lifts fitted to these coaches; the lifts themselves are unreliable; and once on-board, toilets are not accessible, families, friends or companions travelling with a disabled person can't all sit together; and the wheelchair space doesn't replicate that on trains meaning that a more limited range of wheelchairs, scooters and other mobility equipment can be accommodated.

Using PSVAR-compliant bus replacement services with a hearing impairment has generally proved to be a satisfactory experience, provided that there is provision of adequate visual information.

Aside from the core issue of providing PSVAR-compliant rail replacement services, there is clearly scope to improve the disability awareness training of coach drivers and other staff

involved in operating rail replacement services. There is also a need to better understand the experience of disabled people that use these services.

***(b) If you have a disability, please explain whether, and how, the service was appropriate for your needs.***

As DPTAC provides advice on issues pertaining to the whole disabled community, this question is best answered by individuals who wish to share their own experiences, or the advocacy groups representing people with specific types of disability.

***(c) Do you have a preference for the type of replacement service you receive? If so, please explain why.***

We do not have any specific preference, but believe that the underlying principle needs to be based on equality of access – in practical terms, this means that the replacement services used by disabled people should be as convenient to use and of the same quality as those used by non-disabled people.

***Question 4: Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?***

DPTAC does not have any additional data to contribute.

***Question 5: We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?***

DPTAC does not have the expertise to comment on this question. However, we would note that the question becomes irrelevant if the core issue of using PSVAR-compliant vehicles for rail replacement services is successfully addressed.

***Question 6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?***

We would support the proposal that only one regulatory body has enforcement powers with regard to PSVAR, but this is a separate issue to the question of whether use of PSVAR-compliant vehicles should be mandated in the ORR's ATP Guidance.

For instance, it is entirely possible for the ORR to mandate the use of PSVAR-compliant rail replacement services, and for the DVSA to be responsible for the enforcement of PSVAR regulations with coach operators. In essence this means that the DVSA is responsible for ensuring that coach operators conform to the requirements of PSVAR when they are using their coaches to operate services that fall within the aegis of the PSVAR regulations, and the ORR is responsible for ensuring that train operators only use PSVAR-compliant vehicles (or acceptable and defined alternatives) for rail replacement services.

We do not believe that this constitutes ‘double jeopardy’ but rather a sensible allocation of enforcement responsibilities based on the ORR and DVSA’s respective remits and areas of competence.

Within this framework the question then becomes one of what the ORR should mandate in the short, medium and long terms, and we have already set our views on this in the opening remarks contained in section 2 of our response.

***Question 7: How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?***

A short-term (indeed immediate) improvement would be for train companies to include the requirement for vehicles to be PSVAR-compliant vehicles in their contracts with coach and bus operators. This may well have the effect of strengthening the case for those coach and bus operators to invest in new or upgraded PSVAR-compliant vehicles, but we suspect that it would only be a very partial step towards addressing the fundamental deficiency in the number of PSVAR-compliant coaches that are available.

The approach could be strengthened by using higher rates for the provision of PSVAR-compliant vehicles, although we appreciate that this has cost implications for train companies. However, we believe that bolder and more innovative thinking is required if the current lack of compliant coaches is to be addressed properly (and sustainably).

In our opening remarks in section 2 of our response we set out a number of suggestions for how train companies and other stakeholders could resolve the current deficiency in PSVAR-compliant coaches. These included the development of industry- or sub-industry-level, long term partnerships between train operators and coach operators, the acquisition and operation of the rail industry’s own fleet of compliant coaches, and consideration of the use of smaller but **equivalent quality** vehicles. RDG has a potentially important role in all these options, and there are many existing precedents for the collective procurement of services and systems by train operators through RDG. At the very least RDG has a potentially important role in co-ordinating and facilitating the industry’s response.

However, we also make clear in section 2 that a ‘whole system’ approach to resolving the current issue, supported by all relevant stakeholders, is required if a long-term, sustainable solution is to be achieved.

***Question 8: Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of PSVAR-compliant vehicles?***

Twelve weeks seems reasonable to us, but this really is a question that train operators need to answer. The key issue is whether 12 weeks provides adequate assessment and preparation time – a question best answered by those actively involved in this process.

One observation that we would make, however, is that this is not just a train operator issue. Network Rail needs to take into account the feasibility of providing accessible rail replacement services when planning possessions. In this context, it is surely reasonable to expect Network Rail to work closely with operators when planning possessions, so that obvious problems can be avoided (two possessions on the same line of route or geographic area on the same day/weekend when there are only enough compliant coaches to operate accessible rail replacement services for one of the possessions for instance). This may require a longer lead time than 12 weeks.

***Question 9: What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?***

Each of the five proposals seems sensible and advantageous to us, and worthwhile including in any revised Guidance (we have not identified any disadvantages). However, as our opening remarks in section 2 of our response highlight, we believe that the ORR needs to go further in the short term by mandating that PSVAR-compliant buses should be used for rail replacement services on shorter distance routes (during planned disruption), and that further revisions may be required once the RDG's strategy for dealing with this issue has been agreed. Finally, we believe that ultimately the ORR's Guidance needs to mandate the use of compliant vehicles for rail replacement services.

In terms of ranking the ORR's five proposals, we believe that they are all important but believe that proposal 5 is a particularly high priority, given that a greater degree of co-ordination and planning led and facilitated by the RDG, seems key to short and medium term improvement. Section 2 of our response sets out some ideas as to how proposal 5 could be strengthened.

***Question 10: Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?***

Please see section 2 'Opening Remarks' of our consultation response.

***Question 11: Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?***

Please see section 2 'Opening Remarks' of our consultation response.

***Question 12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?***



Please see section 2 'Opening Remarks' of our consultation response.

**DPTAC**

**12/02/2020**



Office of Rail And Road  
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E14 4QZ

**By email only to: ATP@orr.gov.uk**

Dear Madam/Sir

**Accessible Travel Policy Guidance – accessibility of rail replacement services:  
consultation response on behalf of [REDACTED]**

Please find **enclosed** our client's response to the consultation exercise dealing with the specific questions set out therein.

Given the background to this consultation, following on from our client's threat of a judicial review claim arising from the first version of the ATP guidance, we are instructed to make further submissions. Our client requests that these are considered alongside his consultation response, and that it is treated as a response to the consultation. He is content for it to be published alongside his consultation response.

We do not intend to deal with the specific questions which our client has covered in detail in his response, but we make the following over-arching points, relevant to the proposals and the ORR's approach to the guidance generally, and in the light of developments since our original letter before claim, sent on [REDACTED] behalf on 14 August 2019.

*Public sector equality duty*

Our client remains concerned as to the ORR's approach to and understanding of the public sector equality duty ("PSED") and how the Regulator should comply with this when developing and issuing further guidance which deals specifically with the provision of accessible rail replacement services. We have considered the draft equality impact assessment ("EIA") dated 20 December 2019, published with the consultation documents and we make the following observations.

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The draft EIA does not appear to confront the very negative impact on Disabled people of the failure of TOCs to provide accessible rail replacement vehicles (“RRVs”). Our client hopes this will be reflected in the final version of the EIA, but it is essential that the ORR recognises and weighs in the balance the fact that the current position means many Disabled people cannot travel at all when there is planned or unplanned disruption because of the lack of accessible vehicles. The current arrangements are wholly inadequate and have a very significant adverse impact on Disabled people’s ability to participate in public life and other activities in which their participation is low. This amounts to unlawful discrimination and significantly impedes their equality of opportunity.

It should go without saying that the issue of accessible vehicles in this context is highly relevant to equality for Disabled people. Therefore the necessary “due regard” to be had by the ORR here, is particularly high: “the greater the relevance and potential impact, the higher the regard required by the duty”<sup>1</sup>. In addition, maintaining the status quo, or adopting an approach that will make little difference to equality for Disabled people, is unlikely to constitute compliance with the duty in these circumstances: it cannot be a rational response nor justified.

Moreover, this is not simply a numbers game, in which the travel needs of large numbers of non-disabled people (or those with other impairments which do not require accessible vehicles) can somehow outweigh the travel needs of say, wheelchair-users. This appears to be the implication of the analysis at page 6 of the draft EIA (and elsewhere in the consultation document). The equality duty is specifically targeted at those with protected characteristics, and the need to eliminate the discrimination *they* face, and the need to advance equality of opportunity for *them*. Compliance with the duty should not be based on an analysis of the “least worst option” for the maximum number of people, but should be based on how a particular decision or policy – in this case the ATP guidance – can maximize equality for Disabled people. The PSED is a positive action measure designed in part to facilitate increased and equal access to services, such as public transport for example; it is not an exercise in checking the position is not made worse.

Furthermore, compliance with the duty – in fact any public body decision - must be based on adequate information, relevant considerations and evidence as to what has happened previously. Our client is particularly concerned to note that the ORR is proposing to adopt a policy which has not worked in the past, i.e. requiring operators to use their “best endeavours” to sources PSVAR-compliant vehicles<sup>2</sup>. The EIA does not appear to take into account that this has previously failed to improve the position over a number of years. We refer you in this respect to the position before the new guidance was issued last summer, and the figures for non-compliant coaches still in use as set out in the consultation documents. We cannot see on what basis the ORR

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<sup>1</sup> See the Equality & Human Rights Commission’s Technical Guidance on the PSED.

<sup>2</sup> See for example the wholly ineffective “encouragement” set out in Design Standards for Accessible Railway Stations, at section B1.

can consider this to be a reasonable response to the current evidence; nor can this amount to compliance with this important statutory duty.

Lastly, it would appear that the options under consideration do not reflect a more appropriate middle way than option 2 set out on page 3 of the EIA. There is clearly a more robust regime which would speed up the rate of change, and secure a far greater number of accessible services within a shorter period of time, namely more specific requirements with more effective enforcement mechanisms. For example, the ORR could be more specific about the “appropriate steps” that TOCs must take (see e.g. proposals 1, 2 and 3) and be more specific about the consequences of failing to take them. With respect, incentives alone will not work here; there needs to be enforcement.

#### Lawful policy-making

As referred to above, the ORR must develop and decide on its guidance on this important issue in a lawful way, based on adequate information, relevant considerations and evidence as to what has happened to date. This applies to how the ORR decides to take matters forward generally, as well as in terms of compliance with the PSED. It is clear that a number of factual matters must be addressed before a final decision on the re-drafted guidance can be reached. It is not for our client to identify these, nor necessarily for ██████████ to suggest a way forward on all matters, but it appears that the following are key issues to be carefully considered in the context of the proposals set out in the consultation document:

- (a) what are the “appropriate steps” that the ORR would require TOCs to take in relation to proposals 1, 2 and 3 if these are adopted;
- (b) how will the ORR monitor whether TOCs are taking those appropriate steps in respect of those proposals<sup>3</sup>;
- (c) what will the consequences be for TOCs who do not take those appropriate steps as required under those proposals;
- (d) how will the requirements under proposal 4 be monitored, and what will the consequences be for non-compliance;
- (e) what is the timeframe for proposals, i.e. when does the ORR expect all TOCs to be providing accessible RRVs for all planned (and subsequently unplanned) disrupted journeys.

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<sup>3</sup> We note, by way of example, that paragraph 3.46 of the consultation document implies that proposal 3 is supposed to be happening already but is ORR already monitoring this and if so, what are the results of that monitoring? In addition, this proposal would also not help passengers who are wheelchair users who have not booked assistance because they do not need it for a particular journey (as acknowledged in the consultation document). Nor does it assist disabled passengers who simply want to “turn up and go”, which they are of course entitled to do.

We make these observations against the backdrop of the failure of the majority of TOCs to even attempt to monitor their use of PSVAR compliant vehicles. This is despite the fact that for example, the Design Standards for Accessible Railway Stations recommended TOCs to provide accessible buses. We understand that the previous related guidance on Disabled People's Protection Policies similar required TOCs to use "reasonable efforts", or "best endeavours", to no avail. It would be extraordinary for the ORR to conclude that this was evidence that "best endeavours/reasonable efforts" will work this time round, when TOCs were not even bothering to monitor the situation: see for example paragraph 1.14 of the consultation document which confirms that "*Only eight train operators were able to provide rail replacement journey data which indicated PSVAR compliance.....many of those who did provide it indicated that they had given an estimate based on the number of vehicles used*".

Lastly, we note that the role of the DVSA is far from clear. The consultation document states that the DVSA "has yet to set out its plans for monitoring compliance with and enforcing PSVAR". In a letter to us dated 17 January 2020, we were assured by the solicitors acting on behalf of the DfT (the sponsoring department for both ORR and DVSA) that "DVSA takes a proactive approach to the enforcement of PSVAR". This is somewhat at odds with ORR's assertion that the Agency does not even have any plans for monitoring compliance and enforcement. It is vital that this is resolved before the new guidance is finalised, and that the ORR takes into account an accurate version of DVSA's position.

#### Conclusion

Our client wishes to make clear that he is pleased that the ORR has decided to re-visit the guidance in the light of our original letter of 14 August 2019. It has also been extremely helpful for us – and others – to have sight of the legal opinion confirming that the PSVAR do apply to RRVs. However, we note that in fact the DfT recognised some time ago that the Regulations applied but took no steps to enforce them, nor apparently to alert the ORR, DVSA or train operating companies. It is in this context that our client remains extremely concerned as to the ORR's approach going forward.

The current consultation should be a genuine opportunity for the ORR to make significant progress in this important area and we look forward to considering the new guidance in due course.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Deighton Pierce Glynn".

**DEIGHTON PIERCE GLYNN**

# **THE EAST SURREY TRANSPORT COMMITTEE**

Consumer Policy Team  
Office of Rail and Road Regulator  
25 Cabot Square  
London E14 4QZ  
[ATP@orr.gov.uk](mailto:ATP@orr.gov.uk)

6<sup>th</sup> February 2020

Dear Sir or Madam

## **East Surrey Transport Committee response to ORR Consultation on Accessible buses and coaches when the trains can't run**

East Surrey Transport Committee represents users of public transport in the London Borough of Croydon, parts of London Borough of Sutton and north east Surrey. Please find our response to the ORR Consultation on Accessible buses and coaches when the trains can't run.

**Question 1:** Please tell us any other issues about accessible buses and coaches that we haven't mentioned?

You have not mentioned:

- The use of alternative train services to other stations nearby operated by the same or a different train operating company when this would be more suitable for a person with disabilities than a replacement bus service would be.
- When the replacement bus service is a local scheduled bus or tram service.
- The need for adequate staff to assist disabled passengers.
- It is not made clear who is responsible for passengers, the train company or the bus company?

**Question 2:** How can train companies make sure that passengers get an accessible bus or coach when the train can't run?

We believe that for planned engineering works and for travel by passengers booked using assisted travel arrangements, this should be relatively easy as these journeys are known about in advance. However, this needs to be coordinated by a person from the train company. This person should also be informed in the cases of train or system failures. so that they can inform the appropriate staff that there is a passenger who requires assistance on the train or who has been detained to a station. This is particularly important on driver only trains.

Failures that require trains to terminate, be diverted or skip stopped cause considerable discomfort and anguish to passengers especially those with disabilities. If they are detained at an unfamiliar location and there are insufficient staff to assist them.

**Question 3a:** What do you think about the buses and coaches that you have used when the train couldn't run?

Secretary : Peter J Appleford

## THE EAST SURREY TRANSPORT COMMITTEE

These have been mixed in our area. On the major Brighton line blockage last year the number of buses were more than adequate and within the total number of buses there was sufficient buses with wheelchair access. There was adequate staff at each end of the bus replacement service to ensure passengers with disabilities were catered for.

We have found on many bus replacement services on short journeys wheelchair accessible buses are not provided nor is there adequate staff to assist disabled passengers. Many station access roads are too narrow for buses to use and passengers are deposited some distance from the station, and this is frequently not clear in advance. This can be particularly disconcerting for passengers especially disabled passengers who find themselves in unfamiliar locations especially when there is nobody there to assist them.

This is also a particular issue when the replacement bus service cannot access a station car park and has to drop passengers some distance from the station in an adjacent area.

**Question 3b:** If you have a disability - was the bus or coach accessible to you?

In a recent journey on a replacement bus serving the GTR Tattenham Corner line, the bus in one direction was accessible to me, a wheelchair user. The return journey was a coach which was not accessible to me. As a result, my wheelchair had to be dismantled to be stowed under the floor of the coach. It was not easy for me to the coach and I had to be assisted to use the high steps to gain access.

**Question 3c:** What sort of transport would you prefer when the trains can't run?

Most peoples' final destination will be somewhere beyond the station. Frequently an alternative train service to a nearby location where it is as easy to get picked up or dropped off with no extra charge would be preferable to transferring to a replacement bus.

In our area rather than a replacement service, rail tickets are made available on local buses and trams which are accessible. This is a good solution. However, there is frequently no member of the rail company to ensure the passengers are put on the right bus or tram. There needs to be more information available to both staff and passengers who may not be familiar with the area to show where these alternative bus services go to. Much better cooperation is needed with bus and tram operators. It also requires train company staff to take responsibility for the passenger with disabilities and ensure that the alternative journey can be undertaken safely.

**Question 4:** Have you any information about the number of disabled passengers who need a bus or coach when the trains can't run?

**No.** This can only increase as the population gets older and more people are encouraged to travel by train.

## THE EAST SURREY TRANSPORT COMMITTEE

**Question 5:** Do you have any information about how Network Rail and train companies agree on the timing of engineering works?

**No.** All train companies and Network Rail should provide information for people with disabilities on replacement bus services and alternative rail service with a clear web site with information that is dedicated for passengers with reduced mobility.

It should also have dedicated contact staffed phone number where you can talk to an individual about revised arrangement for people with disabilities. On all engineering posters not only should it show the changes to rail services and the replacement bus services. The poster being used by GTR for the total blockage of the Brighton Line on 2<sup>nd</sup> February 2020 is very good, but what it doesn't provide is a phone number where a disabled passenger can contact a person to be advised of alternative travel arrangements.

**Question 6:** The Government's Driver and Vehicle Standards Agency is responsible for checking that only accessible coaches are used for public service work. Are we, at the Office of Rail and Road, right not to check this ourselves?

ORR should work and cooperate more with the DVSA which would include onsite inspections while rail replacement services are operating to ensure adequate accessible coaches are in use.

**Question 7:** How can train companies encourage coach companies to buy more accessible coaches?

This would require increased expenditure by coach operators, this could only be offset by ensuring that coach companies have sufficient workload to justify purchasing these expensive coaches. This may also require more than one train operator to offer joint contracts with a coach operator so that these expensive coaches do not remain parked up rather than used on rail replacement services.

**Question 8:** What other ways could train companies help to get more accessible coaches when the trains can't run?

Network Rail could offer long term contracts to coach operators with a planned workload across the network and not confined to one train operating company's area. Alternatively, Network Rail could purchase these vehicles and coach operators could just provide the driver.

**Question 9:** What are the good and bad things about each proposal? Which is your favourite proposal? Which proposals should we use? 1-4 ?



## THE EAST SURREY TRANSPORT COMMITTEE

The most important proposal is Proposal 3 “Train companies should contact passengers who have booked Assistance and work out the best option for them when the trains can’t run.”

All 5 proposals are good in themselves. However, there needs to be a much better understanding of the different variety of needs for disabled passengers. Along with adequate staff to assist them.

**Question 10:** Are there any other ways we could help train companies to use accessible coaches when the trains can’t run?

There should be a clearly signed and staffed safe area where people with disabilities can see and go to when they need assistance. This is especially important at large complex stations or where there are large crowds at major replacement bus interchanges. This applies equally to planned engineering works and at times of disruption.

**Question 11:** Are there any other things we need to think about to achieve the best result for everyone?

People with disabilities have chosen the train as the easiest and best method of travel for them. A replacement bus service can cause more inconvenience and distress to them than it does for able-bodied passengers.

More attention should be given to the use of alternative rail services at no extra cost. For example, Cambridge or Birmingham to London by either of the train operators. Disabled passengers should be offered an alternative train journey to London by an alternative operator at no extra cost. This would very often avoid a journey on a replacement bus altogether.

Better advice on alternative train travel is required. As many people would be happy with a longer train journey even to an alternate station, than having to transfer to and from a replacement bus service.

**Question 12:** Do you have any other comments?

Frequently passengers with disabilities are just left to get on with it and train operating companies need to realise that adequate numbers of trained staff are needed to assist people and understand their travel needs better especially at times of disruption.

*Peter J Appleford*

Peter J Appleford

Secretary: East Surrey Transport Committee

# Our response to “Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation”

## Consultation details

**Title of consultation:** Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation

**Source of consultation:** Office of Rail and Road

**Date:** 14 February 2020

**If you have any queries about content included within this consultation response, or for further information, please contact:**

Equality and Human Rights Commission, Fleetbank House, 2-6 Salisbury Square  
London, EC4Y 8JX

## A. About the Commission

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1. The Equality and Human Rights Commission (the Commission) is the National Equality Body for England, Scotland and Wales. We work to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. We are an “A Status” National Human Rights Institution in recognition of our independence, powers and performance, and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission.

## B. Equality and human rights

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2. All public authorities in Britain including the Office of Rail and Road and Network Rail have obligations under the Human Rights Act 1998 and the Equality Act 2010. Regulators such as the Office of Rail and Road have a particular responsibility to help ensure that their sectors meet these obligations.
3. Complying with obligations under equality and human rights law is not only a matter of legal compliance; it enables public bodies and service providers to deliver good quality, appropriate and accessible services to all customers.

### How the Equality Act 2010 relates to transport

4. The Equality Act 2010 provides disabled people with equal access to public transport by prohibiting:
  - a. Direct discrimination (where a person treats another less favourably than they treat or would treat others because of disability);<sup>1</sup>

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<sup>1</sup> [Equality Act 2010, s 13](#). Note that it is not discrimination in relation to the protected characteristic of disability, where a disabled person is treated *more* favourably than a non-disabled person.

- b. Indirect discrimination (when a person applies an apparently neutral provision, criterion or practice which puts disabled persons at a particular disadvantage without being able to justify it as a proportionate means of achieving a legitimate aim);<sup>2</sup>
  - c. Discrimination arising from disability (where a disabled person has been treated unfavourably because of something arising in consequence of their disability unless the person did not know, and could not reasonably be expected to know, that the person has the disability);<sup>3</sup> and
  - d. A failure to make reasonable adjustments (a positive duty that requires certain persons to whom it applies to take steps to ensure that disabled people can access services).<sup>4</sup>
5. In addition, section 149 of the Equality Act 2010 requires public authorities and those exercising a public function to comply with their Public Sector Equality Duty (PSED), including a general duty to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation;
  - Advance equality of opportunity between different groups; and,
  - Foster good relations between different groups

### **How the international human rights framework relates to transport**

6. Accessibility is a precondition for independent living and the full inclusion and participation of disabled people, and to enable them to enjoy all other human rights, including rights to work, rights to education, and rights to leisure and recreation. There are a number of provisions within international treaties which either relate to, or can be applied to, the topic of transport. These are, in particular, Articles 9 and 19 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

### **Article 9 - Accessibility**

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<sup>2</sup> [Equality Act 2010, s 19.](#)

<sup>3</sup> [Equality Act 2010, s 15.](#)

<sup>4</sup> The duty is anticipatory. Transport providers need to take proactive steps to provide accessible services rather than wait for requests. [Equality Act 2010, s 20.](#)

7. UNCRPD Article 9 requires States Parties to ‘take appropriate measures to ensure’ disabled people have equal access to ‘the physical environment, to transportation, to information and communications...and to other facilities and services open or provided to the public both in urban and rural areas’. This could include ensuring private providers consider accessibility issues, implementing accessibility training, and providing information in accessible formats and assistance when accessing services.

### **Article 19 - living independently and being included in the community.**

8. Article 19 UNCRPD says that States Parties ‘shall take effective and appropriate measures to facilitate full enjoyment’ of this right by disabled people. The UN Committee on the Rights of Persons with Disabilities has made it clear, through its authoritative interpretation of Article 19, that access to transport is a key part of ensuring that disabled people have choice and control over all aspects of their lives in order to enable independent living, and for full and effective inclusion and participation in all areas of life on an equal basis with others.

## **C. Background**

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9. The Commission is pleased that the ORR is consulting on proposals to amend the provisions of its Accessible Travel Policy (ATP) Guidance, published on 27 July 2019, regarding the accessibility requirements of rail replacement services during periods of planned and unplanned disruption. In the current ATP Guidance, paragraph A6.2 states that:

...operators must set out how, in cases of planned disruptions, they will make reasonable endeavours to secure accessible rail replacement services and taxis. For operators that are unable to secure accessible vehicles that are appropriate for the routes they would be used on, the operators must set out why this is the case.
10. Following publication of the Guidance in July, the ORR was threatened with legal proceedings by an individual proposing that in light of the Public Service Vehicle

Accessibility Regulations 2000 (PSVAR) the ORR should amend the ATP Guidance to make compliance with PSVAR a mandatory requirement for rail replacement services where disruption is planned or reasonably foreseeable.

11. This led the ORR to commission legal advice on the topic, a provisional version of which has been publically released.<sup>5</sup> The advice confirmed that, with minor exceptions, all rail replacement vehicles must be accessible irrespective of whether the disruption is planned or unplanned. It is also not legally relevant that the vehicles are paid for by a train operator and not by the passengers. On the question of who would be liable for any breach of the requirements, the legal advice is clear that train companies would be guilty (jointly with coach companies) of the criminal offence. The ORR has indicated that the final legal advice confirms this position.
12. The ORR is now seeking views on a series of proposals for amending the ATP Guidance in response to this advice. We are told that the proposals could be adopted on their own or in combination. The proposals do not specify that buses and coaches used as rail replacement services must comply with the accessibility requirements set out in the PSVAR. Instead, the ORR's proposals focus on 'encouraging and supporting' the greater availability and use of PSVAR-compliant vehicles during periods of planned disruption. If and when such vehicles are not available, the proposals require train operators to 'provide information' about 'other options' that are available for disabled passengers to make their journey.
13. The ORR acknowledges that the proposals in its consultation document fall short of mandating compliance with the PSVAR.
14. The ORR explains this position in two ways. Firstly, by referring to supply problems. While noting that there is a lack of reliable data, the ORR cites the Confederation of Passenger Transport's estimate that there are around 600 accessible coaches in the UK potentially available for rail replacement work. As

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<sup>5</sup> [https://orr.gov.uk/\\_data/assets/pdf\\_file/0005/41864/accessible-travel-policy-rail-replacement-services-full-legal-advice-2019-09-30.pdf](https://orr.gov.uk/_data/assets/pdf_file/0005/41864/accessible-travel-policy-rail-replacement-services-full-legal-advice-2019-09-30.pdf)

the ORR notes, this falls well short of the 55,000 coaches used by train operators over the last year to meet passenger needs during periods of planned and unplanned disruption. Mandating compliance with the PSVAR in circumstances where there is a lack of PSVAR-compliant replacement buses and coaches would, in the words of ORR, ‘result in a substantial reduction, and possibly even cessation, of rail replacement services in some cases’.

15. Secondly, the ORR refers to a concern that mandating the requirement to use PSVAR-compliant replacement bus and coach services in the ATP would introduce the potential risk of ‘double jeopardy’ for operators. That is, it would subject operators to the risk of enforcement for non-compliance by the Driver and Vehicle Standards Agency (DVSA), the body with responsibility for enforcing the PSVAR, and by the ORR, which has the power to take enforcement action under licences it grants to train operators where they have breached their obligations under the ATP Guidance.

16. In December 2019, the UK Rail Minister used the power under section 178 of the Equality Act to grant a one-month extension to the deadline (from 1 January 2020 to 31 January 2020) for bus and coach operators to comply with public service vehicle accessibility regulations.<sup>6</sup> The UK Rail Minister has recently allowed for the possibility of further extensions of up to three months.<sup>7</sup>

## D. Our response to the current consultation

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17. The Commission welcomes the explicit consideration given by ORR to the requirements placed on it by the PSED, including its decision to undertake a ‘Public Sector Equality Duty and Regulatory Impact Assessment’ as part of developing its proposals to amend the ATP guidance.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/853813/Compliance\\_with\\_rail\\_accessibility\\_requirements.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853813/Compliance_with_rail_accessibility_requirements.pdf)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/861265/compliance-rail-accessibility-requirements-period-1-february-to-30-april-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861265/compliance-rail-accessibility-requirements-period-1-february-to-30-april-2020.pdf)

18. The Commission considers that the five proposals presented by ORR are all necessary and complementary, and demonstrate the ORR having some regard to the requirements under the PSED. However, on their own, the proposals are likely to bring only limited improvements to the accessibility of rail replacement services. Improving the accessibility of rail replacement services will crucially also require actions by the UK Department for Transport, including the imposition of strict conditions in exchange for any further exemptions to suppliers of replacement services about the steps which the train and coach industry need to take to address the deficit of PSVAR-compliant vehicles, with clear monitoring and enforcement arrangements.
19. Below we identify the benefits of, but also some of the gaps in, the proposals. We also suggest how the ORR could more fully meet its PSED by strengthening those proposals.
20. The first and fifth of the ORR's proposals aim to encourage greater availability and use of PSVAR-compliant vehicles by requiring train operators to:
- use contractual processes to stimulate the market to increase the availability of PSVAR-compliant vehicles (proposal 1);
  - establish a regular communication forum, including with suppliers of rail replacement services, to identify and increase the availability of PSVAR-compliant vehicles (proposal 5).
21. Although it is not clear what precisely train operators would be required to include in their tenders and contracts, given the lack of PSVAR-compliant vehicles, we agree in principle that these proposals may help to stimulate the market for PSVAR-compliant vehicles. On the other hand, rail replacement services account for only a proportion of the market for coach operators. Furthermore, the costs required to upgrade their fleets may well outweigh the benefits for coach operators of entering into contracts with train companies which require PSVAR-compliant coaches. The proposal could be strengthened by placing obligations on train operators to use contractual arrangements with taxi operators to seek to



ensure the availability of accessible taxis where PSVAR-compliant coaches cannot be arranged.

22. The second, third and fourth of the ORR's proposals include requirements for train operators to:

- proactively source and manage rail replacement vehicles at least 12 weeks before major planned engineering works (proposal 2);
- contact passengers that have booked assistance to provide information and discuss their needs (proposal 3), and
- provide passengers with information about the accessibility of the transport they will be providing (proposal 4).

23. As the ORR acknowledges, proposals 3 and 4 build on already existing requirements in the ATP guidance.

24. We agree that a combination of proposals 2, 3 and 4 may provide an interim partial answer to the current deficit of PSVAR-compliant vehicles. However, there is a risk that the alternative travel options envisaged for disabled passengers, e.g. accessible taxis, will not offer the same level of service as those for non-disabled passengers. For instance, given the lack of accessible taxis in the market, disabled people might have to wait for longer than others before they can access a rail replacement service. This may lead to unlawful discrimination by train operators, under sections 13, 15, 19 or 20 of the Equality Act, and risk a breach of the right of disabled people under Article 9 UNCRPD to have access to transport on an equal basis with others.

25. We are also concerned about the focus in all of the ORR's proposals only on planned disruption and (in proposal 3) only on circumstances where a passenger has pre-booked assistance. This focus does not fully reflect the obligations of an operator under section 20 of the Equality Act. This requires not just a minimalist policy of simply ensuring that some access is available to disabled people: it is, so far as reasonably practicable, to approximate the access enjoyed by disabled persons to that enjoyed by the rest of the public. This is the case in all

circumstances (that is, whether or not a disabled person has booked assistance and regardless of whether the disruption is planned or unplanned).

26. The focus on passengers who have pre-booked assistance in proposal 3 may also risk a breach of Article 19 of the UNCRPD on the right of disabled people to independent living. This right implies that disabled people should have choice and control over all aspects of their lives, including the choice of travelling spontaneously.

27. In order for the ORR to better meet its obligations under the PSED, we recommend that the ORR strengthens its current proposals by introducing the following amendments:

- a. **Ensure that each of the proposals uses the Equality Act's language of 'reasonable adjustments'**. For example, the requirements in proposals 1 and 2 for train operators to take 'appropriate steps' to source accessible rail replacement vehicles do not explicitly reflect the anticipatory nature, nor the extent, of the reasonable adjustment duty in section 20 of the Equality Act. Amending this language would make it clear that train operators need to anticipate difficulties sourcing PSVAR-compliant vehicles and will need to identify alternatives in accordance with the duty to make reasonable adjustments, such as sourcing accessible taxis in order to meet the needs of disabled passengers. This could be strengthened by requiring train operators to use contractual arrangements with taxi operators to seek to ensure the availability of accessible taxis where PSVAR-compliant coaches cannot be arranged (see paragraph 21 above).
- b. **Extend the proposals to include requirements for train companies to identify and meet the needs of disabled people during unplanned disruptions**. For example, train operators could be required, in accordance with the duty to make reasonable adjustments, to procure the use of PSVAR-compliant vehicles and accessible taxis to mitigate the

effects of unplanned disruptions. This part of the Guidance should employ the language of the Equality Act on reasonable adjustments. As explained in paragraph 25 above, the reasonable adjustments duty in section 20 of the Equality Act requires train operators to approximate the access enjoyed by disabled persons to that enjoyed by the rest of the public in all circumstances (that is, whether the disruption is planned or unplanned).

- c. **Require train operators to provide the ORR with comprehensive data on the availability of PSVAR-compliant vehicles.** This requirement will allow the ORR to monitor the availability of accessible coaches and therefore to give due regard to the needs identified in section 149 of the Equality Act.
- d. **Plan for the introduction of PSVAR-compliant rail replacement services to become a licencing condition in the medium-term.** We would like to see the ORR set an objective to mandate the use of PSVAR-compliant vehicles in the ATP Guidance once the availability of these vehicles increases. We consider this objective should be made clear in the ATP Guidance. The ORR should endeavour to set a timeframe for this based on an action plan aimed at increasing the supply of PSVAR-compliant vehicles which should be developed jointly by train operators, coach operators and the UK Department for Transport. The ongoing nature of the PSED means the ORR should consider revising and strengthening the ATP guidance as it becomes easier for train operators to procure PSVAR-compliant vehicles.

28. In its consultation document, the ORR states that it is concerned about 'duplicating the enforcement of PSVAR' by mandating compliance with PSVAR in the ATP guidance. The ORR is concerned that train operators may face not only licencing sanctions from the ORR but also possible prosecution by the DVSA, by the Crown Prosecution Service, or private individuals. The ORR also mentions a risk of financial implications that will have to be priced into franchise bid costs, reputational impact and duplication in the costs of oversight.

29. We do not share the ORR's concerns about the risk of 'double jeopardy'. We understand that the ORR must have regard to the economic interests of train operators, and the general public, in the exercise of its functions but we do not believe that the risk of train operators facing financial penalties is a good basis for deciding whether licensing conditions should be imposed. We note that in other sectors – such as in relation to taxi drivers, private security services, and landlords – a mixture of prosecution and licensing sanctions are used. So, for example, a conviction may be considered as part of a decision by a licensing authority. This does not entail the licensing authority taking on the role of the prosecuting authority, and in the absence of a conviction the licensing authority can take a view on the balance of probabilities as to whether the licence requirement has been met.

30. Whilst the DVSA has greater experience in the regulation of road vehicles than the ORR, the ORR is in a position to develop unique knowledge of, and insight into, the availability and use of PSVAR-compliant rail replacement services. The risk of duplication in the costs of oversight can be avoided through the adoption of a memorandum of understanding (or similar) between the ORR and the DVSA which establishes a framework for cooperation in respect of, for example, sharing live intelligence, and enforcement priorities and responsibilities. This joined-up approach will also help to prevent any reputational impact that could result if the ORR and DVSA take different considerations into account, as well as demonstrate both organisations' performance of their PSED. The proposed memorandum of understanding should be developed in readiness for the point by which PSVAR-compliant rail replacement vehicles become more readily available.

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## EXECUTIVE SUMMARY

First Travel Solutions (“FTS”) thanks the ORR for the opportunity to respond to the *Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation dated 20 December 2019* (the “Consultation”). FTS is the rail replacement provider for the following FirstGroup TOCs: GWR, SWR, TPE and Hull Trains.

FTS has provided as much relevant information in answering each question posed by the Consultation as it can. Particular attention is drawn to the fundamental barrier to a fully compliant rail replacement service: there are not enough compliant coaches available in the UK. FTS sees it as unlikely that this barrier can be surmounted in the short term, even with increased government funding. This is because current legislation stifles any compelling reason for coach operators to operate PSVAR compliant coaches. Further, the amount of time and investment that is required to build and finance a PSVAR compliant coach industry is not practical in the short to medium term. Coach operators currently take on rail replacement work in addition to their usual work, however rail replacement work is not a core part of any coach operators’ business.

FTS agrees with the ORR that Buses can and do play a key part in providing rail replacement services. There are however challenges to using buses for such services. These include, amongst others discussed below, the availability of buses, passenger comfort, luggage capabilities and the availability of drivers. Bus operators currently work with the TOCs however they have their own business and regulatory pressures that must consider and are not able to make rail replacement services a primary consideration when running their businesses.

FTS agrees that more can be done by government, the ORR, TOCs, bus, coach and taxi companies to assist those passengers with disabilities. FTS however does not agree that the rail industry can solve this problem by itself.

FTS provides a short response to each of the five proposals put forward by the ORR in the Consultation, however further detail on these proposals can be found in the response to the twelve questions.

**Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.**

It is unclear what constitutes “appropriate steps” and therefore assessing the viability of this proposal is difficult. Should this mean contractually requiring compliant vehicles to the exclusion of all other vehicles, this proposal could not be implemented without addressing the fundamental supply shortage of compliant vehicles, particularly coaches.



**Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.**

This proposal would require the process of planning for disruptions to start approximately eight (8) weeks earlier compared to what currently happens. This will fundamentally require Network Rail's cooperation, as without such cooperation this proposal could not be implemented.

**Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).**

FTS works with the TOCs it supplies to do exactly this. This proposal however only addressing planned disruption and those passengers that have pre-arranged assistance. This proposal does not address emergency disruption or passengers that do not pre-arrange assistance.

**Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.**

FTS sees this proposal as achievable. It will require the coordination between FTS and the bus/coach operators to confirm the precise vehicles that will be provided. Practically it requires the revised timelines from Proposal Two.

**Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).**

FTS sees such a forum as a possible way to identify how best to manage the limited supply of compliant vehicles. However, each TOC has a responsibility to its passengers to deliver services and without any mechanism to resolve the fundamental supply shortage of compliant vehicles, such a forum may have limited impact. Any such forum should include passenger groups.

Given the above and the answers to the below questions, FTS's view is the Accessible Travel Policy Guidance should not be changed. To do so would oblige all TOCs to standards they cannot currently meet due to factors outside of their control. Further, FTS sees it as the role of the government to address the fundamental lack of supply of compliant vehicles by providing the legislative framework to facilitate such a change in the coach industry.

Again, FTS thanks the ORR for the opportunity to provide our view on this complicated and important consultation.



Andrew Scholey

First Travel Solutions Managing Director

## Question 1

Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

Availability of PSVAR compliant vehicles and the use of PSVAR compliant vehicles are two different issues.

The key considerations for the availability of PSVAR compliant vehicles are:

- Supply of compliant vehicles;
- Coach operator business models;
- The cost of change to coach operators;
- Bus operating companies' existing obligations.

The key considerations for the use of PSVAR compliant vehicles are:

- Quality of service to passengers (including passenger comfort and convenience);
- Infrastructure limitations; and
- Compliance with other regulatory requirements, namely the EU tachograph and driver hours regulations.

### 1.1 Availability

#### Supply

The ORR noted in Chapter 1 of this consultation the supply of accessible vehicles, particularly coaches, is a key challenge for the industry. To illustrate this key challenge at a TOC level, the following table details the lack of availability of PSVAR complaint coaches in coach company fleets.<sup>1</sup>

TOC	FTS Core Coach Operators <sup>2</sup>	Estimated Fleet Size of Core Coach Operators	No of PSVAR coaches	% of coach fleet which is PSVAR complaint
GWR	49	735	77	10
SWR	50	750	54	7
TPE	58	870	95	11
Hull Trains	10	150	32	21

These figures reflect coach operators only.

The percentage of compliant vehicles gets better when we include buses into rail replacement services, although doing so presents other challenges that are discussed below. The following table is a snapshot from January 2020.<sup>3</sup>

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<sup>1</sup> FTS acts as an intermediary between GWR, SWR, TPE and Hull Trains, and the bus and coach operators which it sources vehicles for rail replacement services.

<sup>2</sup> Core Coach Operators are those operators that most reliably supply coaches for rail replacement services.

<sup>3</sup> Hull Trains did not have any rail replacement requirements for January 2020.

January 20 Planned RRS						
TOC	Date		Vehicles required	Compliant Booked	Non Complaint Booked	% psvar compliant
<b>GWR</b>						
	01/01/2020	05/01/2020	195	16	178	8%
	06/01/2020	12/01/2020	186	28	158	15%
	13/01/2020	17/01/2020	53	13	40	25%
	18/01/2020	24/01/2020	88	26	62	30%
	25/01/2020	31/01/2020	125	30	90	24%
	<b>January 20</b>		<b>647</b>	<b>113</b>	<b>528</b>	<b>17%</b>
<b>SWR</b>						
	01/01/2020	05/01/2020	172	102	70	59%
	06/01/2020	12/01/2020	236	135	38	57%
	13/01/2020	17/01/2020	59	21	38	36%
	18/01/2020	24/01/2020	209	120	89	57%
	25/01/2020	31/01/2020	238	155	84	65%
	<b>January 20</b>		<b>914</b>	<b>533</b>	<b>319</b>	<b>58%</b>
<b>TPE</b>						
	01/01/2020	05/01/2020	25	13	12	52%
	06/01/2020	12/01/2020	82	28	54	34%
	13/01/2020	17/01/2020	35	25	10	71%
	18/01/2020	24/01/2020	52	27	25	52%
	25/01/2020	31/01/2020	120	17	102	14%
	<b>January 20</b>		<b>314</b>	<b>110</b>	<b>203</b>	<b>35%</b>
<b>Total of the 3 TOCs</b>	<b>January 20</b>		<b>1875</b>	<b>756</b>	<b>1050</b>	<b>40%</b>

This table highlights that even with the addition of buses, there is a significant way to go before a fully compliant service can be provided. There is also a significant disparity across different TOCs. For example, TOCs in the south of the UK (SWR, Southern, South Eastern and GWR) have large parts of their networks in or close to London where stations are closer together (allowing higher use of buses) and where there is a higher density of coach operators. Conversely, TOCs in the north of the UK (TPE, Hull Trains, LNER, Northern, Avanti and ScotRail) have much longer distances between stations (resulted in a greater need for coaches) and fewer coach operators close to where rail replacement services are needed. Consequently, we see a disparity in compliance rates as evidenced in the above table.

It must be noted that the above table tells the story for January 2020. Particularly for TOCs in the south of the UK, the level of compliant vehicles is directly related to where rail replacement services are required. If services are required closer to London, like in January, we see higher compliance rates. If services are required in more remote or rural areas, compliance is much lower and comparable to that of northern TOCs.

The clear message from these tables is it is not possible to run a fully compliant rail replacement service using coaches in the UK. Adding buses to rail replacement services goes some way to filling the gap but is not enough to make services fully compliant. Buses in most situations are not appropriate vehicles for rail replacement services due to the lack of storage capacity for luggage, lack of comfort during long distances, lack of toilet facilities, and other regulatory requirements such as those under EU Regulation No 165/2014 (Tachographs in Road Transport) and EC Regulation 561/2006 (the so-called Driver Hours regulations).



The supply of compliant vehicles is the key factor that must be addressed. While several options are discussed later in this response, the two ways the supply of PSVAR compliant coaches can be increased are:

1. Legislatively remove the current exemptions the coach industry relies on for tour operations and private hires under the Transport Act 1985 and the PSVAR; and
2. Government funding provided to retrofit existing vehicles and/or buy new compliant vehicles.

#### Coach Operators Existing Business

In the UK, coach operator’s primary business is tour operations and private hire work. As discussed above, these activities are exempt from the purview of PSVAR. Based on our understanding from our suppliers, rail replacement services make up a marginal part of the business for coach companies. Therefore, the problem becomes how can coach operators be influenced to use compliant vehicles without causing them to withdraw from the rail replacement market all together. The answer that delivers long term change and the best result for passengers who use wheelchairs and mobility scooters is legislative change coupled with government funding for more compliant vehicles.

It has been suggested that the TOCs can simply pay higher rates for PSVAR compliant vehicles. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC. We do not believe this will influence the coach operator’s existing business operations enough to incentivise the retrofitting of existing fleets or purchase of new compliant fleets – the costs associated with doing so far outweigh the increase fees the TOCs may pay.

#### Cost of Retrofitting Existing Fleets and Buying New Fleets

The following table provides a summary of the cost and time required to retrofit an existing non-compliant coach or buy a new compliant coach.

<b>ACTION REQUIRED</b>	<b>COST PER VEHICLE</b>	<b>TIME PER VEHICLE</b>
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

According to the ORR’s consultation paper at paragraph 1.8 of chapter 1, non-compliant coaches were used 55,176 times in the last 12 months for rail replacement services in the UK<sup>4</sup>. If we assume, for the purposes of putting an approximate figure on the total cost of retrofitting existing coaches or buying replacement coaches, that the number of unique vehicles that provided rail replacement services in the last 12 months is one tenth (1/10) of this number, there are approximately 5,500 unique coaches providing rail replacement services.

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<sup>4</sup> The ORR states this figure does not include 6 TOCs who were unable to provide full PSVAR vehicle information.

Using this assumed 5,500 coaches outlined above, the cost of a fully compliant coach industry is therefore:

- If 5,500 current non-compliant vehicles are retrofit - £165,000,000 (approximately); or
- If 5,500 current non-compliant vehicles are replaced with new vehicles - £1,375,000,000 (approximately).

A further consideration for coach operators is the increasing prevalence of clean air zones in many cities and required compliance with emission standards. Coach operators are fined for breaches the requirements of clean air zones. Coach operators are required to either convert or replace aging vehicles that do not meet the latest emissions standards. Both concerns carry financial costs for the coach operators and affect their primary business in a way that PSVAR compliance does not (due to the aforementioned exemptions). If faced with a requirement to comply with emissions standards (affecting their core business) and a requirement to comply with the PSVAR (affecting a marginal part of their business), it will be up to each coach operator to decide which requirement takes precedence. However, we anticipate many coach operators to prioritise compliance with emissions standards over PSVAR – therefore further limiting the supply of compliant coaches.

### Bus Operating Companies' Existing Obligations

According to the ORR, 99.96% of buses used for rail replacement services are PSVAR compliant. Most, if not all, of these buses are owned or used by bus operating companies who are obliged to provide regular local bus services. This obligation comes from the traffic commissioner in each local area and the provision of these regular local bus services is a requirement to maintain the operating licence held by each bus operating company.

Consequently, bus operating companies' top priority is to ensure it has enough buses to operate the bus routes it has committed to operate. This leaves few buses to procure for rail replacement services. This lack of supply is more acute on week days as more regular local bus services are run on week days than on weekends.

The net result of bus operating companies' existing obligations to run regular local bus services is it is not always possible to procure buses for rail replacement services, especially for emergency rail replacement service and/or on week days. It is not in the business interest of bus operating companies to have a higher percentage of their fleet on stand by in case rail replacement services are needed. Like coach operators, rail replacement services do not form a core part of bus operating companies' businesses – it is considered an additional service that may be provided if buses are available.

## **1.2 Use**

### Quality of Service to Passengers

The quickest path to a fully compliant rail replacement service is to primarily use buses if enough are available for each rail replacement service requirement. As the ORR states, 99.96% of buses used currently for rail replacement services are PSVAR compliant. Putting aside the availability issues discussed above, using buses has a significant impact on all passengers.

Buses have less seating capacity than most coaches. Consequently, more buses are required to transport the same number of passengers than coaches. This additional need feeds back into the availability issues discussed above and from a passenger perspective means a greater risk of delays in service, especially in the case of emergency rail replacement services.

Buses are not designed or built to the same level of comfort as coaches. For example, coaches are fitted with air conditioning while buses tend not to be. This difference in specification means in the case of longer rail replacement services passengers are less likely to be comfortable sitting on a bus than a coach. For example, a rail replacement journey between Glasgow and Carlisle normally takes 1 hour and 55 minutes on a coach. Compared to the intended journey by rail or using coaches for rail replacement services, using buses will result in passengers travelling in less comfort for longer. This is likely to result in lower passenger satisfaction and an overall worse service for passengers.

Buses do not have the same luggage capacity as coaches. Most coaches have significant luggage storage compartments in the undercarriage of the coach. Buses are not designed in the same way and require passengers to leave the luggage in a smaller defined area. Therefore, if a wheelchair user is in the defined area on a bus, other passengers are required to put their luggage on or under seats which often times results in a further reduction in seating capacity. This practice creates safety issues as the luggage is normally not secured when in the aisle of the bus, therefore there is the potential for unsecured luggage to harm other passengers in the event of a traffic incident.

Buses do not have seatbelts. Coaches are required to be fitted with seatbelts and standing passengers are not permitted.

Buses do not have toilet facilities on board. This issue is more acute the longer the rail replacement journey is. For example, as mentioned above Glasgow to Carlisle take 1 hour and 55 minutes on a coach. During that time, it is highly likely passengers will need to use toilet facilities and if unavailable passenger comfort and satisfaction will drop.

The use of more buses to provide rail replacement services may bridge some of the compliance gap in the short term. However, the above impacts on passengers must be considered and addressed if/where possible.

### Infrastructure Limitations

The ORR makes reference, at paragraph 2.27 of the consultation, to some of the limitations presented by ageing station infrastructure. We believe more detail is required to flesh out these issues as the challenges presented are significantly more acute in more remote regions.

The first issue here is the ability for compliant vehicles to pick up and drop off passengers at stations. Some stations have varying kerb heights or are designed in a way that prevents vehicles from stopping close to the kerb. Varying kerb heights mean there are different heights that passengers need to step up or down, presenting risks of tripping or falling – this is especially acute with passengers that use movement assistance tools such as walking sticks or crutches. The distance between the kerb and the vehicle will primarily affect the use of passenger lifts and ramps used to allow wheelchair and scooter users to embark and disembark the vehicle. Lifts have a limitation to how far out from the bus and how far down to the ground they can go. For example, if a station has a low kerb that is below the clearance of the coach, the lift may not reach to the ground and the wheelchair user may not be able to use the lift. This prevents the compliant vehicle from performing the very function it was hired to do.

The second issue with infrastructure is the availability of step free access. Elevators and ramps at all stations is vital to make all stations accessible for all passengers. Currently all stations do not have step free access. This issue becomes particularly acute when passengers are required to change platforms and there are no elevators or ramps available. Often this will mean some passengers cannot change platforms and subsequently cannot use the service they have paid for.

Station infrastructure is a key issue in addressing accessibility for disabled passengers because it can prevent passengers from being able to use rail replacement services, even when fully compliant vehicles have been procured. Even if more compliant vehicles are available for rail replacement services, some station infrastructure does not allow for compliant vehicles to pick up and drop off passengers.

#### Compliance with Regulations: EU Tachograph Regulations and EU Driver Hours Regulations

EU Regulations concerning the use of tachographs and driver hours create additional complications in the use of PSVAR compliant vehicles.

Turning to the EU tachograph regulations first, it is a requirement that any vehicle operating a “regular service” or a “special regular service” (as defined in the Regulation) over 50 kilometres (route length) or any vehicle operating any “non-regular service” (as defined in the Regulation) must have a tachograph installed and that the tachograph must be used by the driver. For the purposes of rail replacement services, we understand the DVSA believe rail replacement services to be a “special regular service”. Therefore, any rail replacement service over 50 kilometres must be provided by vehicles with a tachograph installed.

We understand most, if not all, coaches in the UK have tachographs installed, however most buses in the UK do not have tachographs installed. Bus operators have informed us the routes they are required to operate for local communities are less than 50 kilometres, therefore these buses are caught by the exemption and need to comply with the UK drivers’ hours rules as set out in the Transport Act 1968. Where this becomes a problem is where TOCs are required to contract buses for rail replacement services that are over 50 kilometres. If a bus does not have a tachograph it would not be used for a service over 50 kilometres. Consequently, the ability to use buses for rail replacement services is limited to services that are under 50 kilometres.

EU Driver Hours regulations require that drivers’ work a maximum of 56 hours in any one week and 90 hours in any two week period. This restriction is relevant where rail replacement services are driven by drivers who are employed by bus or coach operators to drive on a full-time basis.

For example, a driver is employed to drive a regular bus service Monday to Friday on 9 hour shifts (we are told by bus and coach suppliers this the normal shift length), then accepts to drive rail replacement service for 8 hours on the Sunday of the same week, the driver would be unable to work their full number of hours the following week for their employer.

The driving of the rail replacement service may cause the driver to become subject to the EU Driver Hours regulations. Because this unavailability of drivers adversely impacts the bus operators’ ability to deliver the services it is required to deliver, bus operators can refuse to allow their drivers to drive rail replacement services. This leaves TOCs in a position where they have a compliant bus but no driver. The vehicle cannot be used and therefore the procurement of the vehicle is meaningless.

The consequence for the TOCs is bus companies may be more reluctant to supply their drivers to drive rail replacement services. Vehicles and drivers are inseparable as one does not work without the other. Therefore, TOCs must be able to procure not only vehicles but the drivers to drive the vehicles. We are told by our suppliers they already face driver shortages and to further limit driver availability will result in an inability to meet the minimum levels of service they are obliged to provide. This issue is more acute for bus operators due to their commitments to local traffic commissioners to local bus services.

## Question 2

### **How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The data and analysis provided by the ORR within the consultation document clearly demonstrates that there is insufficient supply of PSVAR vehicles available to meet demand for rail replacement vehicles.

The best way to allow journeys to be taken on PSVAR compliant vehicles is to increase the number of vehicles that are available. This solution will take significant time and significant investment.

Until this happens, the following options may be available to improve the level of compliance, however it must be noted that many of these options required the cooperation of Network Rail.

#### Increase supply of PSVAR vehicles

##### 1. Determine the requirements for rail replacement services earlier

FTS receives requirements for rail replacement services from the TOCs it supplies. Currently, we receive the requirements for planned rail replacement services 6 to 10 weeks before the services are needed. To have a better chance to procure compliant vehicles, the requirements for planned rail replacement services would be needed 16 weeks before the services are needed. This extended time line may give FTS the opportunity to source compliant vehicles and still meet the ORR reporting requirement of 12 weeks before the services are needed.

By determining the requirements for rail replacements services 16 weeks before the services are needed FTS has a better chance to secure compliant vehicles as suppliers may have more vehicles available at T-16 than at T-6 – T-10. However, fundamentally this does not address the lack of supply of compliant vehicles in the UK market currently.

##### 2. Shorter Distances required for Rail Replacement Services

Changing the amount of track that is possessed will reduce the distance each TOC is required to provide rail replacement services for and therefore reduces the requirements FTS needs to source from bus and coach companies. Shorter distances make the use of buses for rail replacement service much more viable. The passenger comfort and safety issues discussed in Question 1 diminish with shorter distances. The risk of EU tachograph regulations applying to the vehicles is reduced to zero (if the route distance is below 50 kilometres). If coupled with rail replacement requirements being known at T-16, the number of compliant vehicles available increases – bus operators can better plan to accommodate these services using their vehicles with more time.

Changing to shorter distance possessions means it is much more likely FTS can source compliant buses and coaches for rail replacement services.

##### 3. Structure of services

Today, rail replacement services are operated to emulate the rail service it is replacing, i.e. vehicles often stop at each station on the route. Rail replacement services could be redesigned to allow for the use of more compliant buses. Compliant coaches would still be sourced where possible to operate the long-distance parts of the route, or a direct service from end to end, while buses could be used to operate shorter journeys along the route or part of the route.

For example, a possession requiring road transport to operate between Manchester Airport and Leeds:

PSVAR coaches could be recruited to operate direct (non-stop) between Manchester Airport and Leeds, with PSVAR buses used to run shuttles between Manchester Airport and Manchester Stations, between Manchester Stations and Huddersfield, and between Huddersfield and Leeds.

While this structure of rail replacement services gives FTS a better opportunity to source compliant vehicles for the TOCs to potentially run a more compliant service, there are drawbacks. Some customers may need to change vehicles part way through their journey, likely causing dissatisfaction. Frequent changes may also cause issues especially for those older or disabled customers who may struggle with the transfer, especially if travelling with luggage, or may be concerned or anxious about connections.

#### 4. Higher rates and incentives

As discussed in Question 1, it has been suggested that all TOCs could incentivise the coach industry to use compliant vehicles by paying higher rates. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC.

An alternative to higher rates being paid by the TOCs is for funding to come direct from the DfT to coach operators to incentivise coach conversions and the purchase of compliant coaches. An example of a similar fund is the Access for All fund.

Another alternative may be to incentivise coach companies subsidising the cost of compliant coaches. An example of a similar incentive is used for the purchasing of electric vehicles, reducing the cost to the buyer.

#### Reduce demand for PSVAR compliant vehicles:

FTS see five key areas the TOCs can explore to reduce the demand for PSVAR compliant vehicles. These are:

1. Scale of pre-planned engineering blocks
2. Quantity of pre-planned engineering blocks taking place simultaneously
3. Use of diversionary routes
4. Ticket Acceptance
5. Rejection of possessions

#### **Question 3**

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

It is recognised that this question is aimed at customers.

We would encourage the ORR, Department for Transport (DfT) and any other government bodies involved in decisions affecting the provision of rail replacement vehicles to undertake an all-encompassing assessment of customer needs, with engagement with Transport Focus, so that any new approach considers the needs of ALL customers.

#### **Question 4**

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

Specific data on the number of disabled passengers and the number of overall passengers using rail replacement services is not currently recorded. FTS book accessible taxis for the TOCs it supplies. The following is a summary of the number of accessible taxis booked in December and January for TPE and Hull Trains.

#### **TPE**

	No of Accessible Taxis Pre-booked	No of Accessible Taxis Emergency
Dec 2019	3	17
Jan 2020	163	60

#### **Hull Trains**

	No of Accessible Taxis Pre-booked	No of Accessible Taxis Emergency
Dec 2019	0	0
Jan 2020	0	0

#### **Question 5**

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

FTS does not have anything to add to this question as it is not involved in the conversations between Network Rail and the TOCs.

#### **Question 6**

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

The approach proposed by ORR is sensible and duplicate enforcement would not be appropriate. DVSA are the enforcement body for PSVAR across the bus and coach industry and should continue in this role.

#### **Question 7**

**How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

FTS does not have anything to add to this question as it is aimed at the TOCs.

**Question 8**

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

The proposed 12-week time limit may have benefits however such a time limit is completely dependant on when Network Rail finalises their possessions schedule and when Network Rail and the TOCs finalise the affected timetables. Presently, Network Rail and each TOC endeavour to agree the timetables at T-12 weeks. This allows the TOC plan rail replacement services and procure vehicles to operate these services in time for the planned possessions. Planning is finalised, and vehicle requirements sent to suppliers between T-10 weeks and T-6 weeks, depending on the extent of rail replacement services required. Vehicle operator tenders are usually received and finalised by T-4 weeks.

To comply with the proposed 12-week time limit to demonstrate all appropriate steps have been taken to assess requirements and to procure compliant vehicles, the above T-4 week timeline where vehicle operator tenders are finalised will need to move to T-12 weeks. This will have a direct knock on effect on the previous steps in the process, beginning with when Network Rail finalise their plans for work.

Consequently, to comply with a 12-week time limit reporting requirement, the following revised timelines will need to apply:

- Network Rail to finalise planned engineering work schedule by T-24 weeks.
- Network Rail and TOCs finalise timetables at T-20 weeks.
- Rail replacement service planning and resource requirements determined and sent to suppliers by T-18 to T-14 weeks.
- Tenders finalised and awarded by T-12 weeks to bus/coach operators.

Without this wholistic time line in place, a 12-week time limit to report will not be possible.

**Question 9**

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We have ranked the proposals and what we see as the advantages and disadvantages in the table below. It must be noted however that none of these proposals address the cores issue: there are simply not enough compliant vehicles and without legislative change or government funding, this situation will continue.



<b>Proposal</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>Ranking</b>
<b>One</b>	Places a contractual obligation to maximise the no. of psvar vehicles	Unlikely to increase the no of psvar vehicles	5
<b>Two</b>	Requires TOCs to demonstrate they have taken reasonable steps to procure psvar at 12 weeks  Will require NR and TOCs to finalise timetables much earlier  Should increase the number of psvar vehicles due to earlier recruitment	NR and TOCs will need to change their planning timescales for RRS  Last minute changes to RRS by NR and/or TOCs is unlikely to be possible	1
<b>Three</b>	Passengers requiring assistance could receive individual messages to sort travel.	Increased resources needed at the contact centre and at stations  NR and TOCs will need to change their planning timescales for RRS	3
<b>Four</b>	Rail passengers will know which RRS journeys will be operated by psvar vehicles  An impact of the earlier timetable planning should be an increase in the number of PSVAR-compliant vehicles due to earlier recruitment	Will require development of the Rail Industry CIS systems  NR and TOCs will need to change their planning timescales for RRS	2
<b>Five</b>	Forum could be a good initiative if it encourages better planning and co-	Needs to have a defined objective	4

	ordination by NR and across TOCs to manage demand for vehicles.		
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**Question 10**

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

The fundamental issue is the coach industry has exemptions from PSVAR to conduct their primary business operations: tours and private hires. This directly translates into a lack of compliant vehicles available for rail replacement vehicles where the ORR has stated only 175 out of 55,351 rail replacement coach journeys were compliant in the last 12 months.

To address this fundamental issue either legislative change will be required to remove these current exemptions, or more vehicles will need to be made compliant or compliant vehicles bought. With both paths forward, significant investment will be needed, primarily coming from the DfT. As stated above the following estimates represent the costs involved with making an assumed 5,500 coaches compliant:

<b>ACTION REQUIRED</b>	<b>COST PER VEHICLE</b>	<b>TOTAL INVESTMENT REQUIRED</b>
Retrofit an existing coach	£30,000 (approximately)	£165,000,000 (approximately)
Buy a compliant coach	£250,000 (approximately)	£1,375,000,000 (approximately)

The only option we believe will make a significant impact and improve the accessibility of coaches in the UK is significant investment by the DfT into the coach industry because coach operators are currently not incentivised to spend the amount of money required to operator compliant coaches.

**Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

The ORR should consider in their assessment the needs of ALL customers. Prioritisation of the needs of those who require level access could cause significant and damaging detriment to the accessibility of the service for those with hidden and potentially complex disabilities.

The focus must be on providing a service which meets the needs of all customers, providing a range of vehicles to meet varied needs, tailored to allow flexibility and encourage use of the most suitable vehicles, rather than a focus on compliance.

For example, the addition of quiet carriages on many services allows those customers who do not cope well in noisy environments to use the railways in a way that is comfortable and safe for them. Quiet carriages are cannot be replicated when using buses or coaches for rail replacement services and therefore these passengers may find a taxi more appropriate to their needs.

We strongly believe that equality can be achieved, with dignity and comfort for all by using practical solutions, without imposing compliance standards that do not fully consider the impact on all rail passengers.

## Question 12

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

As a general comment, we do not believe mandating restrictive policy guidance or regulations about the types of vehicles to be used for rail replacement services will result in a better service for all passengers. Fundamentally, the vehicles to operate a fully compliant rail replacement service do not exist in the UK. Without more compliant vehicles, TOCs cannot procure compliant vehicles.

The current system of using accessible taxis has worked with varying levels of success across the entire UK rail network. In the last month, FTS has seen an increase in pre-booked accessible taxis to support rail replacement services. This has resulted in a better service for passengers requiring assistance and demonstrates the industries commitment to improving the service offered to all passengers.

The advantages of using accessible taxis are:

- In most cases, a taxi can transport the passenger to their end destination (home or otherwise), not just to the passengers intended station of departure;
- Taxis can stop at motorway services or the like for comfort breaks to suit the individual needs of the passenger;
- Taxis can be quiet environments with greater ease than a bus or coach, thereby allowing noise sensitive passengers a more appropriate method of travel; and
- Taxis can accommodate blind passengers with guide dogs easier than a bus or coach can.

Like buses and coaches, the use of taxis present unique challenges:

- availability in rural and regional areas can be limited; and
- there can be delays where taxis are not pre-booked or where passengers requiring assistance do not notify the TOC of their needs in advance;

The use of taxis is a proven way to assist passengers who require assistance. Mandating the need to use compliant buses or coaches has the potential to force all passengers onto these buses and coaches. This will have the unintended consequence of reducing the accessibility of the railways for those passengers that require assistance, but do not have mobility restrictions.

Dear Sir / Madam,

Please find below the response to the Consultation on Accessible Travel Policy Guidance - accessibility of rail replacement services on behalf of the Friends of the Barton Line.

At FBL, we believe that all services should be accessible. However, we are concerned that, especially with the short notice of the legal advice stipulating that PRM requirements apply to replacement buses, that implementation will be entirely impractical, especially in cases of emergency rail replacement, thus will lead to greater delays for all.

On our line, apart from in the morning peak when an extra train operates, we have only a two hourly train service. Thus when trains are cancelled - sometimes at short notice - replacement road transport is organised, most commonly taking the form of rail replacement buses. The majority of such short notice rail replacement work is carried out by a local coach company who mainly provide private hire and school chartered coaches, therefore the vehicles provided tend to be non accessible coaches. If these were to be barred, we have concerns that it would be impossible to organise a replacement service, thus causing all passengers to be delayed or even stranded until train services can resume.

In the case of pre-planned rail replacement services, we do believe it is more reasonable that accessible vehicles be provided as there is the opportunity to source vehicles from further afield if there do prove to be insufficient accessible vehicles available locally.

Longer term, we feel that there should be some form of incentive to operators to increase the availability of accessible vehicles in order to ensure that every service is accessible to all.

Yours faithfully,

Tom Irvin  
Chairman, Friends of the Barton Line



Consumer Policy Team  
2<sup>nd</sup> Floor  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN  
By email: ATP@orr.gov.uk

14th February 2020

To the Consumer Policy Team

**ORR Travel Policy Guidance - Accessibility of rail replacement services:  
a consultation 20 December 2019**

We welcome the opportunity to respond to this consultation on rail replacement services and the availability and provision of PSVAR-compliant buses during planned and unplanned disruption.

Accessible transport is vital for our customers to be able to participate in all aspects of life. Therefore, we are committed to providing an accessible, inclusive and welcoming service for all our passengers. We want disabled people to have confidence to travel with us, this includes times where we have no option but to utilise rail replacement provisions during disruption.

We aim to provide an as accessible service as is reasonably practicable for our passengers which includes, where possible, the use of PSVAR-compliant rail replacement vehicles. Unfortunately, we are not always in the position to source enough compliant rail replacement vehicles to meet the passenger demand / need, including those with disabilities which do not require level / ramp access. Pre-dating PSVAR requirements, our processes (including those with our suppliers of rail replacement vehicles) aim to ensure that all disabled people are supported and able to safely complete their journey when either planned or unplanned disruption impacts our train services, whether that is by coach, bus or taxi.

**Govia Thameslink Railway**

Monument Place, 24 Monument Street, London, EC3R 8AJ

Registered in England under number: 7934306. Registered office: 3<sup>rd</sup> Floor, 41-51 Grey Street, Newcastle upon Tyne, NE1 6EE



ThamesLink/

As we highlight in our responses to the consultation questions, for GTR, there is a material difference and challenge in our ability to source PSVAR-compliant vehicles for unplanned disruption or shorter-notice planned Network Rail engineering works vs planned engineering works. We have sought external input (including from our GTR Access Advisory Panel) and to include the operational reality within our responses.

Please see our response to the consultation questions on the following pages.

Kind regards,

Eileen O'Neill  
Operational Excellence Director

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### **Question 1**

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

The availability of accessible vehicles for rail replacement services is influenced by different factors.

We have consulted with our suppliers to understand what their challenges are in providing accessible (PSVAR-compliant) buses and coaches for rail replacement services.

One of the factors is geography - urban areas of the country that are densely populated, attract bus operators, that typically operate a majority compliant fleet. Noting also the scheduled bus services and transport options are also more readily available. More rural areas, where towns are spread out over a larger area, are more often, bases for coach operators. The reality is that the ability to source any replacement vehicles (notably for unplanned disruption) at short notice has been a challenge before 1<sup>st</sup> January 2020 and where vehicles can be sourced, that the distance they are required to travel from base locations creates extended delays for passengers with drivers then having limited driving hours remaining to be able to transport passengers.

We also note existing situational factors, on top of the cited geographical reality, on the availability of buses and coaches generally and the risk that the application of PSVAR requirements will further restrict the pool of vehicles available, directly impacting on GTRs ability to safely support all passengers in completing their journeys (including those with a wide range of disabilities who may not use mobility aids and require ramps etc.) These are based on experience both before and after the 1<sup>st</sup> January 2020. Notably, unplanned disruption and the timing of such materially impacts on the pool of vehicles that may be able to support GTR passengers e.g. vehicles already committed to school runs, requirements after the end of normal office hours (operators being closed) including at weekends.

We were also told that there is little commercial incentive for coach operators to invest in compliant vehicles for rail replacement work as rail replacement service is often just a side business for coach operators. As we are unable to guarantee work to these services on a regular basis, they informed us that

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there is no financial incentive to invest in additional fleet volumes (vehicles on standby etc.) and new vehicles which are PSVAR-compliant. GTR have clear processes and procedures to support all passengers during both planned and unplanned disruption, which includes taking reasonable action to ensure that our passengers with accessibility needs are supported. This has included the provision of stand-by accessible taxis on ranks where the bus and coaches arranged have not provided a sufficient level of support (e.g. when considering ratio and frequency of accessible rail replacement vehicles and therefore wait times for an accessible vehicle).

Given the current regulatory position with respect to accessibility on coach, bus and taxis, GTR can only access the supply of vehicles available on the market and cannot directly influence the suppliers of these vehicles (of which rail replacement use is not a key commercial factor) to increase the pool of accessible vehicles in supply both generally and consistently across all the geography in which GTR operates rail services.

One final point that GTR note is that the location for where rail replacement buses are permitted to stop (to set down and pick up passengers) is determined by local authorities and there are recognised challenges in that these locations often present accessibility problems, notably that PSVAR compliant vehicles cannot correctly connect with compliant curbs rendering the vehicle 'in effect' not accessible and instances where the location is at some distances from the station and not step free.

## **Question 2**

**How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?"**

GTR have clear processes and procedures including with our rail replacement suppliers to already consider accessibility in the planning of timetables and rail replacement services required due to Network Rail requesting access to the infrastructure for planned engineering works.

The points we raise in our response to Q1 are also valid here around localised, geographic and situational impacts on the pool available to GTR, notably with respect to unplanned disruption but also for planned.

We note the use of the word 'available' in this question and would reiterate that based on the current supply restrictions for rail replacement vehicles (highlighted in our response to Q1) that GTR, despite prioritisation efforts, would continue to have concerns around our ability to safely transport

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passengers when material unplanned disruption occurs should the already restricted supply be further reduced by the requirement to use only PSVAR compliant rail replacement vehicles.

For planned disruption, we continue to work with the relevant rail replacement operators to ensure that schedules and timetables are as efficient as possible. We ensure clear lines of communication at planning stage between our train planning team and the rail replacement supplier.

For the future, it would be beneficial if on multi-operational lines one TOC would lead the organisation of PSVAR-compliant vehicles for the route on behalf of all TOCs which use the route. Obviously, this arrangement would have to be compliant with competition law. We would also highlight, that the use, with ticket acceptance, of existing local scheduled bus services (incl. TfL and underground) during unplanned disruption would potentially also enable vehicles to be better targeted to support passengers in areas where such transport alternatives are not available, albeit we note that the ability for these services to support, e.g. in peak / busy times, may impact the general feasibility of this.

### **Question 3**

- (a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**
- (b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**
- (c). Do you have a preference for the type of replacement service you receive? If so, please explain why."**

We have consulted with our GTR Access Advisory Panel (AAP) on these questions, and the importance and accessibility of rail replacement services were emphasised.

One of the members said she used an accessible coach in Italy recently, and her experience was good. She also said she had poor experiences with taxis on rail replacement services because there was not enough room for her powerchair and her assistance dog. Also, her wheelchair wasn't appropriately secured onto the vehicle by the driver. She would prefer a bus (low-floor vehicle).

Another member said he would prefer a taxi because it allows him to stop for a comfort break whenever he needs one.

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All members agreed that passengers should have the option of a taxi even if the replacement service is considered as PSVAR-compliant.

**Question 4**

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

We don't routinely capture this data.

**Question 5**

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

We would welcome a better collaboration between Network Rail, TOCs and the Rail Replacement providers. Very often we receive a plan and are only able to pass it to the bus provider with no recourse to alterations, changes or considerations. Especially multiple larger projects on a single weekend can become a big challenge when it comes to finding suitable vehicles and providing a good service. It's noted that weekend engineering works are increasingly frequent, this can mean that multiple train operating companies are requesting rail replacement vehicles.

GTR note that rail replacement vehicles are utilised for both planned works (which includes maintenance, plus short notice and emergency engineering works) and unplanned disruption. It's noted that the infrastructure is impacted by seasonality and therefore the call for short notice line closures from Network Rail materially increases and there is no consideration of appropriate timing as there are often critical safety reasons for the request from Network Rail. The train operating company is tasked with arranging rail replacement vehicles across all these scenarios, and as we note even for planned engineering works the rail replacement request follows last in the process and can be provided with little notice.

GTR work in partnership with Network Rail and whilst Network Rail will ultimately provide GTR with access to infrastructure and the approval to run train services, GTR are mindful that access to complete infrastructure maintenance, committed engineering works and emergency works is not only critical to short terms safety and reliability of the railway but also to the longer term ability for the rail network to meet increasing passenger demand etc.

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Whilst every effort is and would continue to be made to secure rail replacement vehicles to support passengers during planned and unplanned disruption, the reality, where supply of compliant vehicles may not be sufficient, is that alternate transport may not be made available and passengers may be advised 'not to travel'. This decision may also have to be taken earlier in order to mitigate against safety risks, such as passengers being stranded and at risk.

#### **Question 6**

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

We agree with the ORR's proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP guidance. We also agree that requiring explicit contractual provisions with suppliers of RRV's (subject to reasonable caveats regarding the availability / practicality of supply) is an appropriate way for the ORR to address the question of compliance in its ATP guidance.

#### **Question 7**

**How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

Contractual mechanisms should be in place with bus/coach suppliers but from our experience developing a mature and sensible planning process with our suppliers is by far the best way to incentivise compliance and joint mitigation where challenges occur due to vehicle supply issues.

Please note our comments to previous questions with respect to the input we have had from suppliers and the commercial viability of increasing fleet size or investing in compliance simply to support rail replacement activities. Based on this, whilst GTR can utilise contractual and working relationships, it is a matter for bus and coach operators to decide as to whether their wider commercial model supports the on-going provision of rail replacement vehicles.

We note that a material number of coach and bus operators have only a small number of vehicles and therefore may not have the financial ability to invest in fleet compliance when they also have the option to continue with work which does not require PSVAR compliance.

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We note that criminal liability under PSVAR also rests with the coach or bus operator and we have noted that a significant proportion of suppliers of rail replacement vehicles to GTR have elected to not apply under either derogation process (to 31<sup>st</sup> January 2020 and to end April 2020). Whilst we cannot respond for these operators, this may be reflective of their appetite in this area and GTR suggest that responses to this consultation from coach and bus operators will be invaluable to understanding the future position with respect to the essential question around increasing the supply of PSVAR compliant vehicles.

### **Question 8**

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

TW-12 is the Industry timescale for planned train service information being confirmed to Train Operators (by Network Rail) and becoming available in Journey Planners for customers (including any rail replacement services resulting from planned Network Rail engineering work restrictions) to allow for advanced ticket purchasing.

As a result, any request to rail replacement suppliers for planned work can only start to be confirmed at that point in time (TW-12), with the process for then agreeing and identifying the specific vehicle requirements (which will change depending upon everything else that is going on around the Network) and specific vehicle usage taking time to complete.

Please note that TW-12 is the best-case scenario for the start of the process.

GTR would also reference the fact that through the Track Access Contract (TAC) and by using the contractual levers within the Part D of the Network Code; Network Rail is able to process changes to engineering work after TW-12 as long as specific criterion are satisfied. Because of this, no Operator could ever guarantee all plans would be completed by TW-12. GTR and other Operators will always try and manage this to impact passengers as little as possible – but the reality is that across the wide GTR Network, there is always going to be some change and fluidity to plans.

Currently GTR face significant levels of this Network Rail late notice engineering work change, with the notification of these ranging between TW-12 to TW-1, with differing levels of scale.

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GTR therefore suggests that this proposed time limit would require a material change to the Network Code Part D process for timetable and engineering work change and the process with rail replacement operators. As a result, this could not immediately be applied until the process and resourcing is fully reviewed at an Industry-level.

GTR would also question how such an approach (with a 12-week time limit) could ever practically be applied to any unplanned disruption and 'emergency' engineering works?

GTR would also note that across all instances where rail replacement vehicles may be required, that whilst reasonable steps can be taken to procure PSVAR-compliant vehicles this does not resolve the general, geographic and situational supply issues and therefore the pool of compliant vehicles available to GTR.'

#### **Question 9**

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

Subject to the responses we have provided to previous questions, we broadly support all five proposals and think they could be used in combination. Specifically, we highlight the following points for each proposal;

#### Proposal One

Our contract already states that we will only provide PSVAR-compliant vehicles (aside from the current derogation specifications).

#### Proposal Two

See response to question 8.

#### Proposal Three

We already pro-actively contact the customer when they have pre-booked assistance for a journey which then becomes affected by the planned disruption. When possible, we try to reach the passenger and explain the options to him/her and try to meet his/her needs when it comes to alternative transport. Therefore, we support this proposal.

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#### Proposal Four

Our contract already states that all vehicles provided should be compliant; therefore, all information passed to passengers can reflect this. We support the approach to inform passengers that the rail replacement service is accessible and what options are available to them.

#### Proposal Five

We agree with this proposal as we think working together with others instead of competing against each other to get compliant buses is the way forward.

#### **Question 10**

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

No.

#### **Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

We want to highlight again the importance of flexibility raised in the response to question 3 from our AAP members. We must be able to provide a customer with a taxi if he/she prefers this mode of transport due to her/his impairment or make other arrangements if this route is more suitable or quicker for this person instead of using the standard replacement bus service to an unsuitable station for example.

We would also reiterate the reality with respect to unplanned disruption and short-notice engineering works (including emergency possessions by Network Rail) and have raised considerations across this in various question responses.

A key concern being that, despite all efforts and reasonable actions, the potential impact on the ability for all passengers (including those with a wider range of disabilities who do not require level / ramp access) to safely complete their journeys (considering station crowding impacts) and the risk of stranding not be stranded (notably at more rural locations).

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We do feel that long-term planned engineering works present a materially different risk profile in this regard, than short-notice engineering works, emergency engineering works and unplanned disruption and this should be reflected in the ORRs equality and regulatory impact assessment.

**Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

No.

**Govia Thameslink Railway**

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Office for Road and Rail consultation: accessibility of rail  
replacement services  
Guide Dogs response  
February 2020

## About Guide Dogs

Guide Dogs provides services that support the independence of people with sight loss in the UK. Alongside our services, we campaign to remove barriers that prevent blind and partially sighted people living their lives as they choose. Current estimates suggest over two million people with sight loss are living in the UK of which around 360,000 are registered as blind or partially sighted.<sup>1</sup>

## Summary

- We support the ORR's approach towards increasing the availability of PSVAR-compliant vehicles for rail replacement services
- However, the accessible travel policy guidance should be amended to require aural information to be provided onboard rail replacement services
- The guidance should be strengthened to reflect existing requirements for disability equality training for bus and coach drivers
- The guidance should also require TOCs to take reasonable steps to ensure that taxi and minicab drivers providing rail replacement services have received disability equality training

1. Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?
2. How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?
3. (a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?

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<sup>1</sup> [RNIB](#)



(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.

(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.

PSVAR includes requirements which make it easier for people with sight loss to travel by bus or coach, including visual contrast of features such as handrails and steps, priority seating, and audible signals to stop the vehicle. Many passengers with vision impairments will be able to access non-compliant vehicles, but these features are clearly desirable so that they can travel with confidence.

PSVAR also requires bus drivers or conductors to provide reasonable assistance to disabled people to board and alight the service. We are unclear if this requirement extends to services which are not PSVAR-compliant. Although there may be some passengers, such as wheelchair users, who may not be able to board a non-compliant service, we believe that drivers and staff should still be required to assist other disabled passengers who can use these services.

The ATP guidance already states that operators should “set out what appropriate training drivers of rail replacement buses...receive to ensure that they are able to provide assistance to rail passengers. Where it is not reasonably practicable for this training to be provided, the operator must provide an explanation.” However, the EU’s regulation on the rights of bus and coach passengers<sup>2</sup>, including a requirement for all bus and coach drivers to receive disability equality training, was incorporated into UK law in 2018. We therefore believe that providing this training will be “reasonably practical” in all cases and that the ATP guidance should be amended to reflect this.

Some key issues that people with sight loss face when using rail replacement buses and coaches lie outside the scope of PSVAR. Without appropriate direction or assistance from members of staff,

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<sup>2</sup> EU Regulation 181/2011; the UK’s exemption from Article 16 expired on 1 March 2018 and was incorporated into UK law before Brexit

some people with vision impairment may find locating rail replacement services difficult, particularly where services depart some distance from stations. This can also be a problem when leaving a rail replacement service and continuing a journey.

It can also be challenging for passengers with sight loss to obtain clear information on board about when and where a service is stopping. On a standard stopping bus service, this information might be provided with audio-visual announcements. The Bus Services Act 2017 gives the Secretary of State for Transport powers to require bus operators to provide audible and visual information on their services. The Government has stated in the Inclusive Transport Strategy that they intend to secure a significant increase in availability of this information onboard buses by 2022. On a rail replacement service, however, providing this information may be left to staff to provide through a PA system or similar. We nonetheless believe that the ATP guidance should be amended to require aural information to be provided onboard rail replacement services.

Travelling by taxi or minicab brings additional risks for guide dog owners, who frequently face discrimination by drivers because of their dog. Although refusing an assistance dog owner is a criminal offence, according to a 2016 survey, 42% of assistance dog owners reported that they had been refused by a taxi or minicab driver over a 12-month period.<sup>3</sup>

Many drivers are not aware of their legal obligations to disabled passengers, particularly if they have not received disability equality training. Where taxis are used, drivers taking rail replacement bookings should have an appropriate qualification including this training – for instance, the BTEC Introduction to the Role of the Professional Taxi and Private Hire Driver includes an element on disabled passengers. We would not recommend any action that increases reliance on taxis for rail replacement services where disability equality training is not in place.

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<sup>3</sup> Guide Dogs, [Hail Storm](#), 2016

The ATP guidance already requires station operators' contracts for private hire vehicles to include a reasonable number of drivers trained in disability awareness, and for operators to provide information on what training taxi drivers providing rail replacement services receive to ensure they can assist passengers. We believe that the guidance should be strengthened to require TOCs to take reasonable steps to ensure that all taxi and minicab drivers providing rail replacement services have taken disability equality training.

4. Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?
5. We are interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?
6. Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

We recognise that it is not ORR's role to enforce PSVAR. We agree that it is desirable to increase the availability of PSVAR-compliant coaches to meet demand for rail replacement services, but accept that mandating compliance with PSVAR could reduce the availability of services for all passengers.

7. How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?
8. Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?
9. What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

10. Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?
11. Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?
12. Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

For more information, please contact Pete Mills, Public Affairs Officer,

## EXECUTIVE SUMMARY

Great Western Railway (“GWR”) thanks the ORR for the opportunity to respond to the *Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation dated 20 December 2019* (the “Consultation”).

GWR has provided as much relevant information in answering each question posed by the Consultation. Particular attention is drawn to the fundamental barrier to a fully compliant rail replacement service: there are not enough compliant coaches available in the UK. GWR sees it as unlikely that this barrier can be surmounted in the short term, even with increased government funding. This is because current legislation stifles any compelling reason for coach operators to operate PSVAR compliant coaches. Further, the amount of time and investment that is required to build and finance a PSVAR compliant coach industry is not practical in the short to medium term. Coach operators currently take on rail replacement work in addition to their usual work, however rail replacement work is not a core part of any coach operators’ business.

GWR agrees with the ORR that buses can and do play a key part in providing rail replacement services. There are however challenges to using buses for such services. These include, amongst others discussed below, the availability of buses, passenger comfort, luggage capabilities and the availability of drivers. Bus operators currently work with the TOCs; however, they have their own business and regulatory pressures that they must consider and are not able to make rail replacement services a primary consideration when running their businesses.

Given the fundamental lack of supply of PSVAR compliant vehicles, particularly coaches, GWR sees the best course of action is continuing to provide the best possible service to all its customers. This can be done where GWR has the discretion to address the individual requirements of each passenger in the best way it sees. This may mean that some passengers are carried by taxis where buses or coaches are not right for the passenger. Requiring adherence to more stringent requirements is likely to harm GWR’s ability to provide the best possible service to each passenger and their individual needs.

GWR agrees that more can be done by government, the ORR, TOCs, bus, coach and taxi companies to assist those passengers with disabilities. GWR is constantly looking at new ways to improve its services to all its passengers. GWR, however, does not agree that the rail industry can solve this problem by itself.

GWR will work with the Rail Delivery Group in producing a robust and achievable plan, with a series of milestones and delivery points, to show how the industry will move to providing fully compliant rail replacement services. This will be done with collaboration from coach operators, the Office of Rail and Road, DPTAC and other interested groups.

GWR provides a short response to each of the five proposals put forward by the ORR in the consultation, however further detail on these proposals can be found in the response to the twelve questions.

**Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.**

It is unclear what constitutes “appropriate steps” and therefore assessing the viability of this proposal is difficult. Should this mean contractually requiring compliant vehicles to the exclusion of all other vehicles, this proposal could not be implemented without addressing the fundamental supply shortage of compliant vehicles, particularly coaches.

**Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.**

This proposal would require the process of planning for disruptions to start approximately eight (8) weeks earlier compared to what currently happens. This will fundamentally require Network Rail’s co-operation, as without such co-operation this proposal could not be implemented.

**Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).**

GWR currently seeks to do exactly this. This proposal only addresses planned disruption and those passengers that have pre-arranged assistance. This proposal does not address emergency disruption or passengers that do not pre-arrange assistance.

**Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.**

GWR sees this proposal as achievable. It will require the coordination between GWR and the bus/coach operators to confirm the precise vehicles that will be provided.

**Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).**

GWR sees such a forum as a possible way to identify how best to manage the limited supply of compliant vehicles. However, each TOC has a responsibility to its passengers to deliver services and without any mechanism to resolve the fundamental supply shortage of compliant vehicles, such a forum may have limited impact. Any such forum should include passenger groups.

Given the many variables and organisations involved, GWR’s view is that any change to the Accessible Travel Policy should reflect the outcome of any agreement made by the Department of Transport. Once clear guidance around PSVAR has been established, we can then work with the ORR, Toc’s, Coach Operators and disabled customers in providing a clear strategy that will deliver the improvements required and desired by all parties.



Again, GWR thanks the ORR for the opportunity to provide our view on this complicated and important consultation.

Yours faithfully,

Tom Law

Deputy Mobility and Inclusion Manager

Great Western Railway

## Question 1

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

Availability of PSVAR compliant vehicles and the use of PSVAR compliant vehicles are two different issues.

The key considerations for the availability of PSVAR compliant vehicles are:

- Supply of compliant vehicles;
- Coach operator business models;
- The cost of change to coach operators;
- Bus operating companies' existing obligations.

The key considerations for the use of PSVAR compliant vehicles are:

- Quality of service to passengers (including passenger comfort and convenience);
- Infrastructure limitations;
- Compliance with other regulatory requirements, namely the EU tachograph and driver hours regulations; and
- The accessibility of vehicles for passengers with other disabilities.

### Availability

#### Supply

The ORR noted in Chapter 1 of this consultation the supply of accessible vehicles, particularly coaches, is a key challenge for the industry. To illustrate this key challenge at a TOC level, rather than an industry level, the following table details the lack of availability of PSVAR complaint coaches in coach company fleets.

TOC	FTS Core Coach Operators <sup>1</sup>	Estimated Fleet Size of Core Coach Operators	No of PSVAR coaches	% of coach fleet which is PSVAR complaint
GWR	49	735	77	10

These figures have been collated by our vehicle sourcing supplier First Travel Solutions ('FTS') and only concern coaches.

The percentage of compliant vehicles get better when we include buses into rail replacement services, although doing so presents other challenges that are discussed below. The following table is a snapshot from January 2020.

<sup>1</sup> Core Coach Operators are those operators that most reliably supply coaches for rail replacement services.



Date (2020)	Vehicles Required	Compliant Booked	Non-Compliant Booked	% PSVAR Compliant
1-5 January	195	16	178	8%
6-12 January	186	28	158	15%
13-17 January	53	13	40	25%
18-24 January	88	26	62	30%
25-31 January	125	30	90	24%
<b>January Total</b>	<b>647</b>	<b>113</b>	<b>528</b>	<b>17%</b>

This table highlights that even with the addition of buses, there is a significant way to go before a fully compliant service can be provided. There is also a significant disparity across different TOCs. For example, TOCs in the south of the UK (SWR, Southern, South Eastern and GWR) have large parts of their networks in or close to London where stations are closer together (allowing higher use of buses) and where more coach operators frequent. Conversely, TOCs in the north of the UK (TPE, LNER, Northern, Avanti and ScotRail) have much longer distances between stations (resulted in a greater need for coaches) and fewer coach operators close to where rail replacement services are needed. Consequently, we see a disparity in compliance rates as evidenced in the above table.

It must be noted that the above table tells the story for January 2020. Particularly for TOCs in the south of the UK, the level of compliant vehicles is directly related to where rail replacement services are required. If services are required closer to London, like in January, we see higher compliance rates. If services are required in more remote or rural areas, compliance is much lower and comparable to that of northern TOCs.

The clear message from these tables is it is not possible to run a fully compliant rail replacement service using coaches in the UK. Adding buses to rail replacement services goes some way to filling the gap but is not enough to make services fully compliant. Buses in most situations are not appropriate vehicles for rail replacement services due to the lack of storage capacity for luggage, lack of comfort during long distances, lack of toilet facilities, and other regulatory requirements such as those under EU Regulation No 165/2014 (Tachographs in Road Transport) and EC Regulation 561/2006 (the so-called Driver Hours regulations).

The supply of compliant vehicles is the key factor that must be addressed. While several options are discussed later in this response, the two ways the supply of PSVAR compliant coaches can be increased are:

1. Legislatively remove the current exemptions the coach industry relies on for tour operations and private hires under the Transport Act 1985 and the PSVAR; and
2. Government funding provided to retrofit existing vehicles and/or buy new compliant vehicles.

### Coach Operators Existing Business

In the UK, coach operator's primary business is tour operations and private hire work. As discussed above, these activities are exempt from the purview of PSVAR. Based on the understanding from our supplier, First Travel Solutions (FTS)<sup>2</sup>, rail replacement services make up a marginal part of the business for coach companies. Therefore, the problem becomes how can coach operators be influenced to use compliant vehicles without causing them to withdraw from the rail replacement market all together.

<sup>2</sup> FTS receive rail replacement requirements from GWR, SWR, TPE and Hull Trains and source vehicles to meet these requirements.

The answer that delivers long term change and the best result for passengers who use wheelchairs and mobility scooters is legislative change coupled with government funding for more compliant vehicles.

It has been suggested that the TOCs can simply pay higher rates for PSVAR compliant vehicles. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC. We do not believe this will influence the coach operator’s existing business operations enough to incentivise the retrofitting of existing fleets or purchase of new compliant fleets – the costs associated with doing so far outweigh the increase fees the TOCs may pay.

Cost of Retrofitting Existing Fleets and Buying New Fleets

The following table provides a summary of the cost and time required to retrofit an existing non-compliant coach or buy a new compliant coach.

ACTION REQUIRED	COST PER VEHICLE	TIME PER VEHICLE
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

According to the ORR’s consultation paper at paragraph 1.8 of chapter 1, non-compliant coaches were used 55,176 times in the last 12 months for rail replacement services in the UK<sup>3</sup>. If we assume, for the purposes of putting an approximate figure on the total cost of retrofitting existing coaches or buying replacement coaches, that the number of unique vehicles that provided rail replacement services in the last 12 months is one tenth (1/10) of this number, there are approximately 5,500 unique coaches providing rail replacement services.

Using this assumption, the cost of a fully compliant coach industry is therefore:

- If all current non-compliant vehicles are retrofit - £165,000,000 (approximately); or
- If all current non-compliant vehicles are replaced with new vehicles - £1,375,000,000 (approximately).

A further consideration for coach operators is the increasing prevalence of clean air zones in many cities and required compliance with emission standards. Coach operators are fined for breaches to the requirements of clean air zones. Coach operators are required to either convert or replace ageing vehicles that do not meet the latest emissions standards. Both concerns carry financial costs for the coach operators and affect their primary business in a way that PSVAR compliance does not (due to the aforementioned exemptions). If faced with a requirement to comply with emissions standards (affecting their core business) and a requirement to comply with the PSVAR (affecting a marginal part of their business), it will be up to each coach operator to decide which requirement takes precedence.

<sup>3</sup> The ORR states this figure does not include 6 TOCs who were unable to provide full PSVAR vehicle information.

However, we anticipate many coach operators to prioritise compliance with emissions standards over PSVAR – therefore further limiting the supply of compliant coaches.

## Bus Operating Companies' Existing Obligations

According to the ORR, 99.96% of buses used for rail replacement services are PSVAR compliant. Most, if not all, of these buses are owned or used by bus operating companies who are obliged to provide regular local bus services. This obligation comes from the traffic commissioner in each local area and the provision of these regular local bus services is a requirement to maintain the operating licence held by each bus operating company.

Consequently, bus operating companies' top priority is to ensure it has enough buses to operate the bus routes it has committed to operate. This leaves few buses to procure for rail replacement services. This lack of supply is more acute on week days as more regular local bus services are run on week days than on weekends.

The net result of bus operating companies' existing obligations to run regular local bus services, is that it is not always possible to procure buses for rail replacement services, especially for emergency rail replacement service and/or on weekdays. It is not in the business interest of bus operating companies to have a higher percentage of their fleet on standby in case rail replacement services are needed. Like coach operators, rail replacement services do not form a core part of bus operating companies' businesses – it is considered an additional service that may be provided if buses are available.

## Use

### Quality of Service to Passengers

The quickest path to a fully compliant rail replacement service is to primarily use buses. As the ORR states, 99.96% of buses used currently for rail replacement services are PSVAR compliant. Putting aside the availability issues discussed above, using buses has a significant impact on all passengers.

Buses have less seating capacity than most coaches. Consequently, more buses are required to transport the same number of passengers than coaches. This additional need feeds back into the availability issues discussed above, and from a passenger perspective, means a greater risk of delays in service, especially in the case of emergency rail replacement services.

Buses are not designed or built to the same level of comfort as coaches. For example, coaches are fitted with air conditioning while buses tend not to be. This difference in specification means in the case of longer rail replacement services passengers are less likely to be comfortable sitting on a bus than a coach. For example, a rail replacement journey between Taunton and Exeter normally takes approximately an hour. Compared to the intended journey by rail or using coaches for rail replacement services, using buses will result in passengers travelling in less comfort for longer. This is likely to result in lower passenger satisfaction and an overall worse service for passengers.

Buses do not have the same luggage capacity as coaches. Most coaches have significant luggage storage compartments in the undercarriage of the coach. Buses are not designed in the same way and require passengers to leave the luggage in a smaller defined area. Therefore, if a wheelchair user is in the defined area on a bus, other passengers are required to put their luggage on or under seats which can result in a further reduction in seating capacity. This practice creates safety issues as the luggage is normally not secured when in the aisle of the bus, therefore there is the potential for unsecured luggage to harm other passengers in the event of a traffic incident.

Buses do not have seatbelts. Coaches are required to be fitted with seatbelts and standing passengers are not permitted.

Buses do not have toilet facilities on board. This issue is more acute the longer the rail replacement journey is. For example, as mentioned above, Taunton to Exeter can take approximately an hour on a coach or approximately 1 hour and 30 minutes on a bus. During that time, it is highly likely passengers will need to use toilet facilities and if unavailable passenger comfort and satisfaction will drop.

The use of more buses to provide rail replacement services may bridge the compliance gap in the short term. However, the above impacts on passengers must be considered and addressed if/where possible.

## Infrastructure Limitations

The ORR makes reference, at paragraph 2.27 of the consultation, to some of the limitations presented by ageing station infrastructure. We believe more detail is required to flesh out these issues as the challenges presented are significantly more acute in more remote regions.

The first issue here is the ability for compliant vehicles to pick up and drop off passengers at stations. Some stations have varying curb heights or are designed in a way that prevents vehicles from stopping close to the curb. Varying curb heights mean there are different heights that passengers need to step up or down, presenting risks of tripping or falling – this is especially acute with passengers that use movement assistance tools such as walking sticks or crutches. Where there are suitable facilities available, these are often already in use by local bus services, with limited scope to be used for RRS. For example, RRS at Oxford station is often done at one of the car parks, as the facilities at the front of the station are heavily in use by local bus services. It also needs to be considered that bus facilities at a station can fall outside the station lease area. This will mean that any changes to this area must be done by the party responsible for the area. Therefore, the influence and the ability to improve the infrastructure, can fall out of a TOC's control.

The distance between the curb and the vehicle will primarily affect the use of passenger lifts and ramps used to allow wheelchair and scooter users to embark and disembark the vehicle. Lifts have a limitation to how far out from the bus and how far down to the ground they can go. For example, if a station has a low curb that is below the clearance of the coach, the lift may not reach to the ground and the wheelchair user may not be able to use the lift. This prevents the compliant vehicle from performing the very function it was hired to do.

The second issue with infrastructure is the availability of step free access. Elevators and ramps at all stations is vital to make all stations accessible for all passengers. Currently all stations do not have step free access. This issue becomes particularly acute when passengers are required to change platforms and there are no elevators or ramps available. Often this will mean some passengers cannot change platforms and subsequently cannot use the service they have paid for.

Station infrastructure is a key issue in addressing accessibility for disabled passengers because it can prevent passengers from being able to use rail replacement services, even when fully compliant vehicles have been procured. Even if more compliant vehicles are available for rail replacement services, some station infrastructure does not allow for compliant vehicles to pick up and drop off passengers.

## Compliance with Regulations: EU Tachograph Regulations and EU Driver Hours Regulations

EU Regulations concerning the use of tachographs and driver hours create additional complications in the use of PSVAR compliant vehicles.

Turning to the EU tachograph regulations first, it is a requirement that any vehicle operating a “regular service” or a “special regular service” (as defined in the Regulation) over 50 kilometres (route length) or any vehicle operating any “non-regular service” (as defined in the Regulation) must have a tachograph installed and that the tachograph must be used by the driver. For the purposes of rail replacement services, we understand the DVSA believe rail replacement services to be a “special regular service”. Therefore, any rail replacement service over 50 kilometres must be provided by vehicles with a tachograph installed.

We understand most, if not all, coaches in the UK have tachographs installed, however most buses in the UK do not have tachographs installed. Bus operators have informed us the routes they are required to operate for local communities are less than 50 kilometres, therefore these buses are caught by the exemption and need to comply with the UK drivers’ hours rules as set out in the Transport Act 1968. Where this becomes a problem is where TOCs are required to contract buses for rail replacement services that are over 50 kilometres. If a bus does not have a tachograph it would not be used for a service over 50 kilometres. Consequently, the ability to use buses for rail replacement services is limited to services that are under 50 kilometres.

EU Driver Hours regulations require that drivers’ work a maximum of 56 hours in any one week and 90 hours in any two-week period. This restriction is relevant where rail replacement services are driven by drivers who are employed by bus or coach operators to drive on a full-time basis.

For example, a driver is employed to drive a regular bus service Monday to Friday on 9 hour shifts (we are told by bus and coach suppliers), then accepts to drive rail replacement service for 8 hours on the Sunday of the same week, the driver would be unable to work their full number of hours the following week for their employer.

The driving of the rail replacement service causes the driver to become subject to the EU Driver Hours regulations. Because this unavailability of drivers adversely impacts the bus operators’ ability to deliver the services it is required to deliver, bus operators can refuse to allow their drivers to drive rail replacement services. This leaves TOCs in a position where they have a compliant bus but no driver. The vehicle cannot be used and therefore the procurement of the vehicle is meaningless.

The consequence for the TOCs is bus and coach companies may be more reluctant to supply their drivers to drive rail replacement services. Vehicles and drivers are inseparable as one does not work without the other. Therefore, TOCs must be able to procure not only vehicles but the drivers to drive the vehicles. We are told by our suppliers they already face driver shortages and to further limit driver availability will result in an inability to meet the minimum levels of service they are obliged to provide. This issue is more acute for bus operators due to their commitments to local traffic commissioners.

## Accessibility of Vehicles for Passengers with other Disabilities

The PSVAR requirement for vehicles to be accessible in accordance with Schedule 1, is specifically targeted for wheelchair accessibility. This focus, while important, does exclude those passengers with other disabilities, especially those with non-visible disabilities. These passengers have a range of specific needs depending on their disability and can include a need to avoid loud noises, announcements to be made verbally, screens to be used for written instructions and announcements. These specific needs are currently managed by the TOCs and tailored solutions are provided to

passengers that request them where possible. At times, these specific needs are met through the use of accessible taxis. Taxis provide a tailored service to the passenger where a coach or a bus cannot.

All TOCs continue to improve their services for all passengers with the goal being a fully accessible service for all passengers. However, until this is realistically possible, TOCs should have the freedom to address the specific needs to passengers that require assistance in the best way they can.

## Question 2

### **How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The data and analysis provided by the ORR within the consultation document clearly demonstrates that there is insufficient supply of PSVAR vehicles available to meet demand for rail replacement vehicles.

The best way to allow journeys to be taken on PSVAR compliant vehicles is to increase the number of vehicles that are available. This solution will take significant time and significant investment.

Until this happens, the following options may be available, however it must be noted that many of these options required the cooperation of Network Rail.

#### Increase supply of PSVAR vehicles

##### 1. Determine the requirements for rail replacement services earlier

GWR use a third-party operator to procure vehicles for rail replacement services. Currently, we receive the requirements for planned rail replacement services 6 to 10 weeks before the services are needed. To have a better chance to procure compliant vehicles, the requirements for planned rail replacement services would be needed 16 weeks before the services are needed. This extended timeline may give our third-party supplier the opportunity to source compliant vehicles and still meet the ORR reporting requirement of 12 weeks before the services are needed.

This may enable GWR to secure more PSVAR compliant coaches from operators by booking them earlier and whilst more are still available. This will be particularly important during the peak coaching season in June and July. However, this would not guarantee that we can secure all accessible PSVAR vehicles, due to the lack of supply of compliant vehicles discussed in our response to Question 1.

To meet the extended timeline of 16 weeks, Network Rail would need to finalise possessions much sooner and TOCs would have to finalise timetables at T-16 instead of the current T-12 practice. Currently, timetables may be amended up to 1 day before operation due to changing Network Rail priorities or proposed work.

By determining the requirements for rail replacements services 16 weeks before the services are needed, GWR has a better chance to secure compliant vehicles as suppliers may have more vehicles available at T-16 than at T-6 – T-10.

##### 2. Shorter Distances required for Rail Replacement Services

Changing the amount of track that is possessed will reduce the distance GWR is required to provide rail replacement services for. Shorter distances make the use of buses for rail replacement service

much more viable. The passenger comfort and safety issues discussed in Question 1 diminish with shorter distances. The risk of EU tachograph regulations applying to the vehicles is reduced to zero (if the route distance is below 50 kilometres). If coupled with rail replacement requirements being known at T-16, the number of compliant vehicles available increases – bus operators can better plan to accommodate these services using their vehicles with more time.

Changing to shorter distance possessions means it is much more likely GWR can use compliant buses as an option for providing rail replacement services.

### 3. Structure of services

Today, rail replacement services are operated to emulate the rail service it is replacing, i.e. vehicles stop at each station on the route. Rail replacement services could be redesigned to allow for the use of more compliant buses. Compliant coaches would still be sourced where possible to operate the long-distance parts of the route, or a direct service from end to end, while buses could be used to operate shorter journeys along the route. For example, rail replacement services between Bristol and Swindon could operate in this way.

While this structure of rail replacement services gives GWR a better opportunity to run a fully compliant service, there are drawbacks. Some customers may need to change vehicles part way through their journey, likely causing dissatisfaction. Frequent changes may also cause issues, especially for those older or disabled customers who may struggle with the transfer, especially if travelling with luggage, or may be concerned or anxious about connections. It will also increase the overall journey time.

### 4. Higher rates and incentives

As discussed in Question 1, it has been suggested that all TOCs could incentivise the coach industry to use compliant vehicles by paying higher rates. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches, is not economically viable for any TOC.

An alternative to higher rates being paid by the TOCs is for funding to come direct from the DfT to coach operators to incentivise coach conversions and the purchase of compliant coaches. An example of a similar fund is the Access for All fund.

Another alternative may be to incentivise coach companies subsidising the cost of compliant coaches. An example of a similar incentive is used for the purchasing of electric vehicles, reducing the cost to the buyer.

#### Reduce demand for PSVAR vehicles:

##### 1. Scale of pre-planned engineering blocks

Currently, when possessions of the line are taken to facilitate engineering works, train services can be withdrawn from whole branch lines, e.g. Severn Beach line, when the works may be taking place on a small section of the track.

Consideration could be given to mandating that the minimal possible section of track is possessed to facilitate works, with train planning teams then looking at how best to continue to offer the maximum

possible train service, recognising that this may be impacted by resources, including the quantity of units, drivers and conductors who may be available.

It could also be the case that possessions take the 'little and often' approach, rather than larger possessions, reducing the quantity of vehicles needed, however this may protract the timescales and costs of delivery of infrastructure improvements.

## 2. Quantity of pre-planned engineering blocks taking place simultaneously

Network Rail schedule engineering works according to maintenance plans, ensuring that the railway is functioning and available to support train running. To maximise the number of compliant vehicles being used for rail replacement services, Network Rail should be required to consider the ability of TOCs to procure compliant rail replacement vehicles when planning engineering blocks. Currently, no consideration is given to how passengers will complete their journeys when engineering blocks are planned and TOCs are left to plan around engineering blocks as best they can. A requirement to consider how engineering blocks will impact passengers and TOCs would allow more availability of compliant vehicles by reducing the demand.

## 3. Use of diversionary routes

GWR seeks to use diversionary routes where possible, however there are significant challenges that are associated with the use of diversionary route. These challenges are:

- Operating on these diversionary routes requires significant driver and traincrew knowledge. This knowledge also needs to be maintained;
- Services using diversionary routes are required to 'slot in' to the existing timetable for that route. This can be challenging, particularly on busy commuter routes;
- The resulting journey time is, in most cases, much longer than the originally intended journey;
- The capability of the rolling stock on the diversionary route's tracks can be a factor e.g. where the train is electric, and the diversionary route is not electrified.

## 4. Ticket Acceptance

Consideration of what is deemed reasonable for an alternative journey should be considered. Currently, we will offer RRS if we deem it will be quicker for the passenger to travel part of the journey by coach, rather than going by alternative routes by rail. However, it is recognised this may cause inconvenience through increasing end to end journey times and is reliant on other operators having the capacity to accommodate the extra passengers.

For example, currently when we have engineering work in the Severn tunnel, we will operate RRS coaches between Bristol Parkway and Newport. We are not able to use PSVAR buses as the route is over a long distance, includes sections of the motorway and passengers usually have considerable luggage to transport. Theoretically, we could advise passengers from London and Reading to travel to Hereford on our services and then use the Transport for Wales service down to Newport.

This would reduce the demand in coaches at Bristol Parkway. However, it would increase the journey time of passengers greatly and adds additional pressure on the capacity of Transport for Wales.

## 5. Rejection of possessions



Another consideration is for the industry to adopt a process whereby possessions are not accepted unless a full complement of PSVAR vehicles required to provide the road transport operation are secured.

This would likely increase the planning timescales and may see some essential maintenance or upgrade works delayed, impacting the performance and reliability of train services due to infrastructure faults.

### Question 3

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

It is recognised that this question is aimed at customers.

We would encourage the ORR, Department for Transport (DfT) and any other government bodies involved in decisions affecting the provision of rail replacement vehicles to undertake an all-encompassing assessment of customer needs, with engagement with Transport Focus, so that any new approach considers the needs of ALL customers.

### Question 4

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

Specific data on the number of disabled passengers and the number of overall passengers using rail replacement services is not currently recorded. The number of accessible taxi's used to assist passengers is recorded and between 1st December 2019 and 1st of February 2020, we booked 449 taxi's for disabled and elderly passengers. This includes taxi's that we book on standby for RRS at certain stations, to help accommodate passengers who turn up and go.

### Question 5

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

The ORR notes there are significant planned engineering works that are scheduled to take place in 2020. Each of these planned engineering works will require the use of rail replacement services. The table at Appendix 1 details the number of possessions that are currently planned for GWR January 2020 and the number of vehicles that will be required for rail replacement services.

The distances of these rail replacement services mean that coaches are the best type of vehicle for passengers, although as discussed above in Question 1, sourcing compliant coaches will be challenging.

Current planned engineering, especially when considering blockades, involves the possessions of large parts of rail network for extended periods of time which are not restricted to weekend only possessions. A recent example of this is the possession on the GWR network at Newport for work on electrification over the holiday period. This possession lasted for 8 days and resulted in a large RRS operation.

GWR agrees that the work Network Rail does to maintain and upgrade the UK rail network is important and in the long term is to the benefit of all passengers. However, during possessions, replacing services for extended periods of time is already challenging. If these possessions were pushed to all occur on weekends, the result would be a series of costly weekend blocks for upgrade projects, heavy track renewals, station development and re-signalling work. The cost of these possessions would need to be met by the ORR and DfT. Such a program could also force the company into agreeing to double disruption on many routes. This will also have a disproportionate affect onto leisure customers from which, many will be disabled or elderly passengers.

The alternative to the current program of engineering possessions or pushing all possession to weekends, is for Network Rail to reprogram engineering work to consider the availability of replacement services. As discussed in Question 2, engineering possessions should only be scheduled where it is possible to obtain compliant vehicles to operate rail replacement services. Failing this, GWR will be forced to reconsider proposed possessions and may be required to reject possessions due to the lack of available compliant vehicles.

Accommodating current engineering possessions is challenging. Should Accessible Travel Policies mandate the use of compliant vehicles only, and the current way of scheduling engineering possessions continues, GWR will be forced to either reject engineering possessions or issue 'Do Not Travel' notices to passengers. Neither result is good for passengers.

## Question 6

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

The approach proposed by ORR is sensible and duplicate enforcement would not be appropriate. DVSA are the enforcement body for PSVAR across the bus and coach industry and should continue in this role.

## Question 7

**How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The lack of supply of compliant vehicles, as detailed in Question 1, means that imposing additional contractual requirements on vehicle supplies is very unlikely to increase supply. Also, in our response to Question 1 we detailed the challenge faced by the existing business models of vehicle suppliers. In the case of coach companies, their core business is tour operations and private hires. Neither of these operations is required to be compliant with the PSVAR. In the case of bus operators, their existing commitments to run regular local bus services makes rail replacement services a secondary priority.

If GWR were to impose stricter contractual arrangements on coach and bus operators to mandate the use of compliant vehicles only, we expect many operators to simply decline the business offered by GWR. Rail replacement services are not a core part of any coach or bus operators' business. When coupled with the risks associated with the PSVAR and the Equality Act 2010, we understand an even greater number of suppliers to decline the business offered by GWR.

As discussed in Questions 1 and 2, the proposal for all TOCs to pay a higher rate for compliant vehicles would result in very little improvement in the supply of compliant vehicles. The costs associated with retrofitting existing non-compliant vehicles or purchasing new compliant vehicles are far too high to be solely borne by the TOCs paying higher fees for rail replacement services. Further, any increase in fees paid by the TOCs would ultimately need to be compensated for by DfT under existing Franchise Agreement payments (Schedule 4 and Schedule 8 specifically). Therefore, such an incentive is actually an increase cost to the DfT.

Finally, contractually mandating the supply of compliant coaches is very unlikely to be enforceable in the event of a contractual dispute. In the current market, most suppliers are simply not capable of supplying compliant vehicles, particularly coaches.

These factors mean that incentivising bus and coach operators through contractual arrangements is unlikely to result in any meaningful change. If TOCs imposed a requirement to source only compliant vehicles, suppliers could not meet the requirement. Therefore, the bus and coach operators would immediately be in breach of the contracts.

The best approach with bus and coach operators is to mirror the obligations of TOCs in their Franchise Agreements. This type of obligation allows the TOCs to provide the most tailored service to the customer's needs. A more prescriptive obligation on bus and coach operators is highly likely to cause operators to decline rail replacement work resulting in a worsening supply compliant vehicle.

## Question 8

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

The proposed 12-week time limit may have benefits however such a time limit is completely dependent on when Network Rail finalises their possessions schedule and when Network Rail and the TOCs finalise the affected timetables. Presently, Network Rail and each TOC endeavour to agree the timetables at T-12 weeks. This allows the TOC plan rail replacement services and procure vehicles to operate these services in time for the planned possessions. Planning is finalised, and vehicle requirements sent to suppliers between T-10 weeks and T-6 weeks, depending on the extent of rail replacement services required. Vehicle operator tenders are usually received and finalised by T-4 weeks.

To comply with the proposed 12-week time limit to demonstrate all appropriate steps have been taken to assess requirements and to procure compliant vehicles, the above T-4 week timeline where vehicle operator tenders are finalised will need to move to T-12 weeks. This will have a direct knock on effect on the previous steps in the process, beginning with when Network Rail finalise their plans for work.

Consequently, to comply with a 12-week time limit reporting requirement, the following revised timelines will need to apply:

- Network Rail to finalise planned engineering work schedule by T-24 weeks.
- Network Rail and TOCs finalise timetables at T-20 weeks.
- Rail replacement service planning and resource requirements determined and sent to suppliers by T-18 to T-14 weeks.
- Tenders finalised and awarded by T-12 weeks.

Without this wholistic time line in place, a 12-week time limit to report will not be possible.

## Question 9

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We have ranked the proposals and what we see as the advantages and disadvantages in the table below. It must be noted however that none of these proposals address the cores issue: there are simply not enough compliant vehicles and without legislative change or government funding, this situation will continue. 1 is the preferred option and 5 is the least preferred.

Proposal	Advantages	Disadvantages	Ranking
One	<ul style="list-style-type: none"> <li>Places a contractual obligation to maximise the no. of PSVAR vehicles.</li> <li>May help operators work more smartly in how they procure and then use the compliant vehicles available.</li> <li>May change larger operators' attitudes to procuring PSVAR compliant vehicles in the future.</li> </ul>	<ul style="list-style-type: none"> <li>Unlikely to increase the no of PSVAR vehicles for smaller operators.</li> <li>Does not guarantee suppliers will then decide to purchase PSVAR vehicles.</li> <li>There are not enough PSVAR vehicles available and this process will still lead us to using non-compliant vehicles without tackling the issue of increasing supply.</li> <li>To contractually mandate a supplier to do something that is not possible, does not seem a logical approach.</li> </ul>	5
Two	<ul style="list-style-type: none"> <li>Will require NR and TOCs to finalise timetables much earlier, which would give the best opportunity in procuring vehicles and would also have other customer benefits, such as providing information further in advance.</li> <li>Should increase the number of PSVAR vehicles due to earlier recruitment.</li> <li>Could link to possessions only being agreed if PSVAR RRS is guaranteed. May mean more</li> </ul>	<ul style="list-style-type: none"> <li>NR and TOCs will need to change their planning timescales for RRS</li> <li>Last minute changes to RRS by NR and/or TOCs is unlikely to be possible, if a timetable has to be locked down in advance.</li> <li>Network Rail at times, need to take short term possessions. This could be due to not completing all work in the first possession or some emergency engineering work to take</li> </ul>	4

	<p>inventive approaches to RRS and engineering work.</p>	<p>place. In these instances, notice to operators are limited.</p>	
Three	<ul style="list-style-type: none"> <li>• There is little difference to current practice and current obligations, so straight forward to amend and implement</li> <li>• This proposal should be included as an addition to other proposals and not in isolation.</li> </ul>	<ul style="list-style-type: none"> <li>• This is only for booked assistance and the real benefit for using PSVAR vehicles is felt more for turn up and go passengers, in order to offer instant transport, even when there are engineering works.</li> </ul>	1
Four	<ul style="list-style-type: none"> <li>• This would benefit passengers who like to plan and will assist them in their end to end journey plans</li> <li>• Will help front line staff who can quickly check the planned PSVAR vehicles in operation.</li> </ul>	<ul style="list-style-type: none"> <li>• The current industry systems will need to be upgraded as only limited information is available to be shown currently. This would take time and money to implement.</li> <li>• May not help turn up and go passengers</li> <li>• This would require a change to the timetable planning, as the PSVAR vehicles will need to be in place before customers are able to buy tickets.</li> <li>• Reliant on reliability of coach suppliers, late changes to PSVAR vehicles could confuse passengers who book far in advance and set inaccurate expectations.</li> </ul>	3
Five	<ul style="list-style-type: none"> <li>• This could be a good initiative if it encourages better planning and co-ordination by NR and across TOCs to manage demand for vehicles.</li> </ul>	<ul style="list-style-type: none"> <li>• Will not help at known busy times for possessions e.g Xmas, as there is little flexibility on these possessions and therefore demand for PSVAR vehicles will outweigh supply.</li> </ul>	2

**Question 10**

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

The fundamental issue is the coach industry has exemptions from PSVAR to conduct their primary business operations: tours and private hires. This directly translates into a lack of compliant vehicles available for rail replacement vehicles where the ORR has stated only 175 out of 55,351 rail replacement coach journeys were compliant in the last 12 months.

To address this fundamental issue either legislative change will be required to remove these current exemptions, or more vehicles will need to be made compliant or compliant vehicles bought. With both paths forward, significant investment will be needed, primarily coming from the DfT. As stated above the following estimates represent the costs involved with making an assumed 5,500 coaches compliant:

<b>ACTION REQUIRED</b>	<b>COST PER VEHICLE</b>	<b>TOTAL INVESTMENT REQUIRED</b>
Retrofit an existing coach	£30,000 (approximately)	£165,000,000 (approximately)
Buy a compliant coach	£250,000 (approximately)	£1,375,000,000 (approximately)

The only option we believe will make a significant impact and improve the accessibility of coaches in the UK is significant investment by the DfT into the coach industry because coach operators are currently not incentivised to spend the amount of money required to operator compliant coaches.

**Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

The ORR should consider in their assessment the needs of all customers. Prioritisation of the needs of those who require level access could cause significant and damaging detriment to the accessibility of the service for those with hidden and potentially complex disabilities.

The focus must be on providing a service which meets the needs of all customers, providing a range of vehicles to meet varied needs, tailored to allow flexibility and encourage use of the most suitable vehicles, rather than a focus on compliance.

For example, the addition of quiet carriages on many services allows those customers who do not cope well in noisy environments to use the railways in a way that is comfortable and safe for them. Quiet carriages are cannot be replicated when using buses or coaches for rail replacement services and therefore these passengers may find a taxi more appropriate to their needs.

We strongly believe that equality can be achieved, with dignity and comfort for all by using practical solutions, without imposing compliance standards that may not fully consider the impact on all rail passengers.

**Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

As a general comment, we do not believe mandating restrictive policy guidance or regulations about the types of vehicles to be used for rail replacement services will result in a better service for all passengers. Fundamentally, the vehicles to operate a fully compliant rail replacement service do not exist in the UK. Without more compliant vehicles, TOCs cannot procure compliant vehicles.

The current system of using accessible taxis has worked with success across the entire UK rail network. The advantages of using accessible taxis are:

- In most cases, a taxi can transport the passenger to their end destination (home or otherwise), not just to the passengers intended station of departure;
- Taxis can stop at motorway services or the like for comfort breaks to suit the individual needs of the passenger;
- Taxis can be quiet environments with greater ease than a bus or coach, thereby allowing noise sensitive passengers a more appropriate method of travel; and
- Taxis can accommodate blind passengers with guide dogs easier than a bus or coach can.

Like buses and coaches, the use of taxis present unique challenges:

- availability in rural and regional areas can be limited; and
- there can be delays where taxis are not pre-booked or where passengers requiring assistance do not notify the TOC of their needs in advance;

The use of taxis is a proven way to assist passengers who require assistance. Mandating the need to use compliant buses or coaches has the potential to force all passengers onto these buses and coaches. This will have the unintended consequence of reducing the accessibility of the railways for those passengers that require assistance, but do not have mobility restrictions.

**Appendix 1 - 2020 current RRS requirements (year so far)**

Possession location	Which TOC(s)	Where from/where to	Intermediate stations	Dates of possession	Times of possession	Known passengers with mobility requirements
Hinksey North Jn to Tackley	GWR	Oxford to Banbury	Tackley/Heyford/Kings sutton	04/01/20-05/01/20	2320-0835	5 Passengers (booked with GWR, maybe more with crosscountry)
Exeter St Thomas to Lipson Jn	GWR / XC	Exeter/Newton Abbot/Plymouth/Tiverton Parkway	Totnes/Ivybridge/Starcross/Dawlish Warren/Dawlish/Teignmouth	04/01/20-06/01/20	0100-0330	31
Lavington to Castle Cary	GWR	Westbury/Frome, Warminster/Westbury	Dilton Marsh	05/01/2020	0020-0840	0
Caversham Road Jn to Moreton Cutting	GWR	Tilehurst/Pangbourne	None	05/01/20-06/01/20	0035-0410	0
Maidenhead to Bourne End	GWR	Maidenhead to Bourne End	Cookham/Furze Platt	05/01/2020	0040 - 0825	0
Chester Line Jn to Hinksey North	GWR	Didcot Parkway to Oxford	Appleford/Culham/Radley	05/01/2020	0050-0750	0
Chester Line Jn to Hinksey North	GWR	Didcot Parkway to Oxford	Appleford/Culham/Radley	05/01/2020	2305-0445	0
Stockley Bridge Jn to Ruscombe	GWR	Slough to Taplow	Burnham	04/01/20-05/01/20	2300-0800	0
Acton West to Southall West	GWR	Hayes & Harlington to Burnham	Langley/West Drayton	05/01/2020	0440-0600	0



Thingley Jn to Bradford Jn	GWR	Chippenham to Westbury	Trowbridge/Melksham	04/01/20-05/01/20	2230-2330	0
Westbury Line Jn to Southcote Jn inc	GWR / SWR / XC	Reading to Basingstoke/Newbury	Reading West/Mortimer/Bramley/Newbury Racecourse/Thatcham/Migham/Aldermaston/Theale	05/01/2020	0035-0825	0
Reading 456 to Guildford	GWR / SWR	Reading to Guildford	Wokingham/Crowthorne/Sandhurst/Blackwater/Farnborough North/North Camp/Ash	05/01/20-06/01/20	0110-0415	0
Pinhoe Single Line Jn to Exeter St Davids	GWR / SWR	Exeter to Exmouth	Exeter Central/St James Park/Polsloe Bridge/Digby & Sowton/Newcourt/Topsham/Exton/Lympstone Commando/Lympstone Village	06/01/20-07/01/20	2350-0530	0
Slough West to Kennet Bridge Jn	GWR	Slough to Taplow	Burnham	06/01/20-07/01/20	2300-0530	0
Slough West to Kennet Bridge Jn	GWR	Slough to Taplow	Burnham	07/01/20-08/01/20	2300-0530	0
Tilehurst to Didcot East	GWR	Tilehurst to Pangbourne	None	10/01/20-11/01/20	2350-0400	0
Dolphin Jn to Maidenhead	GWR	Slough to Taplow	Burnham	10/01/20-11/01/20	2335-0630	0
Worcestershire Parkway closed	GWR	Evesham to Worcester Shrub Hill	Pershore	04/01/2020, 07/01/20-10/01/20	N/A	7th - 2 passengers, 10th - 0 passengers
Hinksey North Jn to Tackley	GWR	Oxford to Banbury	Tackley/Heyford/Kings sutton	11/01/20-12/01/20	2320-0835	0
Wolvercote S Jn to Wolvercote N Jn	GWR	Evesham to Worcester Shrub Hill	Pershore	11/01/20-12/01/20	2320-0835	0
Aish emergency	GWR / XC	Exeter/Newton Abbot/Plymouth/Tiverton Parkway	Totnes/Ivybridge/Starcross/Dawlish Warren/Dawlish/Teignmouth	11/01/20-13/01/20	0100-0330	2

Xovers to Totnes						
Thingley Jn to Bradford Jn	GWR	Westbury to Chippenham	Trowbridge/Melksham	11/01/20-12/01/20	2230-2330	0
Lavington to Fairwood	GWR	Warminster to Westbury	Dilton Marsh	11/01/20-12/01/20	2210-0850	0
Oxford Road Jn to Bedwyn	GWR	Newbury to Reading	Reading West/Mortimer/Bramley/Newbury Racecourse/Thatcham/Migham/Aldermaston/Theale	12/01/2020	0050-0800	0
Chester Line Jn to Hinksey North	GWR	Didcot Parkway to Oxford	Appleford/Culham/Radley	12/01/20-13/01/20	2305-0445	0
Pilning to Maindee East Jn	GWR / TFW / XC	Bristol Parkway to Cardiff	Patchway/Severn Tunnel Jn/Newport	12/01/2020	0020-1620	0
Yatton to Cogload Jn	GWR / XC	Bristol Temple Meads to Weston-Super-Mare	Bedminster/Parson Street/Nailsea & Blackwell/Yatton/Worle/Weston Milton	11/01/20-12/01/20	2350-0650	0
Fratton to Portsmouth Harbour	GWR / SWR / GTR	Fareham to Portsmouth	Romsey/Southampton Central/Cosham/Fratton/Portsmouth & Southsea	12/01/20-13/01/20	0125-0400	0
Reading to Blackwater	GWR / SWR	Reading to Blackwater	Wokingham/Crowthorne/Sandhurst/Blackwater/Farnborough North/North Camp	12/01/20-13/01/20	0050-0415	0
Parson Street to Cogload Jn	GWR / XC	Bristol Temple Meads to Taunton	Bridgwater/Highbridge/Weston-Super-Mare/Weston Milton/Worle/Yatton/Nailsea & Blackwell/Parson Street/Bedminster	13/01/20-14/01/20	2135-0500	0
Parson Street to Cogload Jn	GWR / XC	Bristol Temple Meads to Taunton	Bridgwater/Highbridge/Weston-Super-Mare/Weston Milton/Worle/Yatton/Nailsea & Blackwell/Parson Street/Bedminster	14/01/20-15/01/20	2135-0500	0
Parson Street to Cogload Jn	GWR / XC	Bristol Temple Meads to Taunton	Bridgwater/Highbridge/Weston-Super-Mare/Weston Milton/Worle/Yatton/Nailsea & Blackwell/Parson Street/Bedminster	15/01/20-16/01/20	2135-0500	0
Parson Street to Cogload Jn	GWR / XC	Bristol Temple Meads to Taunton	Bridgwater/Highbridge/Weston-Super-Mare/Weston Milton/Worle/Yatton/Nailsea & Blackwell/Parson Street/Bedminster	16/01/20-17/01/20	2135-0500	0

Southcote Jn to Bedwyn	GWR	Reading to Bedwyn	Theale/Aldermaston/Migham/Thatcham/Newbury Racecourse/Newbury/Kintbuury/Hungerford	13/01/20-14/01/20	2220-0505	0
Southcote Jn to Bedwyn	GWR	Reading to Bedwyn	Theale/Aldermaston/Migham/Thatcham/Newbury Racecourse/Newbury/Kintbuury/Hungerford	14/01/20-15/01/20	2220-0505	0
Southcote Jn to Bedwyn	GWR	Reading to Bedwyn	Theale/Aldermaston/Migham/Thatcham/Newbury Racecourse/Newbury/Kintbuury/Hungerford	15/01/20-16/01/20	2220-0505	0
Southcote Jn to Bedwyn	GWR	Reading to Bedwyn	Theale/Aldermaston/Migham/Thatcham/Newbury Racecourse/Newbury/Kintbuury/Hungerford	16/01/20-17/01/20	2220-0505	0
Wokingham to Reading	GWR / SWR	Reading to Guildford	Guildford/North Camp/Blackwater/Wokingham	15/01/2020	0015-0515	0
Wokingham to Reading	GWR / SWR	Reading to Guildford	Guildford/North Camp/Blackwater/Wokingham	16/01/2020	0015-0515	0
Wokingham to Reading	GWR / SWR	Reading to Guildford	Guildford/North Camp/Blackwater/Wokingham	17/01/2020	0015-0515	0
Worcestershire Parkway closed	GWR	Evesham to Worcester Shrub Hill	Pershore	11/01/2020, 13/01/20-17/01/20	N/A	
Oxford to Wolvercote Jn	GWR	Oxford to Banbury	Tackley/Heyford/Kings sutton	18/01/20-19/01/20	2320-0835	0
Caversham Road Jn to Moreton Cutting	GWR	Tilehurst to Pangbourne	None	18/01/20-19/01/20	2310-0750	0
Maidenhead to Bourne End	GWR	Maidenhead to Bourne End	Cookham/Furze Platt	18/01/20-19/01/20	2300-0800	0
Exeter St Thomas to Lipson Jn	GWR / XC	Exeter/Newton Abbot/Plymouth/Tiverton Parkway	Totnes/Ivybridge/Starcross/Dawlish Warren/Dawlish/Teignmouth	19/01/20-20/01/20	0025-0130	0
Thingley Jn to Bradford Jn	GWR	Chippenham to Westbury	Trowbridge/Melksham	18/01/20-19/01/20	2230-2330	0
Clink Road to Blatchbridge Jn	GWR	Westbury to Frome	None	19/01/2020	0020-0910	0

Farlington Jn to Portsmouth Harbour	GWR / SWR / GTR	Fareham to Portsmouth	Cosham/Fratton/Portsmouth & Southsea	19/01/20- 20/01/20	0125-0400	0
Southcote Jn to Bedwyn	GWR	Reading to Newbury	Newbury Racecourse/Thatcham/Midgham/Alderamston/Theale	19/01/2020	0050-0930	0
Hinksey South Jn to Oxford	GWR	Didcot Parkway to Oxford	Appleford/Culham/Radley	19/01/20- 20/01/20	2305-0445	0
Moreton Cutting inc to Foxhall Jn inc	GWR	Didcot Parkway to Oxford	Radley	19/01/2020	0050-0750	0
Caversham Road Jn to Moreton Cutting	GWR	Tilehurst to Pangbourne	None	19/01/20- 20/01/20	2300-0410	0
Southall West to Slough West inc	GWR	Slough to Taplow	Burnham	19/01/2020	0001-0800	0
Slough West to Ruscombe	GWR	Slough to Burnham	None	19/01/20- 20/01/20	2300-0500	0
Westbury South Jn to Beechgrove	GWR	Westbury to Frome	None	20/01/20- 21/01/20	2345-0520	0
Westbury South Jn to Beechgrove	GWR	Westbury to Frome	None	21/01/20- 22/01/20	2345-0520	0
Westbury South Jn to Beechgrove	GWR	Westbury to Frome	None	22/01/20- 23/01/20	2345-0520	0
Westbury South Jn to Beechgrove	GWR	Westbury to Frome	None	23/01/20- 24/01/20	2345-0520	0
Landore Jn to Swansea	GWR / TFW	Neath to Swansea	None	20/01/20- 21/01/20	0015-0450	0

Landore Jn to Swansea	GWR / TFW	Neath to Swansea	None	21/01/20-22/01/20	0015-0450	0
Landore Jn to Swansea	GWR / TFW	Neath to Swansea	None	22/01/20-23/01/20	0015-0450	0
Landore Jn to Swansea	GWR / TFW	Neath to Swansea	None	23/01/20-24/01/20	0015-0450	0
Tilehurst to Didcot East	GWR	Tilehurst to Pangbourne	None	20/01/20-21/01/20	2330-0510	0
Tilehurst to Didcot East	GWR	Tilehurst to Pangbourne	None	21/01/20-22/01/20	2330-0510	0
Tilehurst to Didcot East	GWR	Tilehurst to Pangbourne	None	22/01/20-23/01/20	2330-0510	0
Tilehurst to Didcot East	GWR	Tilehurst to Pangbourne	None	23/01/20-24/01/20	2330-0510	0
Slough West to Kennet Bridge Jn	GWR	Slough to Taplow	Burnham	20/01/20-21/01/20	2300-0530	0
Slough West to Kennet Bridge Jn	GWR	Slough to Taplow	Burnham	21/01/20-22/01/20	2300-0530	0
Slough West to Kennet Bridge Jn	GWR	Slough to Taplow	Burnham	22/01/20-23/01/20	2300-0530	0
Slough West to Kennet Bridge Jn	GWR	Slough to Taplow	Burnham	23/01/20-24/01/20	2300-0530	0
Worcestershire Parkway closed	GWR	Evesham to Worcester Shrub Hill	Pershore	18/01/2020, 20/01/20-24/01/20	N/A	
Hinksey North Jn to Tackley	GWR	Oxford to Banbury	Tackley/Heyford/Kings sutton	25/01/20-26/01/20	2320-0835	0

Farlington Jn to Portsmouth Harbour	GWR / SWR / GTR	Fareham to Portsmouth	Cosham/Fratton/Portsmouth & Southsea	25/01/20-27/01/20	0125-0400	0
Yeovil Pen Mill to Dorchester West	GWR / SWR	Yeovil Pen Mill to Weymouth	Thornford/Yetminster/Chetnole/Maiden Newton/Dorchester West Upwey	24/01/20-26/01/20	2305-2305	0
Castle Cary to Dorchester West	GWR / SWR	Castle Cary to Weymouth	Yeovil Pen Mill/Thornford/Yetminster/Chetnole/Maiden Newton/Dorchester West Upwey	26/01/20-27/01/20	2305-0540	0
Tilehurst to Didcot East	GWR	Tilehurst to Pangbourne	None	24/01/20-25/01/20	2350-0440	0
Twyford to Henley on Thames	GWR	Twyford to Henley	Wargrave/Shiplake	25/01/20-27/01/20	0100-0500	0
Exeter St Thomas to Lipson Jn	GWR / XC	Exeter/Newton Abbot/Plymouth/Tiverton Parkway	Totnes/Ivybridge/Starcross/Dawlish Warren/Dawlish/Teignmouth	26/01/20-27/01/20	0025-0330	0
Pinhoe Single Line Jn to Exeter St Davids	GWR / SWR	Exeter to Exmouth	Exeter Central/St James Park/Polsloe Bridge/Digby & Sowton/Newcourt/Topsham/Exton/Lympstone Commando/Lympstone Village	25/01/20-26/01/20	2350-0530	0
Fairwood Jn to Castle Cary	GWR	Warminster to Westbury	Dilton Marsh	26/01/2020	0020-0840	0
Thingley Jn to Bradford Jn	GWR	Chippenham to Westbury	Trowbridge/Melksham	25/01/20-26/01/20	2230-2330	0
Briton Ferry East to Swansea	GWR / TFW / XC	Swansea to Cardiff	Neath/Port Talbot \parkway/Bridgend	26/01/2020	0035-0935	0
Reading West to Tilehurst East	GWR	Tilehurst to Pangbourne	None	25/01/20-27/01/20	2010-0510	0

Chester Line Jn to Hinksey North	GWR	Didcot Parkway to Oxford	Appleford/Culham/Radley	26/01/20-27/01/20	2305-0445	0
Chester Line Jn to Hinksey North	GWR	Didcot Parkway to Oxford	Radley	26/01/2020	0050-0750	0
Ascott-Under-Wychwood to Moreton-in-Marsh	GWR	Oxford to Worcester Shrub Hill	Hanborough/Charlbury/Shipton/Kingham/Moreton-in-marsh/Honeybourne/Evesham/Pershore/Worcestershire Parkway	27/01/20-28/01/20	2210-0510	0
Ascott-Under-Wychwood to Moreton-in-Marsh	GWR	Oxford to Worcester Shrub Hill	Hanborough/Charlbury/Shipton/Kingham/Moreton-in-marsh/Honeybourne/Evesham/Pershore/Worcestershire Parkway	28/01/20-29/01/20	2210-0510	0
Norton Jn to Evesham	GWR	Oxford to Worcester Shrub Hill	Hanborough/Charlbury/Shipton/Kingham/Moreton-in-marsh/Honeybourne/Evesham/Pershore/Worcestershire Parkway	29/01/20-30/01/20	2210-0511	0
Norton Jn to Evesham	GWR	Oxford to Worcester Shrub Hill	Hanborough/Charlbury/Shipton/Kingham/Moreton-in-marsh/Honeybourne/Evesham/Pershore/Worcestershire Parkway	30/01/2020 - 31/01/2020	2210-0512	0
Uffington to Thingley Jn	GWR	Reading to Bristol Temple Meads	Didcot/Swindon/Chippenham/Bath Spa	28/01/2020	0015-0510	0
Uffington to Thingley Jn	GWR	Reading to Bristol Temple Meads	Didcot/Swindon/Chippenham/Bath Spa	29/01/2020	0015-0510	0
Uffington to Thingley Jn	GWR	Reading to Bristol Temple Meads	Didcot/Swindon/Chippenham/Bath Spa	30/01/2020	0015-0510	0
Uffington to Thingley Jn	GWR	Reading to Bristol Temple Meads	Didcot/Swindon/Chippenham/Bath Spa	31/01/2020	0015-0510	0

**Paul Jackson**  
**Head of Customer And Stakeholder Engagement**  
**Hull Trains**

**14<sup>th</sup> February 2020**

**Office of Rail and Road**  
**25 Cabot Square**  
**London**  
**E14 4QZ**

Dear ATP team

**Re: Consultation on Accessible Travel Policy Guidance - accessibility of rail replacement services**

Hull Trains thanks the ORR for the opportunity to respond to the *Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation dated 20 December 2019* (the “Consultation”).

Hull Trains has provided as much relevant information in answering each question posed by the Consultation. Particular attention is drawn to the fundamental barrier to a fully compliant rail replacement service: there are not enough compliant coaches available in the UK. Hull Trains sees it as unlikely that this barrier can be surmounted in the short term, even with increased government funding. This is because current legislation stifles any compelling reason for coach operators to operate PSVAR compliant coaches. Further, the amount of time and investment that is required to build and finance a PSVAR compliant coach industry is not practical in the short to medium term. Coach operators currently take on rail replacement work in addition to their usual work, however rail replacement work is not a core part of any coach operators’ business.

Hull Trains agrees with the ORR that buses can and do play a key part in providing rail replacement services. There are however challenges to using buses for such services. These include, amongst others discussed below, the availability of buses, passenger comfort, luggage capabilities and the availability of drivers. Bus operators currently work with the TOCs however they have their own business and regulatory pressures that must consider and are not able to make rail replacement services a primary consideration when running their businesses.

Given the fundamental lack of supply of PSVAR compliant vehicles, particularly coaches, Hull Trains sees the best course of action as continuing to provide the best possible service to all its customers. This can only be done where Hull Trains has the discretion to address the individual requirements of each passenger in the best way it sees. This may mean that some passengers are carried by taxis where buses or coaches are not right for the passenger, like Hull Trains currently does. Requiring adherence to more stringent requirements is likely to harm Hull Trains’ ability to provide the best possible service to each passenger.



Hull Trains agrees that more can be done by government, the ORR, TOCs, bus, coach and taxi companies to assist those passengers with disabilities. Hull Trains is constantly looking at new ways to improve its services to all its passengers. Hull Trains however does not agree that the rail industry can solve this problem by itself.

In this submission, Hull Trains provides a short response to each of the five proposals put forward by the ORR in the Consultation, however further detail on these proposals can be found in the response to the twelve questions.

**Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.**

It is unclear what constitutes “appropriate steps” and therefore assessing the viability of this proposal is difficult. Should this mean contractually requiring compliant vehicles to the exclusion of all other vehicles, this proposal could not be implemented without addressing the fundamental supply shortage of compliant vehicles, particularly coaches.

**Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.**

This proposal would require the process of planning for disruptions to start approximately eight (8) weeks earlier compared to what currently happens. This will fundamentally require Network Rail’s cooperation, as without such cooperation this proposal could not be implemented.

**Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).**

Hull Trains currently seeks to do exactly this. This proposal however only addressing planned disruption and those passengers that have pre-arranged assistance. This proposal does not address emergency disruption or passengers that do not pre-arrange assistance.

**Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.**

Hull Trains sees this proposal as achievable. It will require the coordination between Hull Trains and the bus/coach operators to confirm the precise vehicles that will be provided.

**Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail**

**replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).**

Hull Trains sees such a forum as a possible way to identify how best to manage the limited supply of compliant vehicles. However, each TOC has a responsibility to its passengers to deliver services and without any mechanism to resolve the fundamental supply shortage of compliant vehicles, such a forum may have limited impact. Any such forum should include passenger groups.

Given the above and the answers to the below questions, Hull Trains' view is the Accessible Travel Policy Guidance should not be changed. To do so would oblige all TOCs to standards they cannot currently meet due to factors outside of their control. Further, Hull Trains sees it as the role of the government to address the fundamental lack of supply of compliant vehicles by providing the legislative framework to facilitate such a change in the coach industry.

Again, Hull Trains thanks the ORR for the opportunity to provide our view on this complicated and important consultation.



**Paul Jackson**  
**Head of Customer and Stakeholder Engagement**

### Question 1

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

Availability of PSVAR compliant vehicles and the use of PSVAR compliant vehicles are two different issues.

The key considerations for the availability of PSVAR compliant vehicles are:

- Supply of compliant vehicles;
- Coach operator business models;
- The cost of change to coach operators;
- Bus operating companies' existing obligations.

The key considerations for the use of PSVAR compliant vehicles are:

- Quality of service to passengers (including passenger comfort and convenience);
- Compliance with other regulatory requirements, namely the EU tachograph and driver hours regulations; and
- The accessibility of vehicles for passengers with other disabilities.

### **Availability**

#### Supply

The ORR noted in Chapter 1 of this consultation the supply of accessible vehicles, particularly coaches, is a key challenge for the industry. To illustrate this key challenge at a TOC level, rather than an industry level, the following table details the lack of availability of PSVAR compliant coaches in coach company fleets.

TOC	FTS Core Coach Operators <sup>1</sup>	Estimated Fleet Size of Core Coach Operators	No of PSVAR coaches	% of coach fleet which is PSVAR compliant
Hull Trains	10	150	32	21

These figures have been collated by our vehicle sourcing supplier First Travel Solutions ('FTS') and only concern coaches.

Even with the addition of buses, there is a significant way to go before a fully compliant service can be provided. There is also a significant disparity across different TOCs. For example, TOCs in the south of the UK (SWR, Southern, South Eastern and GWR) have large parts of their networks in or close to London where stations are closer together (allowing higher use of buses) and where more coach operators frequent. Conversely, TOCs in the north of the UK (TPE, Hull

<sup>1</sup> Core Coach Operators are those operators that most reliably supply coaches for rail replacement services.

Trains, LNER, Northern, Avanti and ScotRail) have much longer distances between stations (resulted in a greater need for coaches) and fewer coach operators close to where rail replacement services are needed.

The clear message from this table is it is not possible to run a fully compliant rail replacement service using coaches in the UK. Adding buses to rail replacement services goes some way to filling the gap but is not enough to make services fully compliant. Buses in most situations are not appropriate vehicles for rail replacement services due to the lack of storage capacity for luggage, lack of comfort during long distances, lack of toilet facilities, and other regulatory requirements such as those under EU Regulation No 165/2014 (Tachographs in Road Transport) and EC Regulation 561/2006 (the so-called Driver Hours regulations).

The supply of compliant vehicles is the key factor that must be addressed. While several options are discussed later in this response, the two ways the supply of PSVAR compliant coaches can be increased are:

1. Legislatively remove the current exemptions the coach industry relies on for tour operations and private hires under the Transport Act 1985 and the PSVAR; and
2. Government funding provided to retrofit existing vehicles and/or buy new compliant vehicles.

### Coach Operators Existing Business

In the UK, coach operator's primary business is tour operations and private hire work. As discussed above, these activities are exempt from the purview of PSVAR. Based on the understanding from our supplier, First Travel Solutions (FTS)<sup>2</sup>, rail replacement services make up a marginal part of the business for coach companies. Therefore, the problem becomes how can coach operators be influenced to use compliant vehicles without causing them to withdraw from the rail replacement market altogether. The answer that delivers long term change and the best result for passengers who use wheelchairs and mobility scooters is legislative change coupled with government funding for more compliant vehicles.

It has been suggested that the TOCs can simply pay higher rates for PSVAR compliant vehicles. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Track Access Agreements, specifically Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC. We do not believe this will influence the coach operator's existing business operations enough to incentivise the retrofitting of existing fleets or purchase of new compliant fleets – the costs associated with doing so far outweigh the increase fees the TOCs may pay.

### Cost of Retrofitting Existing Fleets and Buying New Fleets

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<sup>2</sup> FTS receive rail replacement requirements from GWR, SWR, TPE and Hull Trains and source vehicles to meet these requirements.

The following table provides a summary of the cost and time required to retrofit an existing non-compliant coach or buy a new compliant coach.

ACTION REQUIRED	COST PER VEHICLE	TIME PER VEHICLE
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

According to the ORR's consultation paper at paragraph 1.8 of chapter 1, non-compliant coaches were used 55,176 times in the last 12 months for rail replacement services in the UK<sup>3</sup>. If we assume, for the purposes of putting an approximate figure on the total cost of retrofitting existing coaches or buying replacement coaches, that the number of unique vehicles that provided rail replacement services in the last 12 months is one tenth (1/10) of this number, there are approximately 5,500 unique coaches providing rail replacement services.

Using this assumption, the cost of a fully compliant coach industry is therefore:

- If all current non-compliant vehicles are retrofit - £165,000,000 (approximately); or
- If all current non-compliant vehicles are replaced with new vehicles - £1,375,000,000 (approximately).

A further consideration for coach operators is the increasing prevalence of clean air zones in many cities and required compliance with emission standards. Coach operators are fined for breaches the requirements of clean air zones. Coach operators are required to either convert or replace aging vehicles that do not meet the latest emissions standards. Both concerns carry financial costs for the coach operators and affect their primary business in a way that PSVAR compliance does not (due to the aforementioned exemptions). If faced with a requirement to comply with emissions standards (affecting their core business) and a requirement to comply with the PSVAR (affecting a marginal part of their business), it will be up to each coach operator to decide which requirement takes precedence. However, we anticipate many coach operators to prioritise compliance with emissions standards over PSVAR – therefore further limiting the supply of compliant coaches.

### Bus Operating Companies' Existing Obligations

According to the ORR, 99.96% of buses used for rail replacement services are PSVAR compliant. Most, if not all, of these buses are owned or used by bus operating companies who are obliged to provide regular local bus services. This obligation comes from the traffic commissioner in each local area and the provision of these regular local bus services is a requirement to maintain the operating licence held by each bus operating company.

<sup>3</sup> The ORR states this figure does not include 6 TOCs who were unable to provide full PSVAR vehicle information.

Consequently, bus operating companies' top priority is to ensure it has enough buses to operate the bus routes it has committed to operate. This leaves few buses to procure for rail replacement services. This lack of supply is more acute on week days as more regular local bus services are run on week days than on weekends.

The net result of bus operating companies' existing obligations to run regular local bus services is it is not always possible to procure buses for rail replacement services, especially for emergency rail replacement service and/or on week days. It is not in the business interest of bus operating companies to have a higher percentage of their fleet on standby in case rail replacement services are needed. Like coach operators, rail replacement services do not form a core part of bus operating companies' businesses – it is considered an additional service that may be provided if buses are available.

## Use

### Quality of Service to Passengers

The quickest path to a fully compliant rail replacement service is to primarily use buses. As the ORR states, 99.96% of buses used currently for rail replacement services are PSVAR compliant. Putting aside the availability issues discussed above, using buses has a significant impact on all passengers.

Buses have less seating capacity than most coaches. Consequently, more buses are required to transport the same number of passengers than coaches. This additional need feeds back into the availability issues discussed above and from a passenger perspective means a greater risk of delays in service, especially in the case of emergency rail replacement services.

Buses are not designed or built to the same level of comfort as coaches. For example, coaches are fitted with air conditioning while buses tend not to be. This difference in specification means in the case of longer rail replacement services passengers are less likely to be comfortable sitting on a bus than a coach. For example, a rail replacement journey between Hull and Peterborough normally takes 2 hours and 30 minutes on a coach. Compared to the intended journey by rail or using coaches for rail replacement services, using buses will result in passengers travelling in less comfort for longer. This is likely to result in lower passenger satisfaction and an overall worse service for passengers.

Buses do not have the same luggage capacity as coaches. Most coaches have significant luggage storage compartments in the undercarriage of the coach. Buses are not designed in the same way and require passengers to leave the luggage in a smaller defined area. Therefore, if a wheelchair user is in the defined area on a bus, other passengers are required to put their luggage on or under seats which often times results in a further reduction in seating capacity. This practice creates safety issues as the luggage is normally not secured when in the aisle of the bus, therefore there is the potential for unsecured luggage to harm other passengers in the event of a traffic incident.

Buses do not have seatbelts. Coaches are required to be fitted with seatbelts and standing passengers are not permitted.

Buses do not have toilet facilities on board. This issue is more acute the longer the rail replacement journey is. For example, as mentioned above Hull to Peterborough journey takes 2 hours and 30 minutes on a coach. During that time, it is highly likely passengers will need to use toilet facilities and if unavailable passenger comfort and satisfaction will drop.

The use of more buses to provide rail replacement services may bridge the compliance gap in the short term. However, the above impacts on passengers must be considered and addressed if/where possible.

### Compliance with Regulations: EU Tachograph Regulations and EU Driver Hours Regulations

EU Regulations concerning the use of tachographs and driver hours create additional complications in the use of PSVAR compliant vehicles.

Turning to the EU tachograph regulations first, it is a requirement that any vehicle operating a “regular service” or a “special regular service” (as defined in the Regulation) over 50 kilometres (route length) or any vehicle operating any “non-regular service” (as defined in the Regulation) must have a tachograph installed and that the tachograph must be used by the driver. For the purposes of rail replacement services, we understand the DVSA believe rail replacement services to be a “special regular service”. Therefore, any rail replacement service over 50 kilometres must be provided by vehicles with a tachograph installed.

We understand most, if not all, coaches in the UK have tachographs installed, however most buses in the UK do not have tachographs installed. Bus operators have informed us the routes they are required to operate for local communities are less than 50 kilometres, therefore these buses are caught by the exemption and need to comply with the UK drivers’ hours rules as set out in the Transport Act 1968. Where this becomes a problem is where TOCs are required to contract buses for rail replacement services that are over 50 kilometres. If a bus does not have a tachograph it would not be used for a service over 50 kilometres. Consequently, the ability to use buses for rail replacement services is limited to services that are under 50 kilometres.

EU Driver Hours regulations require that drivers’ work a maximum of 56 hours in any one week and 90 hours in any two week period. This restriction is relevant where rail replacement services are driven by drivers who are employed by bus or coach operators to drive on a full-time basis.

For example, a driver is employed to drive a regular bus service Monday to Friday on 9 hour shifts (we are told by bus and coach suppliers this the normal shift length), then accepts to drive rail replacement service for 8 hours on the Sunday of the same week, the driver would be unable to work their full number of hours the following week for their employer.

The driving of the rail replacement service causes the driver to become subject to the EU Driver Hours regulations. Because this unavailability of drivers adversely impacts the bus operators’ ability to deliver the services it is required to deliver, bus operators can refuse to allow their

drivers to drive rail replacement services. This leaves TOCs in a position where they have a compliant bus but no driver. The vehicle cannot be used and therefore the procurement of the vehicle is meaningless.

The consequence for the TOCs is bus and coach companies may be more reluctant to supply their drivers to drive rail replacement services. Vehicles and drivers are inseparable as one does not work without the other. Therefore, TOCs must be able to procure not only vehicles but the drivers to drive the vehicles. We are told by our suppliers they already face driver shortages and to further limit driver availability will result in an inability to meet the minimum levels of service they are obliged to provide. This issue is more acute for bus operators due to their commitments to local traffic commissioners.

### Accessibility of Vehicles for Passengers with other Disabilities

The PSVAR requirement for vehicles to be accessible in accordance with Schedule 1 is specifically targeted for wheelchair accessibility. This focus while important does exclude those passengers with other disabilities, especially those with hidden disabilities. These passengers have a range of specific needs depending on their disability and can include a need to avoid loud noises, announcements to be made verbally, screens to be used for written instructions and announcements. These specific needs are currently managed by the TOCs and tailored solutions are provided to passengers that request them where possible. Often these specific needs are met through the use of accessible taxis. Taxis provide a tailored service to the passenger where a coach or a bus cannot.

All TOCs continue to improve their services for all passengers with the goal being a fully accessible service for all passengers. However, until this is realistically possible, TOCs should have the freedom to address the specific needs to passengers that require assistance in the best way they can.

### **Question 2**

#### **How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The data and analysis provided by the ORR within the consultation document clearly demonstrates that there is insufficient supply of PSVAR vehicles available to meet demand for rail replacement vehicles.

The best way to allow journeys to be taken on PSVAR compliant vehicles is to increase the number of vehicles that are available. This solution will take significant time and significant investment.

Until this happens, the following options may be available, however it must be noted that many of these options required the cooperation of Network Rail.

#### Increase supply of PSVAR vehicles



### 1. Determine the requirements for rail replacement services earlier

Hull Trains use a third-party operator to procure vehicles for rail replacement services. Currently, we provide our third-party operator with the requirements for planned rail replacement services 6 to 10 weeks before the services are needed, unless we have more advance warning of an engineering possession. To have a better chance to procure compliant vehicles, the requirements for planned rail replacement services would be needed 16 weeks before the services are needed. This extended time line may give our third-party supplier the opportunity to source compliant vehicles and still meet the ORR reporting requirement of 12 weeks before the services are needed. However, such an extended time line should not compromise the passenger or infrastructure safety.

This may enable us to secure more PSVAR compliant coaches from operators by booking them earlier and whilst more are still available. This will be particularly important during the peak coaching season in June and July. However, this would not guarantee that we can secure all accessible PSVAR vehicles, due to the lack of supply of compliant vehicles discussed in our response to Question 1.

To meet the extended timeline of 16 weeks, Network Rail would need to finalise possessions much sooner and TOCs would have to finalise timetables at T-16 instead of the current T-12 practice. Currently, timetables may be amended up to 1 day before operation due to changing Network Rail priorities or proposed work.

By determining the requirements for rail replacements services 16 weeks before the services are needed Hull Trains has a better chance to secure compliant vehicles as suppliers may have more vehicles available at T-16 than at T-6 – T-10.

### 2. Shorter Distances required for Rail Replacement Services

Changing the amount of track that is possessed will reduce the distance Hull Trains is required to provide rail replacement services for. Shorter distances make the use of buses for rail replacement service much more viable. The passenger comfort and safety issues discussed in Question 1 diminish with shorter distances. The risk of EU tachograph regulations applying to the vehicles is reduced to zero (if the route distance is below 50 kilometres). If coupled with rail replacement requirements being known at T-16, the number of compliant vehicles available increases – bus operators can better plan to accommodate these services using their vehicles with more time.

Changing to shorter distance possessions means it is much more likely Hull Trains can use compliant buses as an option for providing rail replacement services.

### 3. Structure of services

Today, rail replacement services are operated to emulate the rail service it is replacing, i.e. some vehicles stop at each station on the route. We would suggest that we continue to operate with our approach whereby compliant coaches would still be sourced where possible to operate the long-

distance parts of the route, or a direct service from end to end, while buses could be used to operate shorter journeys along the route.

For example, a possession requiring road transport to operate between Doncaster and Peterborough may require the use of express services with no stops between Doncaster and Peterborough, and all stops services where the intermediate stations are called at. It may also be required to have supplementary express services from intermediate stops to either Doncaster or Peterborough or dependent on loadings, accessible taxis. These options all depend on the journey's passengers are taking and are more commonly used where Hull Trains is unable to obtain alternative ticket conveyances from other TOCs.

While this structure of rail replacement services gives Hull Trains a better opportunity to run fully compliant services, there are drawbacks. Some customers may need to change vehicles part way through their journey, likely causing dissatisfaction. Frequent changes may also cause issues especially for those older or disabled customers who may struggle with the transfer, especially if travelling with luggage, or may be concerned or anxious about connections.

#### 4. Higher rates and incentives

As discussed in Question 1, it has been suggested that all TOCs could incentivise the coach industry to use compliant vehicles by paying higher rates. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Track Access Agreements, specifically Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC.

An alternative to higher rates being paid by the TOCs is for funding to come direct from the DfT to coach operators to incentivise coach conversions and the purchase of compliant coaches. An example of a similar fund is the 'Access for All' fund.

Another alternative may be to incentivise coach companies subsidising the cost of compliant coaches. An example of a similar incentive is used for the purchasing of electric vehicles, reducing the cost to the buyer.

#### Reduce demand for PSVAR vehicles:

#### 5. Scale of pre-planned engineering blocks

Currently, when possessions of the line are taken to facilitate engineering works, train services can be withdrawn from whole branch lines, e.g. Hull to Doncaster, when the works may be taking place on a small section of the track.

Consideration could be given to mandating that the minimal possible section of track is possessed to facilitate works, with train planning teams then looking at how best to continue to

offer the maximum possible train service, recognising that this may be impacted by resources, including the quantity of units, drivers and conductors who may be available.

It could also be the case that possessions take the 'little and often' approach, rather than larger possessions, reducing the quantity of vehicles needed, however this may protract the timescales and costs of delivery of infrastructure improvements.

#### 6. Quantity of pre-planned engineering blocks taking place simultaneously

Network Rail schedule engineering works according to maintenance plans, ensuring that the railway is functioning and available to support train running. To maximise the number of compliant vehicles being used for rail replacement services, Network Rail should be required to consider the ability of TOCs to procure compliant rail replacement vehicles when planning engineering blocks. Currently, no considerations is given to how passengers will complete their journeys when engineering blocks are planned and TOCs are left to plan around engineering blocks as best they can. A requirement to consider how engineering blocks will impact passengers and TOCs would allow more availability of compliant vehicles by reducing the demand.

#### 7. Use of diversionary routes

Hull Trains seeks to use diversionary routes where possible, however there are significant challenges that are associated with the use of diversionary route. These challenges are:

- Operating on these diversionary routes requires significant driver and traincrew knowledge. This knowledge also needs to be maintained;
- Services using diversionary routes are required to 'slot in' to the existing timetable for that route. This can be challenging, particularly on busy commuter routes;
- The resulting journey time is, in most cases, much longer than the originally intended journey.

#### 8. Ticket Acceptance

Consideration of what is deemed reasonable for an alternative journey should be considered. Currently, we will offer RRS if we deem it will be quicker for the passenger to travel part of the journey by coach, rather than going by alternative routes by rail. However, it is recognised this may cause inconvenience through increasing end to end journey times and is reliant on other operators having the capacity to accommodate the extra passengers.

For example, where engineering works are required between Peterborough and Doncaster, Hull Trains would seek acceptance for passengers to travel on LNER services.

This would reduce the demand in coaches at Peterborough and Doncaster. However, it would increase the journey time of passengers greatly and adds additional pressure on the capacity of LNER.

## 9. Rejection of possessions

Another consideration is for the industry to adopt a process whereby possessions are not accepted unless a full complement of PSVAR vehicles required to provide the road transport operation are secured.

This would likely increase the planning timescales and may see some essential maintenance or upgrade works delayed, impacting the performance and reliability of train services due to infrastructure faults.

### Question 3

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

It is recognised that this question is aimed at customers.

We would encourage the ORR, Department for Transport (DfT) and any other government bodies involved in decisions affecting the provision of rail replacement vehicles to undertake an all-encompassing assessment of customer needs, with engagement with Transport Focus, so that any new approach considers the needs of ALL customers.

### Question 4

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

Specific data on the number of disabled passengers and the number of overall passengers using rail replacement services is not currently recorded. The number of accessible taxis used to assist passengers is recorded. For the months of December 2019 and January 2020, no accessible taxis were required.

### Question 5

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

The ORR notes there are significant planned engineering works that are scheduled to take place in 2020. Each of these planned engineering works will require the use of rail replacement services. Hull Trains has significant engineering works over the Easter weekend where there is

an engineering blockade between Selby and Hull. We anticipate this blockade to require approximately 40 vehicles.

Hull Trains agrees that the work Network Rail does to maintain and upgrade the UK rail network is important and in the long term is to the benefit of all passengers. However, during possessions, replacing services for extended periods of time is already challenging. If these possessions were pushed to all occur on weekends the result would be a series of costly weekend blocks for upgrade projects, heavy track renewals, station development and re-signalling work. The cost of these possessions would need to be met by the ORR and DfT. Such a program could also force the company into agreeing to double disruption on many routes.

The alternative to the current program of engineering possessions or pushing all possession to weekends is for Network Rail to reprogram engineering work to consider the availability of replacement services. As discussed in Question 2, engineering possessions should only be scheduled where it is possible to obtain compliant vehicles to operate rail replacement services. Failing this, Hull Trains will be forced to reconsider proposed possessions any may be required to reject possessions due to the lack of available compliant vehicles.

Accommodating current engineering possessions is challenging. Should Accessible Travel Policies mandate the use of compliant vehicles only, and the current way of scheduling engineering possessions continues, Hull Trains will be forced to either reject engineering possessions or issue 'Do Not Travel' notices to passengers. Neither result is good for passengers and requires considerable media costs and industry partnership working as the recent East Coast Mainline Upgrade works have clearly demonstrated.

### **Question 6**

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

The approach proposed by ORR is sensible and duplicate enforcement would not be appropriate. DVSA are the enforcement body for PSVAR across the bus and coach industry and should continue in this role.

### **Question 7**

**How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The lack of supply of compliant vehicles, as detailed in Question 1, means that imposing additional contractual requirements on vehicle supplies is very unlikely to increase supply. Also, in our response to Question 1 we detailed the challenge faced by the existing business models of vehicle suppliers. In the case of coach companies, their core business is tour operations and private hires. Neither of these operations is required to be compliant with the PSVAR. In the case of bus operators, their existing commitments to run regular local bus services makes rail replacement services a secondary priority.

If Hull Trains were to impose stricter contractual arrangements on coach and bus operators to mandate the use of compliant vehicles only, we expect many operators to simply decline the business offered by Hull Trains. Rail replacement services are not a core part of any coach or bus operators' business. When coupled with the risks associated with the PSVAR and the Equality Act 2010, we understand an even greater number of suppliers to decline the business offered by Hull Trains.

As discussed in Questions 1 and 2, the proposal for all TOCs to pay a higher rate for compliant vehicles would result in very little improvement in the supply of compliant vehicles. The costs associated with retrofitting existing non-compliant vehicles or purchasing new compliant vehicles are far too high to be solely borne by the TOCs paying higher fees for rail replacement services. Further, any increase in fees paid by the TOCs would ultimately need to be compensated for by DfT under existing Track Access Agreement payments (Schedule 8 specifically). Therefore, such an incentive is actually an increase cost to the DfT.

Finally, contractually mandating the supply of compliant coaches is very unlikely to be enforceable in the event of a contractual dispute. In the current market, most suppliers are simply not capable of supplying compliant vehicles, particularly coaches.

These factors mean that incentivising bus and coach operators through contractual arrangements is unlikely to result in any change. If TOCs imposed a requirement to source only compliant vehicles, suppliers could not meet the requirement. Therefore, the bus and coach operators would immediately be in breach of the contracts.

The best approach with regard to contractual arrangements with bus and coach operators is to mirror the obligations Hull Trains has in its Track Access Agreement. This type of obligation allows Hull Trains to provide the most tailored service to the customer's needs. A more prescriptive obligation on bus and coach operators is highly likely to cause operators to decline rail replacement work resulting in a worsening supply compliant vehicle.

## **Question 8**

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

The proposed 12-week time limit may have benefits however such a time limit is completely dependant on when Network Rail finalises their possessions schedule and when Network Rail and the TOCs finalise the affected timetables. Presently, Network Rail and each TOC endeavour to agree the timetables at T-12 weeks. This allows the TOC plan rail replacement services and procure vehicles to operate these services in time for the planned possessions. Planning is finalised, and vehicle requirements sent to suppliers between T-10 weeks and T-6 weeks, depending on the extent of rail replacement services required. Vehicle operator tenders are usually received and finalised by T-4 weeks.

To comply with the proposed 12-week time limit to demonstrate all appropriate steps have been taken to assess requirements and to procure compliant vehicles, the above T-4 week timeline where vehicle operator tenders are finalised will need to move to T-12 weeks. This will have a direct knock on effect on the previous steps in the process, beginning with when Network Rail finalise their plans for work.

Consequently, to comply with a 12-week time limit reporting requirement, the following revised timelines will need to apply:

- Network Rail to finalise planned engineering work schedule by T-24 weeks.
- Network Rail and TOCs finalise timetables at T-20 weeks.
- Rail replacement service planning and resource requirements determined and sent to suppliers by T-18 to T-14 weeks.
- Tenders finalised and awarded by T-12 weeks.

Without this wholistic time line in place, a 12-week time limit to report will not be possible.

### Question 9

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We have ranked the proposals and what we see as the advantages and disadvantages in the table below. It must be noted however that none of these proposals address the cores issue: there are simply not enough compliant vehicles and without legislative change or government funding, this situation will continue.

Proposal	Advantages	Disadvantages	Ranking
One	Places a contractual obligation to maximise the no. of PSVAR vehicles	Unlikely to increase the no of PSVAR vehicles	4
Two	Requires TOCs to demonstrate they have taken reasonable steps to procure PSVAR at 12 weeks  Will require NR and TOCs to finalise timetables much earlier  Should increase the number of PSVAR vehicles due to earlier recruitment	NR and TOCs will need to change their planning timescales for RRS  Last minute changes to RRS by NR and/or TOCs is unlikely to be possible	3

<b>Three</b>	Passengers requiring assistance could receive individual messages to sort travel.	Increased resources needed at the contact centre and at stations  NR and TOCs will need to change their planning timescales for RRS	1
<b>Four</b>	Rail passengers will know which RRS journeys will be operated by PSVAR vehicles  An impact of the earlier timetable planning should be an increase in the number of PSVAR-compliant vehicles due to earlier recruitment	Will require development of the Rail Industry CIS systems  NR and TOCs will need to change their planning timescales for RRS	2
<b>Five</b>	Forum could be a good initiative if it encourages better planning and co-ordination by NR and across TOCs to manage demand for vehicles.	Needs to have a defined objective	5

## Question 10

### Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

The fundamental issue is the coach industry has exemptions from PSVAR to conduct their primary business operations: tours and private hires. This directly translates into a lack of compliant vehicles available for rail replacement vehicles where the ORR has stated only 175 out of 55,351 rail replacement coach journeys were compliant in the last 12 months.

To address this fundamental issue either legislative change will be required to remove these current exemptions, or more vehicles will need to be made compliant or compliant vehicles bought. With both paths forward, significant investment will be needed, primarily coming from the DfT. As stated above the following estimates represent the costs involved with making an assumed 5,500 coaches compliant:

<b>ACTION REQUIRED</b>	<b>COST PER VEHICLE</b>	<b>TOTAL INVESTMENT REQUIRED</b>
Retrofit an existing coach	£30,000 (approximately)	£165,000,000 (approximately)
Buy a compliant coach	£250,000 (approximately)	£1,375,000,000 (approximately)



The only option we believe will make a significant impact and improve the accessibility of coaches in the UK is significant investment by the DfT into the coach industry because coach operators are currently not incentivised to spend the amount of money required to operator compliant coaches.

### **Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

The ORR should consider in their assessment the needs of all customers. Prioritisation of the needs of those who require level access could cause significant and damaging detriment to the accessibility of the service for those with hidden and potentially complex disabilities.

The focus must be on providing a service which meets the needs of all customers, providing a range of vehicles to meet varied needs, tailored to allow flexibility and encourage use of the most suitable vehicles, rather than a focus on compliance.

For example, the addition of quiet carriages on some operator's services allows those customers who do not cope well in noisy environments to use the railways in a way that is comfortable and safe for them. Quiet carriages are cannot be replicated when using buses or coaches for rail replacement services and therefore these passengers may find a taxi more appropriate to their needs.

We strongly believe that equality can be achieved, with dignity and comfort for all by using practical solutions, without imposing compliance standards that may not fully consider the impact on all rail passengers.

### **Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

As a general comment, we do not believe mandating restrictive policy guidance or regulations about the types of vehicles to be used for rail replacement services will result in a better service for all passengers. Fundamentally, the vehicles to operate a fully compliant rail replacement service do not exist in the UK. Without more compliant vehicles, TOCs cannot procure compliant vehicles.

The current system of using accessible taxis has worked with success across the entire UK rail network. The advantages of using accessible taxis are:

- In most cases, a taxi can transport the passenger to their end destination (home or otherwise), not just to the passengers intended station of departure;
- Taxis can stop at motorway services or the like for comfort breaks to suit the individual needs of the passenger;
- Taxis can be quiet environments with greater ease than a bus or coach, thereby allowing noise sensitive passengers a more appropriate method of travel; and
- Taxis can accommodate blind passengers with guide dogs or other passengers with assistance dogs easier than a bus or coach can.

Like buses and coaches, the use of taxis present unique challenges:

- Availability in rural and regional areas can be limited; and
- There can be delays where taxis are not pre-booked or where passengers requiring assistance do not notify the TOC of their needs in advance;

The use of taxis is a proven way to assist passengers who require assistance. Mandating the need to use compliant buses or coaches has the potential to force all passengers onto these buses and coaches. This will have the unintended consequence of reducing the accessibility of the railways for those passengers that require assistance, but do not have mobility restrictions.

To whom it may concern,

I would like to submit my experiences of using replacement bus services as part of your consultation into this.

I am a blind passenger who travels regularly via trains. I encounter the same issues whenever I have to use replacement bus services.

An example is today from Harrogate to Dewsbury. I had to catch 2 coaches, a replacement bus from Harrogate to Leeds and then a second one from Leeds to Dewsbury.

The coach drivers seemed to have no disability awareness training.

They also did not park in front of the main entrance of either Leeds train station or at Dewsbury train station and did not offer to assist me to the main entrance of the train stations.

Fellow passengers on the coaches I was on kindly offered to assist me to the main entrances. Had they not been there then I would have struggled to get to where I was going.

This is not the first time I have had an experience like this using replacement bus services. The drivers park their buses randomly, wherever they want.

I am blind so require the bus to be as close to the main entrance or another entrance of the station allowing me to easily get into the station. However, there is no fixed designated spot where they park at any of the stations I've been to using this service.

Assistance staff were supposed to meet me at Leeds train station but they didn't show up. The fact that there is no fixed designated spot where coaches park in front of the main entrance of stations only exacerbates this issue as they do not know where to go.

## Response to ORR consultation on Accessibility of rail replacement services

### Question 1

Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

In a previous job I had responsibility for making bus travel accessible, while during the last 6 years I have considerable experience of driving rail replacement coaches during planned and unplanned line closures in North West England. In addition, as a rail user I have used rail replacement services. Based on this experience I recently wrote a paper on rail replacement buses and coaches which is attached as part of my consultation response.

The proportion of buses, coaches, PSVAR compliant and non-compliant, given in Chapter 1 of the consultation report corresponds with what I have observed. It is very important to recognise the huge differences between London & South East and the rest of the UK, the latter being heavily dependent on coaches rather than buses.

I have observed accessible taxis and minibuses being used as part of the rail replacement operation, suggesting they are used more than has been recorded.

It is difficult to give any indication of how many rail replacement users are disabled as many disabilities are not visible and many disabled people are able to use non-PSVAR compliant vehicles with assistance, which is usually provided by rail staff, coach drivers or travelling companions. I have never witnessed any passengers being unable to complete their journeys due to the infrastructure and vehicles provided, be they buses, coaches or taxis. However, some users who probably do not regard themselves as disabled, have clearly experienced some discomfort when boarding or alighting vehicles.

Furthermore, it is important that the rail industry does not make individuals unable to complete their journey due to the type of road transport provided i.e. become disabled. These include cyclists; contrary to the information provided by the rail industry, pedal cycles can, and are, regularly carried in coach luggage lockers, whereas they cannot be carried in a PSVAR bus. Similarly, people travelling with large amounts of luggage, eg one of the frequent tour groups in the Lake District, would find it very difficult to get all their luggage in a PSVAR bus, while it can be carried easily and safely in the underfloor lockers on a coach.

The above two points suggest that the best solution is likely to be a mix of PSVAR buses, non-compliant coaches and taxis. The actual mix depending upon the circumstances.

### Question 2

How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

At present the management of rail replacement services is fragmented with each TOC organising its own coaches. This leads to sub-optimal use of the coaches. I will use a typical line closure at Oxenholme to illustrate this. Avanti, TPE and Northern will all source their own road transport. It is very likely that only one TOC will be able to source a fully accessible coach, let's assume in this case it's Northern; where the vehicle is to deputise for their trains between Lancaster, Oxenholme and Windermere. If a passenger in a wheelchair requires transport to Penrith and Avanti and TPE do not have accessible coaches available, then there is a problem. The obvious solution would be to send the Northern coach to Penrith which the wheelchair user on board, while an Avanti or TPE coach covers the Windermere line. However this cannot happen at present as coaches contracted to a TOC can only be sent to destinations served by that TOC, resulting in our wheelchair user being stuck. To the travelling public this is nonsense which makes the rail industry look stupid. To overcome this a different way of sourcing and managing rail replacement transport is required, perhaps by Network Rail or an independent company (they do exist and some TOC's use them). See also my answer to question 5.

Similar to the above, rail replacement co-ordinators are provided by each TOC. This is inefficient as there is duplication of personnel and nobody is in overall charge. It can also lead to poor use of rail replacement vehicles, eg with each TOC running half empty coaches to the same destination while other destinations are not served. The solution is the same, one organisation should provide the staff and take responsibility for running the rail replacement operation. There are some very good rail replacement co-ordinators and they should be given the authority to get the job done for the maximum overall benefit. See also my answer to question 5.

### Question 3

(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?

My most recent experience as a rail passenger was in November 2019 when the railway was blocked with no warning due to the overhead wires coming down between Preston and Lancaster. Very few rail replacement coaches were available resulting in a very long queue for them; I was told the wait was between three and four hours, possibly longer. Instead of waiting, I walked for 10 minutes to Preston Bus Station and caught a local bus to Lancaster. This saved about two hours, although I did have to pay £8.00 for a bus ticket. So on this occasion the rail replacement transport was unsuitable as there was far too long to wait.

(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.

Not applicable.

(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.

For journey lengths up to 45 minutes I am happy to use either a bus or coach. For journeys longer than 45 minutes I much prefer to use a coach due to the greater comfort, higher speed, better luggage space and sometimes a toilet.

However, it would be much better if the train was diverted via another route wherever possible.

### Question 4

Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?

No.

### Question 5

We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

As a rail user I recognise the need for the railway to carry out engineering works in order to maintain and improve the railway. However, I would support TOCs refusing to allow such work to place unless enough alternative transport can be provided - It is imperative that passengers are able to complete their journeys without significant delay. Ideally this would be achieved by diverting trains over other routes, but where diversions are not possible it is vital that sufficient road transport is provided. While disabled people must be catered for, it is not necessary for every coach used to be fully accessible.

### Question 6

Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

I agree, it would be a waste of resources to duplicate enforcement.

### Question 7

How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?

Contracts specifying PSVAR compliant vehicles may be counter productive in the medium term. Coach operators will only invest in PSVAR compliant vehicles if there is a business case for doing so. That means the value of the extra work gained must exceed the extra costs. These extra costs include higher initial cost, extra maintenance costs and extra running costs (bear in mind that the extra weight of the equipment means extra fuel costs for the lifetime of the coach on all jobs, not just rail replacement). Given that rail replacement work is not guaranteed and only likely to happen on a handful of days each year (and when it does the compliant vehicle may not be available) the rail industry would have to pay the coach operators huge premium payments to encourage investment in PSVAR compliant coaches, even then it would be a considerable commercial risk to the coach company as there is no guarantee of the work.

Looking at this from a different angle, the rail operators could initially issue tenders/quotes for compliant vehicles in advance of known line closures. This might result in some compliant vehicles being obtained. However, it is highly likely that the number of compliant vehicles would be less than the number of coaches actually required. The rail operators would then have a problem, how would they obtain more coaches? All they could do is source non-compliant coaches and given the way bidding works, the coach companies could probably now obtain a higher price for non-compliant vehicles, thereby undermining the reasoning for offering contracts for compliant vehicles.

### Question 8

Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?

Where this is possible (it will not be possible for unplanned closures) it seems reasonable.

### Question 9

What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

Below I set out my views on each of the five proposals. I suggest that for planned disruption proposals 2, 3, 4 should all be used in combination, along with a modified version of proposal 5 as I have set out below. However, these proposals are impractical for unplanned disruption.

Proposal 1 - explicit requirements in tenders and contracts, see answer to question 7.

Proposal 2 - planned disruption, TOC must be able to demonstrate it has taken steps to source compliant vehicles at least 12 weeks before major planned engineering work. See answer to question 8.

Proposal 3 - planned disruption, TOC should take steps to contact passengers with booked assistance. This would help passengers and I agree with it. But what happens when more than one TOC is involved?

Proposal 4 - planned disruption, TOCs should provide passengers with accurate info about the accessibility of replacement transport. This would be helpful to passengers and I agree with it.

While it may often be difficult to give very specific information such as '*buses leaving station x at 1130 and 1330 will be fully accessible*', generalised information will still be helpful, eg '*passengers travelling to/from Kendal and Windermere will need to change buses at Oxenholme, this will involve a short walk without any steps to negotiate. However there will not be step free access when boarding and alighting from the buses. Most of the road vehicles used will be able to carry*

*cycles, folding prams and large quantities of luggage. Staff will be present to help passengers. Anyone with special needs should contact (phone number) in advance.* Note this highlights that more than one TOC may be involved and it is not currently clear who the passenger should contact and who is actually in charge.

[Proposal 5 - planned disruption, TOCs should provide a regular communication forum and better manage availability of PSVAR vehicles.](#) I am not sure how this would help as rail replacement operations are spread throughout the Country and the bus/coach operators are locally based.

I feel a much better solution is for strategy groups to be set up for each geographic area eg the WCML and branches between Preston and Carlisle. They should comprise representatives from each TOC operating in that area, Network Rail, an experienced bus co-ordinator and a passenger representative (eg TravelWatch). Their objective should be to plan what to do when unplanned blockages occur eg, who will be responsible for what. This should result in a sensible coordinated response when a line is closed without warning.

Before each major blockade a local working group should be convened with representatives from all TOCs involved, Network Rail, a passenger representative (eg Travelwatch) an experienced bus co-ordinator and if appropriate major contractors. Their objective is to provide a co-ordinated and effective rail replacement operation, setting out who is responsible for what, provide a plan for information and communication to passengers and organise one helpline number for passengers with disabilities. As well as providing a good solution to passengers, it should reduce costs by avoiding duplication of information and staff. The work of this group would also provide an answer to question 8.

Note that while working together makes perfect sense, it could also be judged by some to be anti-competitive.

#### [Question 10](#)

[Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?](#)

The only realistic way to increase the number of accessible road vehicles is to find ways of ensuring that it is financially worthwhile for coach operators to invest in them. In most cases this will not be practical as it would be too expensive for the rail industry. However, there may be a very few rare occasions where this is possible. The example which springs to mind is the Preston - Blackpool electrification scheme where the railway was closed for a long period and the work planned a very long time in advance. My understanding is that Blackpool Transport were able to build the rail replacement work into their fleet renewal programme and they arranged for a number of new accessible double deck buses to be delivered earlier than originally required so they would be available for the rail replacement work.

#### [Question 11](#)

[Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?](#)

Yes, use of diversionary routes for trains. The impact on people without disabilities. The impact on cyclists and people with heavy luggage. See also answer to Q12.

#### [Question 12](#)

[Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?](#)

The consultation is focused on the needs of people with disabilities. While these needs clearly must be catered for, it is equally important to consider the needs of people without disabilities and

find a way of meeting everyone's needs. These include people with luggage, prams, baby buggies and cycles.

The whole consultation provides no answers to a critical issue. There is significant numbers of people (most of whom are not registered as disabled) who have difficulty getting on and off buses and coaches even when they meet the PSVAR requirements, simply because the step from roadway to vehicles is too great for them to manage comfortably or at all. For stage carriage bus services this is overcome by having a high kerbs at bus stops which match the low floor of the buses. My observations at railway stations in North West England indicate that the vast majority do not have raised kerbs (or sometimes no kerb) to enable this large group of people to board rail replacement buses and coaches. Furthermore, there is also the question of, can everyone actually get between rail stations to rail replacement boarding point? In many cases the answer is no, or not easily eg due to steps, steep gradients, lack of dropped crossings or lack of tactile paving. In my opinion this is a far more pressing issue than that of the vehicles themselves - there is no point in having a PSVAR compliant vehicle if people cannot board or alight it due to the lack of a raised kerb or an inaccessible walking route.

One important option has not been mentioned, reducing the need for road transport by diverting trains via alternative routes. This is a far better solution for passengers. For example, if the WCML is closed between Preston and Lancaster, rail services should be diverted via the Settle - Carlisle line. This happened regularly during the 1980s with Pendolinos being pulled by diesel locos, but it no longer happens. With more bi-mode trains being delivered, including some for Avanti and TPE, diversions should be easier to arrange. I'm told that the reason it no longer occurs is because the train drivers no longer have S&C route knowledge, something that is easy to rectify. I suspect that the real reason is financial. Under the present system the TOC's would have to pay the cost of training drivers, while if the line is closed for engineering work or infrastructure failure, Network Rail pays the bill for rail replacement coaches. The solution is simple, the franchise specification should include the requirement for train crews to have route knowledge for diversionary routes. In the short term Network Rail and the TOCs should work together to ensure diversionary routes are used.

Another option which I have not seen used in the North West (although it is used in London) is to make arrangements with local bus operators for rail passengers to use their rail tickets on scheduled bus services. By their very nature, the bus service will be operated by fully accessible buses. Take Lancaster as an example, there are frequent local bus services to Morecambe, Preston, Kendal and Windermere operated by Stagecoach, and services to Settle and Skipton operated by Kirkby Lonsdale Coach Hire. If arrangements were made in advance between the TOCs and bus operators, they could be enacted immediately a problem happens on the railway. The bus companies can legally run extra vehicles on the routes if they have buses and drivers available. This is a simple way of providing accessible road transport. The only 'extra' which may be needed is an accessible taxi running between railway station and bus station for a few passengers who cannot make the short walk.

Attached below is a paper I recently wrote on the subject.



# Accessibility Provisions for Rail Replacement Buses and Coaches

## Introduction

This note tries to explain the current unacceptable situation, identify issues and give some solutions.

Before reading it is important to note that the situation is different and far more problematical outside Greater London, simply because outside London people do not have alternative rail services, the underground and a comprehensive frequent 24 hours bus network providing people with other ways of getting to their destination. Anyone who looks at these issues from a London perspective will be making a big mistake.

There was a slight change to the law at the end of 2019, in simple terms, it meant that rail replacement buses/coaches would have to be accessible from 1st January 2020. In practice this creates major practical problems and the DfT have responded by allowing operators to apply for exemptions, but only until 31st January 2020. Note that this exemption is not automatic and has to be applied for, which is not much use if the railway is closed eg due to a bridge strike, and coaches are needed immediately.

To be pedantic, the legislation did not actually change on 1st January 2020, but an exemption to PSV Accessibility Regulations (PSVAR) expired. There is also a legal judgement as to what 'paying separate fares' actually means; people boarding a normal scheduled bus service pay their fare to the driver so the bus has to comply with the disability regulations. But when a group or organisation eg 'Mytown Rambling Club' hires a vehicle, it does not have to comply with PSVAR. The legal view (which you may not agree with) is that as rail passengers have paid individual fares, the bus or coach has to comply with PSVAR even though it is the railway company that has paid for the bus or coach. The changes also apply to some home to school bus/coach services and this is also causing major problems, but this is outside the scope of this document.

To fully understand the impact it is necessary to know the difference between buses and coaches and how they are operated, I will not attempt to cover every detail, but trust the general explanation below helps.

## Buses

For this document we will regard a bus as the type of vehicle you will see on your local bus service. It may have a single deck or be a double decker. All buses meet the PSVR standard and have done for several years. Without going into the legal minutiae, this means anyone is able to board, including people with mobility difficulties, wheelchair users and baby buggies can be wheeled on and off. In practical terms, the bus floor is low and there are no steps at the entrance. There is dedicated space inside for at least one wheelchair which is also used for baby buggies and shopping trolleys/walking aids. Handrails and other interior features are designed to make it easy for everyone. Boarding and alighting is the critical issue for many people and to help them the front suspension can be lowered (often referred to as kneeling) so that the entrance floor is at the same level as the kerb (which should have been raised by the Local authority to match it) providing a level entrance. There is normally a ramp which the driver can unfold to bridge any small gap between bus and kerb.

What buses do **not** normally have is important for this discussion. Most do not have space for significant amounts of luggage, cannot carry pedal cycles, have seats designed for journeys of, say 45 minutes or less. They are not designed for long distance travel nor motorway running, may have a top speed of 50 mph and do not have air conditioning or toilets. These factors are clearly important for some rail replacement work. Most buses do not have seat belts as they are not required for 'bus services' and these would be expensive to install and maintain for the operator. While the passenger is unlikely to notice, buses do not normally have tachographs (tachos) which are little boxes which record the drivers working, driving and resting hours - again these are not needed for bus services and are an expensive piece of equipment. A bus driver usually works to 'UK domestic bus drivers hours regulations' which do not require a tacho and the driver usually knows his or her shifts days or weeks in advance and drives on fixed routes. Bus drivers (and bus companies) are reluctant to do coach work, partially because bus driving and coach driving are different jobs with many different skills, but perhaps more importantly, if a bus driver does even one minute driving a coach it reduces the hours he or she is able to work (and earn money).

## **Coaches**

For this document we will regard a coach as the sort of vehicle you see on day trips, group outings, holidays and school contracts in rural areas. Typically the floor will be quite high to give the passengers a good view out and accommodate luggage. The entrance has steps and boarding while sitting in a wheelchair is not normally possible (there are very few coaches where it is) and baby buggies have to be folded. Coaches are designed for long distance travel at motorway speeds with seats designed to be sat in for hours, air conditioning is common and many coaches have toilets. The high floor gives a very large space underneath for luggage (typically enough for 50 people going on holiday for a week) and pedal cycles can often be accommodated.

The coach will have seat belts and a tacho, these are compulsory as coach drivers work to 'EU drivers hours rules' which are different and more constrained than the UK domestic bus drivers hours regulations. Coach drivers have to be more flexible, sometimes not knowing what work they will be doing until the day before, or sometimes on the day itself. Coach drivers usually have the freedom to choose which route they take. It is important to note that coach work is seasonal, with June/July being the peak season when all vehicles and drivers are fully occupied.

## **Rail Replacement Work**

The railway generally requires buses/coaches in three sets of conditions.

1. Major engineering work, this involves the line being closed for several days or weeks. It is planned well in advance and rail operators have plenty of time to arrange road transport. A local example of this being the closure of the Blackpool line for electrification.
2. Short term problems, for example Northern having 'planned train cancellations' on Sundays. Here road transport can be arranged a day or two in advance. Obtaining buses/coaches is usually possible, but may be difficult at certain times of the year.
3. Emergencies, for example the overhead wires coming down between Lancaster and Carlisle resulting in the line being blocked for anything up to 24 hours. The scale of the operation can be huge; for example there are about 1,000 train seats between Lancaster

and Carlisle every hour. Taking into account the slower road journey and the need for driver's breaks, around 100 road vehicles are needed to provide the same number of seats. Finding this number of vehicles and just as critically, drivers who are able to work (bear in mind the EU drivers hours rules) with no notice is very difficult and relies very much on the goodwill of coach drivers - if the railway is blocked by snow, ice or storms, would you want to have the responsibility of driving a big vehicle with up to 70 passengers on board? Even a short line like the 5 mile Lancaster - Morecambe branch needs at least two road vehicles to provide an hourly service.

### **Providing a rail replacement service**

Except in very rare cases, legislation means that rail replacement work has to be carried out to EU rules. Starting first with the driver; that requires working to EU drivers hours rules, which immediately rules out most bus drivers because most do not have 'driver tacho cards' (smart cards which are inserted into the tacho on the bus) plus it reduces the amount of work they can do (and how much they can earn). So rail replacement work has to be done by coach drivers. Next consider the vehicles to be used, again because such work normally comes under EU regulations, the vehicle must have seat belts and a tacho, so that rules out most buses as they do not normally have them. Given these two critical factors, the vast majority of rail replacement services can only be provided by coaches and coach drivers. However, the vast majority of coaches do not meet the PSVAR, so they cannot legally be used after 31st January 2020 (derogations are only available from 1st to 31st January 2020).

You may ask why bus companies do not see this as an opportunity. Quite simply, bus companies only have enough buses and drivers to run their services, there is no commercial case for investing in extra vehicles, plus fitting and maintaining tachos and seat belts when they may only be needed one or two days a year. While coach companies will probably get more accessible coaches over time, with coaches typically costing £250,000 upwards and having a life of 15 years this will take a long time. Furthermore, why would they spend more on equipping all their fleet with wheelchair lifts etc when the extra costs could make them uncompetitive on price causing them to go out of business?

All the above leads to the clear and unavoidable conclusion that if the rules remain as they are, when the railway needs road transport it simply will not be available in any quantity. The implications of this are very serious. Returning to our earlier example of the wires coming down between Lancaster and Carlisle, you could have up to 1,000 people per hour being stranded and unable to complete their journey - even though coach companies have driver and vehicles available, but prevented by legislation from helping.

A sensible solution is urgently needed.

### **Other Practical Considerations**

While the above has focused on the legislation, there are some other issues important to rail passengers when having to travel by road.

First is comfort, while a coach may not meet the accessibility standards, it is designed to carry passengers in comfort for long journeys, so we often have air conditioning, good leg room, a comfortable ride, secure large luggage lockers and even a toilet. Contrast that to travelling on buses which are designed for short local journeys, the seats are unlikely to

comfortable after an hour, no air conditioning, no toilet, suspension not designed for motorways, no space for luggage, no space for pedal cycles, noise and draughts.

Second is journey time, the coach is built to travel at motorway speed (62mph) while the bus is built for fast acceleration and lower top speed, indeed its speed may well be limited eg to 50 mph, giving longer journey times (which in turn means you need more buses and drivers) and even greater delays.

What this means is that for a short (say under 45 minutes) rail replacement journey, a bus may be suitable (although luggage may be a problem on some routes), but for longer journeys a coach is required for passenger comfort, luggage carrying ability and journey time.

## Infrastructure

The accessibility regulations causing this discussion apply to the vehicle being used. But they are only half the story, equally important is the infrastructure. There is little benefit from having a vehicle that meets all the accessibility standards, if the intending passenger is unable to get to the vehicle and get on, even more important is that they are able to get off and reach their ultimate destination. So here we are interested in the route from station platform to bus/coach and the boarding/alighting points. For local bus travel, Local Authorities have (or should have!) introduced dropped crossings to help people cross the road, raised the kerb at bus stops so the pavement is level with the bus floor and introduced bus stop clearways so the bus can 'dock' with the raised kerb; without these measures an accessible bus is not actually accessible.

With these factors in mind, we will look at some example railway stations.

Preston, this station (by accident or design) works well for rail replacement operation. There are step free routes from all platforms to where rail replacement services depart from. At the boarding/alighting points the kerb is at a good height providing almost level boarding and there is space for drivers to get their vehicles close and parallel to the kerb so passengers can board and alight easily.



Lancaster. There are two entrances to the station; the one on the East side is too small to be used by buses and coaches. The west side has a bus stop by the station doors, but the kerb is too low for boarding and alighting, plus the road layout and the presence of cars, taxis, cyclists and pedestrians makes it impossible for a coach to dock with the (low) kerb. Hence passengers with mobility difficulties have some problems at Lancaster. In addition, the physical space is very small, making rail replacement operations challenging for passengers and drivers. There is a critical danger issue too, there are two routes departing buses/coaches can take; one of these has a low bridge which double deck buses and some coaches cannot get under.



Oxenholme, this station is important as many passengers interchange here between mainline trains and the Windermere branch. Many of these passengers are tourists with significant amounts of luggage and many do not speak English. Again there are two station entrances; the one on the Kendal side has an accessible bus stop complete with raised kerb, giving step free access to the platforms. However, this cannot be used by rail replacement services as it is needed for the local bus service and the location means vehicles cannot wait on the stop for more than a few seconds. Instead rail replacement vehicles use either the approach road on the Kirkby side, or one of the two car parks (all have been used in the past). They all involve walking some distance up gradients and none have any form of kerb, so even buses which meet the accessibility regulations will not be accessible to some passengers.



**Carlisle**, the only location available to rail replacement buses or coaches is the station forecourt. This is cramped, has vehicle pedestrian conflicts and no kerbs of any sort. Hence it is not really suitable for rail replacement operations and has none of the features required for accessibility. Unfortunately there is no alternative location.



Arnside, the only place rail replacement vehicles can stop is at the bus stop on Black Dyke Road opposite the station entrance. However the only way passengers can reach the east side platform (trains going from Barrow to Lancaster) is by going over the stepped footbridge which is impossible for some people.

Hellifield, the only place rail replacement vehicles can use are the bus stops are on the A65 at the end of Station. These are a long way from the station and while the southbound stop is fully accessible, the northbound one is not.

## **Conclusions**

For very many years, rail replacement services have mainly been provided by using road coaches. However the legislation changed on 1st January 2020 and the new accessibility regulations mean that accessible vehicles have to be used, in practice very few coaches meet these regulations, so buses must be used instead. However, practical issues and other legislation means that buses cannot be provided. Unless a comprehensive derogation is implemented immediately, it is highly likely that rail passengers will not have rail replacement road services whenever they are needed, thereby leading to huge delays in reaching their destinations and a high risk of being stranded.

In addition, many rail stations are not designed nor equipped to for rail replacement buses and coaches. This means that even if vehicles meeting the accessibility standards are provided, they will not be accessible to all passengers due to the lack of raised kerbs etc.

## **Recommendations**

The only realistic and practical solution is for the Department for Transport to grant an immediate derogation allowing the use of non-compliant vehicles on rail replacement services. It will be a long time before fully accessible vehicles are available, therefore I suggest that this derogation initially runs for 5 years and it may need to be renewed.

However, rail operators should be made to provide accessible road transport for passengers needing it. This could take the form of accessible taxis in some circumstances eg emergency line closure, or by having accessible minibuses vehicles stationed at key points eg where a line is closed for planned engineering work.

Work has been progressing for a number of years to make all railway stations accessible to all. This is to be commended. However, making provision for accessible rail replacement buses/coaches needs to be added to this programme and rolled out at all stations on the network.

January 2020

Accessible buses and coaches when the trains can't run. What do you think?

#### Question 1

As someone who has various medical issues, getting on and off any transport is not easy even with help. One problem with most buses and coaches (as well as a number of train carriages) is the lack of leg room, even on those services which have accessible seats due to the limited number of seats available.

The lack of toilet facilities in general let alone accessible toilets is another issue, especially with buses and coaches but again even on some trains.

Coaches especially are hard to get on and off, due to the number and steepness of the steps usually required to access the seating along with the narrow aisles.

#### Question 2

I do not think that train companies can ensure all the time that buses and coaches can be accessible unless steps are taken by legislation if necessary to make all vehicles accessible, or at the very minimum those used to replace other 'accessible' services. This might require the train companies working with and/or helping to fund the bus and coach companies to ensure that their fleets are accessible.

#### Question 3a

Luckily for me the only times I have had to use a bus or coach instead of the train was either before my mobility issues worsened or on a good day. Each time the transport was a coach which due to the steps (including their steepness) made it difficult to get on and off them, along with the lack of legroom, meaning trying to sit at least part in the aisle or regularly having to stand for parts of the journey as could not sit in cramped or uncomfortable positions for too long. Also another problem with alternative transport is that the journey times are generally longer and the time getting onto alternative transport can result in significant queueing.

#### 3b

I do have a disability which is gradually getting worse and may soon result in being wheelchair bound. As mentioned for 3a the coaches were only just accessible to me but I am not sure how much longer I would be able to use one.

#### 3c

I do not mind what sort of transport so long as they are easily accessible, with sufficient legroom and potentially with toilet facilities, as I remember on one occasion when we had to change from the train to a bus or coach at a station with no toilet facilities and we had to hang around a long time for the replacement transport to arrive and I know a few people, especially children had to find somewhere as private as possible to go, which is not good for anyone's self esteem or even legal.

#### Question 4.



No.

#### Question 5

No, I thought at the very least that this work was all planned more than 12 weeks before hand, so that advance tickets could be bought 12 weeks prior to travel. But experiences in the last few months shows that this does not appear to be happening anymore, at least on the East Coast Main line as I tried to travel in Mid December but advance tickets were not available anywhere near 12 weeks prior to travel and by the time the return trip tickets were available the outbound tickets were sold out even though the date I was planning to travel were only 5 days apart. This also happened when trying to book travel in January and February this year.

If the train companies and Network rail cannot agree non emergency work well in advance then there needs to be someone whether ORR to arbitrate or rule on when the work should be done.

#### Question 6

If the DVSA is doing its work properly then there should be no need for ORR to be involved but as it does not appear to be working then either the rules need to be tightened up and enforced by the DVSA, ORR, a combination of the two or a separate organisation setup to ensure compliance.

#### Question 7

As previously mentioned this might come down to the train companies and/or Network Rail helping to fund accessible vehicles whether by direct funding or having to pay extra for each hire to offset the costs of acquiring and maintaining them, even if this is mainly to cover the additional costs of the vehicles lifetime.

#### Question 8

Train companies and/or network rail could own or fund a number of accessible vehicles to be used when required. They may be able to rent them out when not required for replacement services to generate income towards their costs, although this could be problematic for unplanned replacement services.

#### Question 9

##### Proposals 3 & 5

Proposal 3 would be best if accessible buses and coaches cannot be provided so long as it means that suitable alternatives can be provided.

I would have chosen proposal 5 if the Government was to make it a legal requirement that accessible vehicles must be provided, whether that is buses and coaches or other accessible vehicles such as taxis that can take a wheelchair etc.

#### Question 10

Lobby the government to make it a legal requirement that all buses and coaches are accessible including sufficient legroom and that toilet facilities are available whenever replacement arrangements are needed, along with appropriate funding solutions to enable suppliers to meet these requirements.

#### Question 11

As mentioned previously toilet facilities at stations and on services provided. More accessible platforms, entrances and exits especially at stations which are not staffed or only staffed at certain times of the day/week. As due to my mobility issues I usually have to ensure that I use a staffed station even when user passenger assist and have on occasion even had to rely on other passengers to assist me get on/off trains especially if I have luggage if the assistance has not turned up, which mainly happens at the destination station when they have limited staff on duty and have been delayed by something or someone else.

Another issue with both trains and replacement services is the lack of luggage space, which is especially noticeable when you join a service part way through its journey. This issue is worse at certain times of the year but can happen at any time that there is no room to safely leave your luggage either in the racks or between the backs of seats.

#### Question 12

Hopefully as a result of this consultation and possibly some of the new trains being rolled out across the country things will improve over the next few years for those with mobility issues.

## Preamble

I have taken Question 12 first; the remainder are in order.

### Question 12

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

#### Importance of accessible rail replacement services

Access to rail replacement services is essential. Failure to afford such access has a significant impact on disabled people. It reduces spontaneity, increases already considerable apprehension of problems and disruption, causes delay and discomfort, segregates disabled people and in general results in a lower standard of service than that offered to the general public.

#### Existing application of PSVAR to coaches

Coaches in use for rail replacement services have been in-scope of the public service vehicle accessibility regulations for many years, since well before the 2020 deadline.

The consultation paper is inaccurate on this point.

PSVAR Regulation 3 Paragraph 7 states:

*(7) Without prejudice to paragraph (6), a single-deck or double-deck coach which is in use on or after 1st January 2005 shall require a certificate referred to in paragraph (8) relating to Schedule 1, except that a single-deck or double-deck coach which—*  
*(a) is first used before that date; or*  
*(b) is manufactured before 1st October 2004,*  
*shall not require a certificate relating to Schedule 1 until 1st January 2020.*

The following table from the Department for Transport guidance<sup>1</sup> summarises the scope of PSVAR.

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<sup>1</sup> "Department for Transport - Public Service Vehicles Accessibility Regulations 2000 - Guidance", undated, available at <https://www.whatdotheyknow.com/request/178430/response/453073/attach/3/PSVAR%20Guidance.pdf>

<b>Application of Regulation 3(2) to (7)</b>			
<b>Buses and Coaches exceeding 22 passengers used to provide a local or scheduled service</b>			
<b>Vehicle Type</b>	<b>Schedule(s)</b>	<b>New Vehicles</b>	<b>All Vehicles (any age)</b>
<b>Single-deck buses weighing more than 7.5 tonnes</b>	1 and 2	First used on or after 31st December 2000 (does not apply if manufactured before 1st October 2000)	In use on or after 1st January 2016
<b>Single-deck buses weighing 7.5 tonnes or less</b>	2	First used on or after 31st December 2000 but before 1st January 2005 (does not apply if manufactured before 1st October 2000)	In use on or after 1st January 2015 must comply with Schedules 1 and 2
	1 and 2	First used on or after 1st January 2005 (does not apply to Schedule 1 if manufactured before 1st October 2004)	
<b>Double-deck buses</b>	1 and 2	First used on or after 31st December 2000 (does not apply if manufactured before 1st October 2000)	In use on or after 1st January 2017
<b>Single-deck and double-deck coaches</b>	3	First used on or after 31st December 2000 but before 1st January 2005 (does not apply if manufactured before 1st October 2000)	In use on or after 1st January 2020 must comply with Schedules 1 and 3
	1 and 3	First used on or after 1st January 2005 (does not apply to Schedule 1 if manufactured before 1st October 2004)	

This table makes it clear that as of 2019 all coaches first used after 2000 were required to comply with Schedule 3 of the PSVAR (regarding floors and gangways, design of seats, steps, kneeling systems and route and destination displays); and that all coaches first used after 2004 were required to comply with Schedule 1 of the PSVAR (wheelchair accessibility.)

The 2020 deadline only affected non-compliant coaches over 19 years old (in respect of general accessibility requirements), and wheelchair-inaccessible coaches over 15 years old. All other coaches were already in scope.

The provisional legal advice similarly states this, in Paragraph 16:

*From 1st January 2020, all single or double deck coaches “in use” will also be required to have a certificate; many newer coaches are already covered, but the exemptions for older coaches previously in place will expire as at that date*

The ORR appears to have missed or misinterpreted the advice that “many newer coaches are already covered.”

Paragraph 19 of the consultation document is typical of several sections that get this obligation wrong:

*These are not new requirements; whilst the obligation to run PSVAR-compliant services was expected to commence for coaches from 1 January 2020, the legislation has been in place for a number of years and should be well known to train operators.*

The paragraph is fundamentally incorrect. A corrected version could read:

*These are not new requirements; the obligation to run PSVAR-compliant services commenced on 1<sup>st</sup> January 2001, and in respect of wheelchair access, encompasses all new coaches first used after 1<sup>st</sup> January 2005. The 1 January 2020 deadline solely applies to coaches constructed before these dates. The legislation and its deadlines have been in place for a number of years and should be well known to train operators.*

The ORR made similar misstatements of the situation pre-2000 throughout the consultation. Examples include Paragraphs 10, 47, 2.3, 2.5, 3.12 and 3.25.

Operators have routinely committed the criminal offence of employing inaccessible coaches for rail replacement services over the last 15-19 years. By 2019 there were a significant number of coaches in use on rail replacement services that were in-scope of the regulations but were inaccessible.

I am concerned that the ORR have published inaccurate legal information and interpretation throughout this exercise. I consider this calls into question the competence and legitimacy of this consultation.

Despite the frequency of incidences of contravention of PSVAR in rail replacement, there has not been any recorded instance of any person or body being prosecuted or otherwise held to account for this breach.

### **Failure of “Reasonable endeavours.”**

The consultation document notes that the rail industry has had a significant period to prepare for the criminal law obligations in the PSVAR but has failed to do so. This failure was because the industry didn't notice that PSVAR applies to rail replacement services, and because the DVSA failed to discharge its duty of enforcing such.

### **Compliance with the Statutory Code**

The consultation document also notes that the Design Standards for Accessible Railway Stations: Code of Practice states that buses and other substitute transport should be accessible, that train operators should ensure such during planned works, and that train operators should do so wherever possible during unplanned disruption. The earliest version of the document I can find was published in 2011. That contains the same requirement. The Code and its precursors<sup>2</sup> have obliged TOCs to make serious efforts to provide accessible rail replacement vehicles for at least the last nine years. TOCs were fully aware of this.

The consultation document reveals that of the 93,202 rail replacement vehicles used in the last twelve months (across those TOCs that provided data), 38,000 (sic) were PSVAR compliant. 41% of rail replacement vehicles did not comply with PSVAR. Some TOCs exclusively use coaches; for them, the data shows around 0.3% of the vehicles will have been accessible.

That's only those for which the ORR has data. TOCs strongly objected when the ORR asked them for data earlier in 2019, stating that it would be too difficult and cost them too much to find. In response

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<sup>2</sup> Accessible Train Station Design for Disabled People: A Code of Practice (DFT) (editions 2010 and 2011), Train and Station Services for Disabled Passengers: A Code of Practice (SRA) (editions 2002, 2008)

to the ORR's ATP consultation suggestion that operators be required to "Report to ORR on the accessibility of rail replacement bus services," GWR said<sup>3</sup>:

*Currently a service provider coordinates our rail replacement bus services. Although they have a record of all suppliers on their system and the size of vehicles that they hold, they do not have accurate detail for every Operator concerning their accessible vehicles they operate. This is because their supplier base is so large and bus operator's fleets can change frequently. It would, therefore, take some considerable time to go through the whole Supplier base to obtain this information and keep it up to date. It would also be difficult to report on those vehicles that have been provided for RSS that were accessible, due to only registrations and driver's names being provided when Operators 'book on' for their shift.*

GWR can't be monitoring their compliance with the Code of Practice requirement to use accessible vehicles for planned engineering work, and to attempt to use such for unplanned disruption. The consultation document shows that other TOCs similarly do not collect or collate such data and are unable to do so. Such lack of monitoring suggests to me that they are not putting any priority on the provision of accessible vehicles and have no serious intent to do so.

### Special Authorisation obligation to prioritise accessible vehicles

TOCs still aren't prioritising the provision of accessible rail replacement vehicles, in the face of more stringent and direct entreaties to do so. In the Minister of State for Rail's letter to RDG offering an extension of special authorisations for inaccessible RRVs, the minister wrote<sup>4</sup>:

*These authorisations will have the following three major conditions attached:*  
*1. Train Operating Companies must source and use PSVAR compliant vehicles wherever possible in the first instance, and only use the noncomplaint vehicle that has been granted a special authorisation when all other options have been exhausted.*

This licensing requirement echoed a similar condition in the January 2020 extensions. Yet on Thursday 29<sup>th</sup> January, a bus/coach provider commented to me:

*FTS booked yesterday for Easter weekend. Just two coaches on Easter Sunday (TOWN - TOWN) crap rate from the 1990's. I questioned why they hadn't stipulated PSVAR - answer "don't need em TIL May! I explained my understanding of the exemption. And also said I currently had # available all weekend. Not interested.*

(FTS is First Transport Solutions; FirstGroup's accessible transport co-ordinator for rail replacement services. I have removed the town names, and the number of PSVAR-vehicles, to avoid business risk to the provider.)

Another provider commented on 24<sup>th</sup> January (similarly redacted):

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<sup>3</sup> "Responses to Improving Assisted Travel – A consultation on changes to guidance for train and station operators on Disabled People's Protection Policy (DPPP) – Published July 2019" page 20. Available at [https://orr.gov.uk/data/assets/pdf\\_file/0013/41521/improving-assisted-travel-consultation-responses-july-2019.pdf](https://orr.gov.uk/data/assets/pdf_file/0013/41521/improving-assisted-travel-consultation-responses-july-2019.pdf)

<sup>4</sup> Letter "Compliance with rail accessibility requirements for the period 1 February 2020 to 30 April 2020" 23<sup>rd</sup> January 2020  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/861265/compliance-rail-accessibility-requirements-period-1-february-to-30-april-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861265/compliance-rail-accessibility-requirements-period-1-february-to-30-april-2020.pdf)

*This from Bus/Coach Company*

*They had a big RRS arranges with Scotrail using PSVAR vehicles*

*However, once the derogation was announced they cancelled it with Bus/Coach Company and hired the usuals coaches instead 'as they are a lot cheaper'*

On Sunday, 26<sup>th</sup> January, I attempted to catch a rail replacement service from Harrogate to Horsforth return. I had hours of stressful disruption for what should be a 22-minute journey because the rail replacement coaches were not accessible (and there were no accessible taxis in Harrogate, as usual for a weekend or an evening.)

One provider commented to me:

*I've # PSVAR coaches parked up and have not been asked to cover any rail this weekend.  
... This time of year, if they can give me long shifts - say 10 hours ish, I'll even do it as their rate. Simply as it's quiet. They know this. Obv.*

Northern did not contact his company before booking inaccessible vehicles for the rail replacement service.

Another commented, about the same incident,

*Shocking. Actually no, I'm not shocked.*

*Both Bus/Coach Company A and Bus/Coach Company B had compliant buses available all day Sunday. I myself would have gone out driving had a call come in (for either firm) and I feel sure I could have rounded up a couple of other drivers also.*

*I am beginning to believe that the problem is actually with the intermediaries (CMAC, arriva rts and First travel solutions) and would love to know what they cream off.*

*What they really mean, of course, is that they have no supplier who is prepared to work for derisory rates (which are of a level of low-ness that the operator can only afford to pay a basic £9 ish per hour to the driver) rather than of a level where time and a half can be offered, which in reality would make it easy to get drivers to work.*

TOCs and their subcontractors are treating with complete contempt the existing obligation to increase the use of PSVAR vehicles. It would seem likely that they would handle the actions and entreaties in the proposed revised ATP guidance similarly.

In my view, the only way to get TOCs to prioritise and achieve the provision of accessible rail replacement vehicles is through time-bound criminal law obligation and enforcement.

### **LNER's change of position**

As noted in the consultation document, LNER initially expressed considerable concern about the impact of mandating PSVAR compliance, and their ability to source appropriate vehicles.

Since their initial response, they have changed their position and policy on this matter. LNER have determined that there are enough PSVAR-compliant vehicles to cover engineering work and they have now implemented a PSVAR-only policy. LNER require such when commissioning rail replacement vehicles and enforce the policy on the ground. Rail replacement transport coordinators are under strict standing instructions that they must turn away all inaccessible vehicles on arrival. (As confirmed to me in person by LNER directors.)

## Responses to Questions 1-11

### Question 1

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

No.

However, I have been contacted by a few bus and coach operators who are sceptical of the claim that there are insufficient PSVAR-compliant vehicles available for rail replacement services. They are of the view that there are enough to provide at least for planned disruption, especially given the long lead times of such.

### Question 2

**How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The fundamental issue is one of Cost. TOCs, and (perhaps more significantly) their subcontracting organisations (e.g. First Transport Solutions, Abellio Rail Replacement and Arriva Road Transport Services), are in the practice of soliciting rail replacement vehicles at the cheapest rate possible. They refuse offers of PSVAR-compliant vehicles because said vehicles come at a higher cost per hour. TOCs and their subcontractors can prioritise PSVAR-compliant vehicles by being prepared to pay a premium for their provision.

### Question 3

- (a) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**
- (b) If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

I have much experience of being required to / attempting to use rail replacement buses, coaches and taxis.

I have never successfully used a rail replacement coach, simply because I am unable to as a wheelchair user. I've never seen an accessible one.

I have used an accessible rail replacement bus once. I caught the bus by "luck": as usual, the TOC (Northern) was not aware whether any of their rail replacement vehicles would be accessible. The replacement taxi Northern had booked for me was much delayed, which would have had significant consequences for the remainder of my (multi-leg) journey. By luck, a volunteer-run accessible heritage vehicle turned up. I was able to get on without any hassle, like everybody else, and travel in comparative comfort to my next station. It was much preferable to the late and profoundly uncomfortable experience in a taxi.

I have used rail replacement taxis many times (10s to 100s.) See Section C for my experiences.

Rail replacement services are vitally important: without them, I would have been stranded tens or hundreds of miles away from home, or unable to complete my journey at all. Often, they have been in remote areas, e.g. Settle, not served by other public transport. Coaches



and buses are the most suitable alternative to trains. They could and should be appropriate for my access needs; however, they currently are not.

Taxis are not an acceptable alternative.

**(c) Do you have a preference for the type of replacement service you receive? If so, please explain why.**

I prefer accessible coaches and buses.

They:

- Allow me to travel spontaneously
- Don't impose extra delays on top of those experienced by other passengers
- Don't require me to (attempt to) communicate with agencies over the phone
- Are much more comfortable than taxis
- Are generally safer for wheelchair users than taxis are
- Are more reliable than taxis
- Do not result in segregation

I prefer buses for short distances (they're easier to board and are less difficult to restrain wheelchair users) and coaches for longer distances (I can face forward which is more convivial, less likely to cause travel sickness and a better view) – but no matter what the distance, either are much preferable to a taxi.

### Taxis as “acceptable” alternatives

I have much experience of the use of taxis as accessible alternatives to rail replacement buses and employed as contingencies for inaccessible stations and stock.

My experiences are overwhelmingly negative. They include:

- Bookings not being made in advance even where I have pre-notified. For example, I booked assistance days in advance for transport to a relative's funeral. TOC staff assured me they had organised rail replacement taxis. On the day I had multiple phone calls as the TOC and taxi services arranged accessible taxis; fundamentally affecting my engagement in the funeral and wake.
- Inaccessible communications. I struggle with incoming calls due to hearing loss. TOCs insist on providing my phone number to taxi booking companies, resulting in multiple incoming calls which I can't hear or can't face answering. The phone calls result in considerable anxiety and knock-on problems with the booking.
- Being made to wait prolonged periods (up to two hours, even when pre-booked) due to lack of availability of accessible taxis. Such lack of availability is particularly the case in remote areas, which are the same areas that have limited availability of accessible buses or coaches.
- Being made to wait prolonged periods due to TOCs / subcontractors only having contracts with limited taxi firms. Waiting for hours for accessible taxis, while observing hundreds of accessible taxis passing the station at which I'm waiting.
- Taxi drivers coming from a considerable distance “out of area”. Such drivers getting lost while attempting to find me and getting lost en route to my destination.
- Travelling backwards and hunched over with the back of my head and sometimes my neck and shoulders pressed against the ceiling, due to the design and construction of accessible taxis. Many taxis are designed to transport wheelchair users backwards. Most have a low roof. I can't see out of the window, I'm in considerable pain (then and afterwards) and I end up travel sick.

- Taxi drivers not clamping me in properly or not fitting a seatbelt due to lack of appropriate equipment, lack of knowledge as to how to employ said equipment, or lack of impetus to do so.
- A lonely, segregated journey away from the rest of the public.

I find that alternative accessible taxis for disabled people are treated very much as an afterthought. TOCs and their agents are more focussed on provision for the masses than for the minority of disabled people who can't use coaches and buses. Pre-notification through assisted travel reservations doesn't result in reliable taxi provision.

If rail replacement services are accessible, instead of the above experiences I could travel spontaneously, without additional delay, upright and in safety and comfort, with a view out of the window and without being segregated from the rest of the public. Like everybody else.

Many non-disabled people appear to think that taxis must be much preferable to the "old and decrepit" rail replacement bus or coach. The reality of experience on the ground is that they are not.

#### Question 4

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

I have no such data. However, I am in contact with a lot of disabled people and can offer the vicarious knowledge that if there is rail replacement transport many disabled people (understandably) rearrange, postpone or cancel their journey. This is due to the accurate perception that said transportation is not accessible to them and that their journeys would therefore be considerably more stressful, long and difficult to endure than for a non-disabled person.

If rail replacement services were made easily accessible, this would likely increase the number and proportion of disabled travellers using them.

#### Question 5

**We are interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

I am unaware of such information.

#### Question 6

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

In the Dealtop decision<sup>5</sup>, the Traffic Commissioner emphasised the gravity of the offence of failing to comply with the PSVAR.

*Under that Act, The Public Service Vehicles Accessibility Regulations 2000 were made which required, in simple terms, all single deck vehicles on regular services to be accessible from 1 January 2016 and double-deck vehicles by 1 January 2017. Mr Risk states that he preferred to operate the route with a noncompliant vehicle rather than fail to operate entirely. He seems to miss the point that he is required to operate the route with a compliant vehicle and he should ensure that he has contingency in place. Being compliant with accessibility regulations is all part of keeping vehicles fit and serviceable and this admission on the operator's part is a serious one. Not only do I find that Section 17(3)(a) is made out in that the operator has failed to abide by his undertaking to ensure vehicles are fit and serviceable, the inherent discrimination against those with mobility impairments goes to Mr Risk's good repute. ...*

*The use of an inaccessible bus on a registered service shows a clear contempt for those passengers who have mobility issues. I suspect Mr Risk would deny that he discriminates against those who need accessible buses. The Disability Discrimination Act was designed to end such discrimination and in breaking the PSV Accessibility Regulations, Mr Risk has clearly discriminated between those who can climb steps on to a bus, and those who cannot.*

*I ask myself whether or not this is an operator I can trust to be compliant in the future. The behaviour in relation to financial standing is enough on its own to answer that in the negative and such a conclusion is supported by the attitude to DDA compliance.*

The contraventions of PSVAR were a significant contributor to the determination that the company and its directors were not performing satisfactorily and were not fit and proper persons to hold a licence, and the consequent license revocation and bans.

I agree that the contravention of PSVAR is a serious issue with severe inferences and implications. It is not a light matter. The regulator must take adequate precautions to avoid tacit consent to such breaches.

### **Tacit acceptance of breaches**

It is inappropriate for the ORR to require a lower specification of accessibility than that required in criminal law. It is not acceptable that disabled people should be victims of the serious criminal offences that the ORR is proposing to sanction in this guidance.

### **Double Jeopardy**

The consultation document makes much of the fact that it is the DVSA, and not the ORR, who are tasked with enforcing compliance with the PSVAR.

The DVSA have not been proactive in monitoring and enforcing compliance with the PSVAR. The "Dealtop" determination, as above, is to the best of everybody's knowledge, the first instance of the DVSA or any other body taking enforcement action against a provider for gross breach of the PSVAR. (Any previous enforcement action has been over "minor" transgressions, e.g. roadside inspections discovering a faulty ramp on a vehicle.) The DVSA has never taken any action against illegal use of

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<sup>5</sup> "Decision of the Traffic Commissioner - Public Inquiry in Launceston, 19 November 2019, DEALTOP (PLYMOUTH) LTD t/a TARGET TRAVEL", available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/859810/Written\\_Decision.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/859810/Written_Decision.pdf)

inaccessible rail replacement vehicles, despite such offences being common. Their current enforcement manual, and their recent referral to the Traffic Commissioner in “Dealtop” above, refer exclusively to the Disability Discrimination Act 1995 as the enabling legislation for PSVAR. The DDA 1995 was repealed in 2010 and replaced by the Equality Act; so such references are concerningly erroneous. The ORR would not risk eclipsing or duplicating existing enforcement of the PSVAR for rail replacement buses because the DVSA has not, and does not, enforce such.

#### Duplication of DfT’s consideration.

ORR’s proposed policy on the accessibility of rail replacement services is also inappropriate in that it is duplicating the work being undertaken by the Department for Transport. The consultation document notes that the DfT announced it was “extending” the supposed 2020 deadline to the end of January 2020. The DfT has since announced that it is extending the deadline to the end of April 2020. The claimed calamitous effects of mandating coach PSVAR compliance have therefore been mitigated until at least May. The DfT is working with Rail Delivery Group and other organisations to develop plans for rapidly increasing availability of PSVAR-compliant vehicles, to limit the requirement for future extensions of the special authorisations.

In these circumstances, I would posit that it would be entirely reasonable for the guidance to state that operators and subcontractors must comply with Section 175 of the Equality Act when providing rail replacement transport. That would mean that operators are exempt from the obligations while they have a special authorisation, and subject to the regulations when the Department stops offering such authorisations. There’s no reason to specify anything else.

*(NB: I wish to make clear that by making the above observations, I am not indicating that I support or agree with the extensions implemented by the DfT, or any of their actions or considerations concerning PSVAR compliance of rail replacement or home to school services.)*

#### Question 7

##### **How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

Train operating companies have got to want to increase PSVAR compliance for this to happen at all. Broadly, they currently don’t, as demonstrated above in response to Question 12.

Train operating companies need to pay more for PSVAR compliant vehicles; or to put it the opposite way round, to pay less for inaccessible vehicles. For example, they could be offering £X per hour for PSVAR-compliant vehicles, and 75% of X for vehicles that don’t comply.

When tendering for companies, TOCs should indicate in the tendering specification that they will prioritise those companies that have PSVAR-compliant vehicles; that the TOC will incentivise further those with a high number or proportion of PSVAR-compliant vehicles; and that after a specific deadline, e.g. that set by the Government’s Special Authorisations, they will only book PSVAR-compliant vehicles.

## Question 8

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

I don't know the current lead time for coach bookings, or what is the general booking procedure. So long as TOCs provide accessible vehicles, I am not interested in how they achieve such compliance.

## Question 9

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

The proposals would appear to be non-exclusive, i.e. they could all be employed.

**Proposal One** is a non-time-bound, woolly, unclear proposition which does not deliver what disabled people need and deserve: reliable and enforced access to rail replacement services within a specified and limited timescale. As set out under Question 6 "Duplication of DfT's consideration", there is little to no point in requiring anything less than compliance with S175 of the Equality Act. I do not support this proposal.

**Proposal Two** and **Proposal Five** are about the mechanics of how to achieve the provision of accessible vehicles. I would suggest that the prospect of prosecution for failure to comply with S175 of the Equality Act within a specific deadline would focus the rail industry's minds on finding solutions and pathways such that the ORR needn't consider the mechanics of such. I also question whether the ATP guidance is an appropriate location for such a proposal.

**Proposal Three** I support this proposal, irrespective of the provision or otherwise of accessible vehicles. I would argue that TOCs are already required to comply with much of this proposal under the anticipatory duty to make reasonable adjustments as set out in Section 20 of the Equality Act. However, TOCs don't comply with this obligation; and so I would support the inclusion of this obligation.

**Proposal Four** It is essential that TOCs provide passengers with usable information about the accessibility of rail replacement services. Currently they don't. As established above, TOCs are generally not aware of the accessibility or otherwise of their rail replacement services. Most TOCs assume that all rail replacement services will be inaccessible and default to booking taxis regardless, which isn't acceptable. Notices about rail replacement services often refer to the need to fold prams and unsuitability to bicycles, yet don't mention wheelchair accessibility or what to do if the service is inaccessible for impairment reasons.

The DfT's PSVAR Guidance<sup>6</sup> is apposite:

*Operators should note that during this transition period a mix of vehicles on the same route creates uncertainty for disabled people wishing to make use of accessible vehicles. It also reduces the commercial benefit to the operator of more accessible vehicles. This*

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<sup>6</sup> "Department for Transport - Public Service Vehicles Accessibility Regulations 2000 - Guidance", undated, available at

<https://www.whatdotheyknow.com/request/178430/response/453073/attach/3/PSVAR%20Guidance.pdf>

*practice should therefore be avoided. Where it is unavoidable, the timetable should show as clearly as possible which services are accessible.*

Again, I would argue that TOCs are already required to comply with Proposal Four, under the anticipatory duty to make reasonable adjustments as set out in Section 20 of the Equality Act, but in the face of current non-compliance, I would support the inclusion of this obligation.

#### Question 10

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

Require TOCs to comply with S175 of the Equality Act.

#### Question 11

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

Forcing TOCs to secure PSVAR-compliant vehicles for rail replacement services would be likely to have a positive knock-on effect of the availability of accessible vehicles for other services offered by the bus and coach companies for other purposes, for example for day trips and private hire.

Dear Sir or Madam,

I am a disabled person and wish to respond to Question 3 of this Consultation. I am a member of various disability organisations and served as a member of DPTAC from 1 July 2009 until 31 March 2014. It is disappointing to note that so many of the coaches used on rail replacement services remain inaccessible despite the PSVAR legislation having been around since the year 2000. I think the position taken by DPTAC that all buses used on rail replacement services be PSVAR compliant is logically correct and I very much hope that its adoption will be the outcome of this Consultation. As a rail passenger I have occasionally required to use rail replacement services and have always dreaded the experience because I do not know until I am on the bus or coach what standard of accessibility the vehicle will possess, whether it will have a toilet or whether it will be comfortable. I remember a long and uncomfortable journey between Edinburgh and Inverness in January 2016 which left me feeling exhausted before I got home. The intention of the legislation in my view requires that the accessibility of such services must improve now. Simply using reasonable endeavours to improve is not enough.

I submit this Response as a disabled person and not on behalf of any organisation. I am content for it to be published.

██████████ disabled person, Edinburgh

Disabled people should be warned as soon as possible about replacement services. If they have booked assistance, passengers should be called and e-mailed to discuss an accessible replacement, and a taxi should be booked for them if the coach is inaccessible.

For passengers who have not booked assistance, and have a right to travel spontaneously, there should be a number for them to call on all notices of replacement services for passengers to discuss their requirements and book taxis if necessary.

If the passenger has to book their own taxi, it should be easy for them to claim back the extra expense.

In conclusion, it should be made as easy as possible to disabled passengers to learn about the replacement services, discuss their needs, book alternatives and claim back if necessary.



Stephanie Tobyn  
Deputy Director Consumer Policy  
Consumer Policy Team  
Office of Rail and Road  
25 Cabot Square  
London E14 4QZ

February 2020

Dear Stephanie,

**Accessible Travel Policy Guidance – accessibility of rail replacement services : a consultation.**

Thank you for the opportunity to comment on your recent consultation. This letter is a joint response from London TravelWatch and Transport Focus, as the consumer watchdogs representing the interests of passengers on the railway network.

Accessibility is a matter of great concern to passengers. Our research has shown that even for passengers without a specific mobility impairment improving accessibility is something that they consider the rail industry must do. It is therefore regrettable in our view that the rail industry has not made the progress in this area that its' passengers and funders expect of it. The continued need for exemptions from accessibility regulations is regrettable, and in our view, now requires a clear path to show how compliance will be achieved.

We have answered your consultation questions as below:-

**Question 1**

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

No

**Question 2**

**How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

Minimising the requirement for PSVAR compliant vehicles:

In the first instance train operators and Network Rail should prioritise enabling passengers to complete their journeys by rail instead of by road vehicles. This should be a central part of any

plans to enable passengers to travel during planned disruption for engineering work. This is borne out by research amongst passengers<sup>1</sup>. However, at times co-operation between train operators has not been as close or as helpful to passengers as it could have been e.g. over ticket acceptance or changes in stopping patterns. It should be standard practice that train operators should co-operate with one another to get the best outcome for passengers.

Passengers also expect train operators to come to arrangements with bus and coach operators that provide local bus or express coach services on routes that enable the rail passenger to complete their intended journey. In London, TfL routinely enhances existing bus routes where closures of TfL Rail, London Overground, DLR, London Underground and London Tramlink services are affected by closures. Where demand is likely to be low rail passengers are accommodated without the need to provide additional capacity.

For both these requirements the train operators should be required to demonstrate to the ORR that they have made efforts to use these methods of alternative travel before, and as part of any process to procure replacement bus and coach services, with reporting on levels of compliance as part of any licence condition..

Where PSVAR vehicles are required then a number of tests should be applied to determine the types of vehicles needed for the proposed service.

The tests should cover:-

- Suitability for the roads to be used e.g. narrowness or speed
- Suitability of the station infrastructure – i.e. provision of PSVAR-compatible bus and coach stops, as some stations do not have these.
- Maximum speed of the vehicle
- The internal layout of the vehicle and the location of luggage facilities
- The duration of the journey that passengers would experience.

As a worked example of this, a short journey of five miles on urban roads with a speed limit of 30mph could be operated with a standard low floor bus, with luggage accommodated on seats or other passenger areas. In contrast, for a journey of 15 miles, using high speed roads (70mph limit), a coach type vehicle with separate luggage compartments should be used to minimise a) the journey time; b) in the event of a road traffic collision to reduce the likelihood of injuries from unrestrained luggage on passengers. In either case if a PSVAR compliant bus or coach is not available, then a taxi, private hire or community transport vehicle should be provided concurrently and in a timely manner with the bus or coach to enable passengers with reduced mobility to complete their journeys.

All of the above measures would ensure that available PSVAR resources are deployed at their maximum efficiency for passengers.

Another means of measuring success would be to measure delay to passengers requiring an accessible vehicle, and to allow these passengers to claim under the Delay Repay arrangements for each train operator where there was a delay to a passenger's journey. This

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<sup>1</sup> Rail passengers' experiences and priorities during engineering works. Transport Focus. 2017

would be measurable by the number of such incidents, accompanied by an explanation for the delay and should apply also where a concessionary fare is being used, but with recompense also to the user.

### **Question 3**

- (a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**
- (b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**
- (c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

Rail replacement services are essential to allow a) the proper maintenance and enhancement of the railway and b) passengers who rely on the railway and who have no other means of travel, to complete their journeys. This includes people with reduced mobility.

Below are some notes by the London TravelWatch Deputy Chair, Alan Benson<sup>2</sup> who uses a wheelchair on his experiences.:-

*'For Rail Replacement Bus Services (RRBS) there are short distance services run using buses and longer distance coach services. There is no shortage of accessible buses so there is no reason these services shouldn't be accessible immediately.*

*A number of coach companies have invested to meet the PSVAR regulations. To allow exceptions will effectively penalise these companies.*

*School coach services have been given 2 years to be 50% compliant and 4 years to be 100%. Industry seems to think 100% compliant in 2 years is reasonable. Stepped goals make sense for longer deadlines. I would like to see financial penalties for failure (this is law after all) but I accept this may be hard/unpalatable.*

*There is anecdotal evidence that accessible coaches are being unused for RRBS in preference to cheaper non-compliant coaches. Train operators do not seem to be trying hard enough to source compliant vehicles. Any plan should involve regular quarterly returns by train operators detailing compliant/non-compliant services and reasons for non-compliance. I am told this data is not currently collected.*

*The legislation is rooted in principles of inclusivity, that everyone be treated the same and have the same access. The current approach of taxis on demand is not consistent with this and does not work anyway. There are excessive waits and a lack of accessible taxis in large parts of the country. Train operators frequently don't contract with local (i.e. taxi rank) companies'.*

### **Question 4**

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

No

### **Question 5**

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<sup>2</sup> Also chair of Transport for All.

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

N/A

#### **Question 6**

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

We are mindful that DfT and DVSA also have a role in PSVAR compliance alongside ORR. We note that the DfT has just granted a further 12-week extension to the use of non-compliant rail replacement vehicles, subject to the industry meeting a series of conditions.

Given the multi-agency element to this issue it is important that there is a joined-up approach to regulation and enforcement between DfT, DVSA and ORR. There should not be a situation whereby compliance with one body represents a breach with another – this so called ‘double-jeopardy’ position would simply add to the confusion and further hinder efforts towards full compliance.

ORR’s decision not to duplicate the enforcement of PSVAR will help to prevent such a situation. However, passengers must also be given clear guidance on their rights and expectations through the Accessible Transport Policies, showing the route for asserting these and appropriate restitution in the event of failure.

#### **Question 7**

**How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The key to increase supply of PSVAR compliant vehicles is to a) specify their use in contracts and b) to pay a premium for the use of such vehicles as against the use of non-compliant vehicles. This should be backed up by spot checks to ensure compliance.

#### **Question 8**

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

This seems reasonable. Timetables should be publicly available 12-weeks in advance and show planned engineering works and the use of bus replacement services. The earlier that timetable information and bus replacement information can be made available the better it will be for people planning journeys. Standardising timescales for compliance and timetabling will help journey planning.

#### **Question 9**

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

All of the proposals (1 to 5) seem to be a common sense approach that passengers would expect operators to be doing as a matter of ordinary business

#### **Question 10**

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

As noted above the tendering regime for vehicle contracts should incentivise the provision of compliant vehicles through the price mechanism. Similarly, operators should be required to report back on a regular basis to the ORR for enforcement purposes on the use of rail replacement vehicles and the reasons for any deviation by the use of non-compliant vehicles.

**Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

There should be a means of recording the impact of non-compliance on people with protected characteristics.

Waiting times at stations for alternative accessible transport should be monitored. Passengers unable to travel on replacement services should not face extended waiting times.

**Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

It would be useful to collect anonymised data on the use of services by people with protected characteristics, where and when they travel in order to help inform future investment decisions on station upgrades and rolling stock design / allocation.

Yours sincerely

**Tim Bellenger**

Director, Policy and Investigation

**Mobility and Access Committee for  
Scotland (MACS)**

Area 2F North, Victoria Quay  
Edinburgh EH6 6QQ



The Office of Rail and Road

[ATP@orr.gov.uk](mailto:ATP@orr.gov.uk)

Our ref:  
2020/05

Date:  
11 February 2020

Dear Sir or Madam,

**MACS RESPONSE TO THE ORR CONSULTATION ON ACCESSIBLE TRAVEL POLICY**

Please see below a response to your consultation on Accessible Travel Policy Guidance - accessibility of rail replacement services, submitted by the Mobility and Access Committee for Scotland (MACS).

Kind regards,

Aga Lysak  
MACS Secretary

The Mobility and Access Committee for Scotland (MACS) is grateful for the opportunity to respond to your consultation. We are encouraged to hear that the overall objective is to ensure that all passengers can request and receive assistance to travel safely with confidence and ease. Our response to the specific issues on which you are seeking views is as follows:

- **Mandatory tendering for accessible buses and coaches in rail replacement contracts to incentivise investment in the supply chain and increase the availability of vehicles over time.**

The tendering process will allow a specification that will cover the requirements for replacement vehicles. We note that legal advice to ORR in 2019 concluded that PSVAR should apply to rail replacement vehicles, however PSVAR is limited in coverage as it only applies to vehicles over 22 passenger seats and is also flawed because the coach specification is for wheelchair access rather than access for all.

In order to achieve your aim that disabled people should be able to travel with confidence and ease, the tender specification should ask that all vehicles used on rail replacement services should be step free as well as complying with regulations required for wheelchair access, visually and hearing impaired individuals and have a designated space for an assistance dog.

We are aware that a number of disabled people are able to use rail services without assistance but would struggle if the replacement service was not as accessible as the train. We therefore feel that measures taken to provide replacement services should consider not only those who have booked assistance but those who are able to use the train unaided but may not be able to use the replacement rail services.

We note that ORR is aware of the above issue and is proposing to ensure that passengers are aware of planned disruption and told of alternative transport arrangements. This information should be available through all channels, including person-to-person at stations and on-board trains, and including to passengers travelling spontaneously and who have not booked assistance.

We would urge that care is taken when defining accessibility and rather than using compliance with PSVAR, passengers are informed if replacement services have steps. This will also be an issue when the replacement vehicle is a taxi or private hire car, as certain vehicles are difficult for those who cannot step up into certain vehicle types or stoop down to sit in lower vehicles. We understand that some taxi drivers may have exemptions from carrying dogs, including assistance dogs, on medical grounds, but we would ask where this is the case that vehicles that can be readily available. Provisions should be made for taxis that can accommodate wheelchairs so that passengers who require this are able to travel with family or friends without being separated. We are aware of instances where the latter has happened and caused severe anxiety to the disabled passenger. In addition, with regard to taxis, care should be taken to ensure adequate supply to meet anticipated demand in order that disabled passengers do not face undue delay during times of disruption when

compared to their nondisabled counterparts who are able to use the provided rail replacement transport. We are aware of situations where, where accessible taxi transport was or could not be sourced, disabled passengers were forced to wait for the next available rail service, with considerable delay, and where this was offered as the only possible option with no consideration of any alternative. This is a particular issue in rural areas where rail services may be few and far between.

- **Encouraging earlier procurement and greater use of accessible vehicles at times of planned disruption**

Should the requirement to have accessible vehicles available at times of planned disruption be included in individual franchise requirements? MACS previously asked for measures to be taken to ensure that fully accessible vehicles were used during the planned disruptions on the Aberdeen to Inverness line. We subsequently heard from a number of passengers that the measures were not implemented. We also heard that there were no staff on hand to assist passengers between the train and the replacement vehicle and that no staff member had been given the responsibility of ensuring that all passengers had successfully been transferred. This is particularly important where unstaffed stations are used for the planned transfer.

A recent Poll undertaken by Disability Equality Scotland (DES) on access to rail services showed that a worryingly significant number of people are concerned about travelling when they board or alight at unstaffed stations. Comments made in response to this Poll stated that information is often not passed on between booking staff and staff on the train. It is therefore important that communication as well as access is covered in the contract specification for rail replacement services. Measures should be taken to ensure that information regarding and relating to transfer procedures is communicated to passengers in a format accessible to them including, for example, BSL (British Sign Language) or Easy Read. It is important to remember that a lack of information, particularly for those who are unable to independently find staff to provide it, can be extremely distressing and the difference between them continuing to use the network and never travelling by rail again.

- **Proactive provision of information to passengers on the accessibility of rail replacement services, and on any alternatives that may be more appropriate**

It is essential that clear information is given to passengers of all abilities. We note that recognition has been given in ORR documents to the needs of deaf and/or visually impaired passengers however the proposed options can only succeed if the passengers have appropriate digital devices incorporating accessibility features, the ability to use them, and they are in an area where there is adequate digital coverage. It should be noted that blackspots for digital coverage are present in both rural and urban areas.



- **Working with industry partners to improve the provision of accessible coaches during large scale engineering works.**

Unfortunately, in our experience the coaches used as rail replacement transport do not currently comply with PSVAR. This is mainly due to the fact that the contractors undertaking the rail replacement work normally use their vehicles on tours, private hires and school contracts where they do not have to comply with PSVAR. As stated above, even if PSVAR coaches are a requirement some disabled people will be unable to use them because of steps. This might be an opportunity to ensure that fully accessible vehicles are introduced to these areas but it is likely to be costly for this to be achieved. It would be unfortunate if the inability to provide suitable vehicles or the cost of provision was to establish an exemption to compliance using the grounds of “reasonable adjustment”. In addition, buses and coaches rarely offer the same accessibility features and standards as are present on rail rolling stock. For example, the majority of trains provide automated announcements of upcoming stations and stops or have a member of staff on board who provides this information in real time. This allows passengers, especially those who are visually impaired, to know where they are and to alight from the train independently. This information is not normally provided as a matter of course on rail replacement transport leaving the potential for passengers to be carried past their desired stop. We would ask that it be a requirement of all contracted operators that this information be provided by the driver with an awareness of its importance to disabled and other passengers.

We hope that the views conveyed in this response prove useful and are happy to be contacted with any queries.

Hussein Patwa  
Co-Lead, for and on behalf of Rail Workstream

Mobility & Access Committee for Scotland (MACS)

Response from MIGGS – Mobility Issues Group for Goring and Streatley to:

## **Accessible Travel Policy Guidance - accessibility of rail replacement services: a consultation**

*Office of Rail and Road – 20 December 2019*

### **Question 1**

Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

**MIGGS response:** there is much to be commended in the work reported by West Midlands Railway (see paragraph 2.30 on page 33) “to examine the role and potential for community transport services to become involved in providing access to rail services including for planned rail replacement”. This is a good idea in substance. But as a secondary benefit it could also help provide much needed revenue for community transport operators such as Reading-based Readibus (<https://readibus.co.uk>)\*. In our experience most planned disruption is at weekends and the Readibus fleet is probably under-used at weekends. Their accessible minibuses are generally available for hire for appropriate purposes and, most importantly, their drivers provide a door-to-door service and are fully trained to manage the needs of physically disabled passengers safely and sensitively. More information about the extent of services like this may be available from the Community Transport Association (<https://ctauk.org/>) and similar associations elsewhere.

### **Question 2**

How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

**MIGGS response:** Minibuses with fewer than 22 seats are evidently not subject to PSVAR and it is unlikely they are fitted with toilets. But the Readibus-type minibuses are specially adapted for the needs of elderly and physically disabled passengers. They may well be suitable and economic to use for relatively short rail replacement journeys. It could be made mandatory for one Readibus type community service minibus (see response to Q1) to be included in every fleet of rail replacement service vehicles where a PSVAR-

Response from MIGGS – Mobility Issues Group for Goring and Streatley to:

compliant coach is not available and a full service bus is not suitable (eg, due to low bridges) or available.

### Question 3

(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?

**MIGGS response:** self-evidently, rail replacement buses, coaches and taxis are important for disabled passengers if the alternative is being stranded or unable to travel. Accessible taxis can be an appropriate substitute for PSVAR-compliant coaches and buses, especially for short journeys; but: (a) taxis do not have toilets and (2) if the disabled passenger is one of a party (maybe family or friends) travelling together the taxi can be cramped and uncomfortable and more than one taxi may be needed for the party to remain together; that is our experience. Obviously, it would be possible for non-disabled members of the party to travel in the rail replacement bus or coach while the disabled member of the party was conveyed by taxi; but would this be regarded as discriminatory or unreasonable or otherwise unsatisfactory?

(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.

**MIGGS response:** our experience is reflected in the response to question 3(a), above, the taxi provided being too cramped and uncomfortable for the wheelchair passenger and his two travelling companions. It felt somewhat unsafe.

(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.

**MIGGS response:** no hard preference but the type of service must be appropriate for the disabled passenger, having regard to the nature of the disability, the number of passengers in the party, the distance to be travelled in the replacement vehicle and, by implication, the likely personal needs of the disabled passenger.

Response from MIGGS – Mobility Issues Group for Goring and Streatley to:

#### **Question 4**

Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?

**MIGGS response:** we have no additional data but we hope (a) the number of disabled passengers grows in line with the increasing knowledge and availability of accessible travel among elderly and disabled people; and (b) their confidence to travel grows with experience. One of our aims is to encourage disabled people to travel by doing our best to remove or overcome institutional and systemic obstacles to their mobility.

#### **Question 5**

We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

**MIGGS response:** no comment.

#### **Question 6**

Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

**MIGGS response:** it should not be necessary to mandate compliance with the law. Also, it is best not to duplicate because (a) competent bus and coach operators should already be familiar with PSVAR and (b) ATP Guidance would have to be revised when the PSVAR are revised. A cross-reference to the PSVAR should, however, be included, possibly as a footnote or appendix.

#### **Question 7**

How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?

**MIGGS response:** Proposal one (page 10) is the obvious first step (the “stick”). A second step, the “carrot” might be for TOCs to offer a premium price for any PSVAR-compliant vehicle and trained driver supplied under the contract.

Response from MIGGS – Mobility Issues Group for Goring and Streatley to:

### Question 8

Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?

**MIGGS response:** Proposal two (page 10) is expressed as a minimum as distinct from a time limit, which implies a maximum. Surely, at 12 weeks' remove, a train operator's assessment can only be a rough estimate based on experience, given that accessible travel can be booked as close as 24 hours before the intended journey. The only fair and fail-safe approach would be for the TOC to assume there will always be a need for a PSVAR-compliant vehicle during disruption and for this to be taken into account in tender documents and the TOC's business model. If, during any period of disruption, there were no passengers needing a PSVAR-compliant vehicle, that vehicle would still be available as part of the fleet for use by other passengers.

Ancillary to this, a pre-booked passenger disinclined to travel during a period of disruption arranged after the journey was booked should be offered the option of (a) a full refund with no penalty and / or (b) a change of journey date / time to when there is no planned disruption.

### Question 9

What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

**MIGGS response:** there is no obvious conflict or inconsistency between options proposed so they should be implemented as a package.

### Question 10

Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

**MIGGS response:** as stated in answer to question 7 , TOCs could offer the "carrot" of a premium price for any PSVAR-compliant coach and trained driver supplied under the contract for rail replacement services.

Response from MIGGS – Mobility Issues Group for Goring and Streatley to:

### **Question 11**

Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

**MIGGS response:** full information should be given in on-train announcements to passengers as their train approaches the station at which they will be transferred to rail replacement road transport. This should include reassurance that accessible travel assistance for alighting, transfer and boarding will be available; and how to locate wheelchair accommodation on the coach / bus.

### **Question 12**

Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

**MIGGS response:** we understand that providing a full service to disabled passengers when rail replacement road transport is needed is not going to be easy. Regardless of this, a realistic target date should be set for achieving the ideal service, such as 31 December 2025. Progress milestones should be agreed and performance monitored. Consideration should be given to establishing an online register of failures, complaints, infractions and “bouquets” for exceptional service. This would demonstrate continuing official concern and inform and encourage new initiatives and continuing improvement.

\* **Transparency note:** MIGGS supports Readibus financially, to provide a local, door-to-door shopping bus service for elderly and disabled people in the Goring and Streatley area.

I am a social scientist specialising in social aspects of transport – previously an academic and now a not for profit consultant including advising Highways England, Campaign for Better Transport, The Independent Transport Committee and the Heathrow Community Engagement Board on transport policy.

My view in relation to this issue is that a requirement for rail replacement services to provide accessible coaches would add to the market case for the general provision of accessible coaches which lacks behind other modal accessibility legislation. There are broader pressures to move in this direction including developing a national coach strategy about which I have held stakeholder meetings.

Kris Beuret OBE FCILT FCIHT

[www.sraltd.co.uk](http://www.sraltd.co.uk)

# Accessible Travel Policy Guidance – accessibility of rail replacement services

## Supplementary Information – Built Environment Accessibility Panel

Listening to and understanding the experience of our disabled passengers is important because it provides an essential human dimension to the large amount of data indicating the barriers to disabled people travelling by rail.

One of the ways that we listen to disabled passengers' experiences is through obtaining the views of members of our Built Environment Accessibility Panel (BEAP). The BEAP is an independent panel, made up of passengers and subject matter experts with lived experience of travelling as a disabled person. For this consultation, we asked the BEAP for their views on the consultation questions.

We have recorded the responses below and we have kept the separate contributions anonymous. More information on BEAP can be found on our [website](#).

### Question 3

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

“As a manual wheelchair user who can transfer into a standard taxi, in most cases where a replacement service is in action, a taxi would be the best solution. In buses I can be thrown around in my wheelchair, it can cause issues with pain and comfort, and I haven't used coaches in the past due to access issues. Thus, my personal choice would be being given a taxi to travel between stations or even to my destination.

Having said that, I have also used a replacement bus service in and around Thanet and found it easy to use. The short distance I was travelling made the journey much easier, and because it was a bus service, I could use the wheelchair space. I wasn't offered a taxi, which maybe should be offered for those people who cannot take a bus for access or health reasons.

It is vital for the rail industry to appreciate that the provision of accessible alternative travel methods during any upgrades and maintenance works is not an add on or extra. It is totally reasonable of any disabled passenger to expect to be able to travel and for their specific access requirements to be met.

During normal service the rail network provides standardised assistance and access provision, but in times when replacement alternative travel services are in place, there is an extra expectation of provision. While many disabled passengers can manage when travelling by



train as they know what to expect, in these circumstances it is vital that passengers can expect their specific access needs to be met.”

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“These services are vitally important and should be suitable to the needs of as many disabled passengers as possible. Where buses are used, there should be easy access from the station with as short a distance as possible. They should have audio visual signage and ramped access to enable those with mobility impairments to board safely.

Coaches and taxis are, in most areas, more problematic. In my own area, accessible taxis make up less than 5% of the total, and many of those that are accessible, only operate in school run hours. The council does not hold a list and as such they can't enforce the provision. Coaches are also difficult, seats need to be removed on many compliant coaches and even then, the weight limit prohibits some reference size powerchair.”

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“I have fairly limited experience of using rail replacement buses because I don't have great faith in the system always providing an accessible alternative, and so I often avoid travelling if I know it is rail replacement, or I choose to travel by my own car instead.

About a year ago I used a rail replacement bus in Brighton and was pleasantly surprised to see that they used actual buses, meaning they were wheelchair accessible.

On the Southern coast-way line they are typically buses, which are accessible vehicles. In many other areas and stations coaches are used to a greater extent which often have no accessibility for a wheelchair user.

There have been a number of times when I have been offered a taxi to get to my final destination due to various issues with assistance. I am unable to travel in most wheelchair accessible taxis due to the size and weight of my wheelchair and my height (and inability to duck).

There have been several occasions where a wheelchair accessible taxi has turned up, but I have been unable to get into the vehicle. Staff at stations are never able to guarantee that they can find a suitable vehicle (i.e. a large vehicle with a tail lift). I have tried to ask for this several times with no luck, and so I no longer even accept the offer of a taxi.”

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“It is extremely important that provisions are made to allow d/Deaf and disabled people to be able to travel safely, comfortably, and equally in the event of disruption to train services. I personally do not believe that the current guidance provides enough protection for the rights of disabled people to receive an accessible service.

It is vital that d/Deaf and disabled people are listened to, and that accessibility is a deciding factor in arranging rail replacement services. For inclusion to be achieved, d/Deaf and disabled people should be able to access the same services as non-disabled passengers. At present I do not believe this is happening.”

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

“While a taxi is easier when I am travelling alone, or with my wife or PA, when I travel in a group, I would prefer to stay with them. In this situation I would require either a larger taxi, or minibus, or would be able to travel in the replacement bus/coach service provided. The bus I experienced was fine in the situation I was in, but I was the only wheelchair user travelling so there was not a need for more than one space in the vehicle. If there had been another wheelchair user in my group, or another travelling at all, it may have led to someone being left to wait for the next accessible vehicle.”

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“My local TOC uses buses as rail replacement and most are accessible to me, however there are sometimes the odd one in service that may not be.”

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“I can easily fit in a bus and will always choose this as the most accessible alternative. It is large enough for my wheelchair, and also provides a much more comfortable ride as the vehicle is generally more stable than a taxi.

Coaches are rarely accessible and even those that are, don't have the same stability as a standard bus. This is typically because you are travelling higher up from the ground and experience more sideways movement.”

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“My experience of rail replacement coaches (RRC) has led me to avoid travelling where I know an RRC will be used.

I am profoundly deaf and rely on visual announcements for real-time travel information. I find it difficult to identify where to catch the RRC at the start of my journey, and struggle to hear staff if I have to ask for help. Staff are also stretched and do not have much time to speak with me.

Once on the coach I find it very difficult to know what stop we are approaching. I must be extremely cautious that I do not miss my stop and have to work out my location from passing road signs. This is made more difficult if I am unable to get a window seat. Working out my location is not straight-forward as rail replacement services may not stop at all of the same stations as the advertised train. It is also a concern that the coach driver may not have disability awareness training, and I do not feel comfortable asking for assistance.”

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

“The key is choice. What may work well for me might not for another. Disabled people obviously want to use the rail network like anyone else. Disabled passengers require the choice of how to travel. They also need advance notice of any changes to the travel they have arranged, to ensure they are informed and that they can request the correct replacement provision for their access requirements. This is easily a reasonable adjustment for disabled passengers.”

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“Buses, for the reasons given above. If a longer intercity journey, I just wouldn't travel.”

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“The best current solution is to have buses with wheelchair spaces providing the rail replacement service. If this cannot be achieved immediately, there should be very clear deadlines in place and fines set out where the deadlines are not met (as ignoring deadlines is what has got us into this current situation).”

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“Buses are preferable, as they more often have the capacity for visual information to be displayed, and drivers are more likely to have received disability awareness training.

I would not be opposed to using coaches if they were also accessible, but I have yet to travel on one which has been.

I have not used a replacement taxi service before. This would not be my preference, as I would find it extremely difficult to communicate with the taxi driver during the journey. The persistent issue of taxi drivers refusing to carry passengers with assistance dogs is also a concern. Wait times for suitable taxis can be very long also, adding much time onto journeys.”

### **Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

“It is vital that disabled people are involved in the development of future plans around services such as replacement bus and coach provision.”

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“If a forum is created it should include representatives from groups such as Transport for All, and from other industry disability forums. These disabled people will be informed on the methodologies and systems within the rail sector but also be the voice of the wider disabled community. This will ensure disabled people feel involved in the development of our future provision.”

# **Network Rail's response to ORR's consultation: Accessible Travel Policy Guidance – accessibility of rail replacement services**

We own, operate and develop Britain's railway infrastructure. That's 20,000 miles of track, 30,000 bridges, tunnels and viaducts and thousands of signals and level crossings. Our partners, train operators, sell tickets, run passenger services and manage all stations aside from 20 of the largest that we manage directly.

We work closely with train operators to run a safe, reliable and efficient railway. Running the safest railway in Europe is a team effort. The day-to-day operations and maintenance we carry out to keep Britain moving involves dedicated teams across the country, working collaboratively and ensuring we maintain the best possible service for the millions who rely on the railway, every day.

We know there is never a convenient time to close the railway. That's why we always plan our work with great care to keep disruption to a minimum. However, there are times when train services must be cancelled or redirected to allow our work to take place safely and efficiently.

We exist to get people and goods where they need to be and to support economic growth. The railway connects homes with schools and workplaces, businesses with markets. It is also part of the social fabric of our nation, connecting people with friends, family and loved ones. To do this, it is vital that we are able to continue to use the appropriate possessions to carry out the necessary maintenance, repairs, renewals and enhancements that enable us to run a safe, reliable and efficient railway. Without the ability to do this, we won't be serving the passengers, communities and taxpayers that depend on us.

Most of the railway was designed during the Victorian era, but today we have a better understanding of how we should provide wider access and inclusion for everyone. To this end, we have a dedicated accessibility group, our Built Environment Accessibility Panel (BEAP), that helps us provide more inclusive direction for the company, improve design and make better decisions.

We always seek opportunities to avoid the need for rail replacement services, for example through use of diversionary routes or keeping one line open, during engineering works where this possibility exists. As an example, this was routinely done over the last five years whilst the Great Western Main Line was modernised. Additionally, during these works we worked with Great Western Railway to provide higher levels of support staff when there was no option but to use rail replacement services.

While replacement bus and coach services are provided by train operators, we recognise that the whole rail industry has an important role to play in improving accessibility for all passengers. Furthermore, we must remember that a one size fits all approach will not work when delivering reasonable adjustments – as required by law - to these services and so retaining and promoting flexibility in how services are provided is important. That's why we will continue to work with our colleagues across the rail industry so that each and every passenger can use the railway safely, confidently and independently.

### **Question 1**

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

We do not supply replacement services and this information is collected by the Rail Delivery Group on behalf of the industry.

### **Question 2**

**How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

We recognise the challenges that train operators face in the provision of PSVAR compliant vehicles. It is important that they continue to work with their vehicle hire suppliers to analyse how compliant rail replacement vehicles can be most efficiently deployed while longer term solutions are developed. There are several considerations that need to be made, including:

- balancing competing trade-offs e.g. more passengers travelling short distances vs. fewer passengers travelling longer distances
- prioritising compliant rail replacement vehicles on routes with accessible rolling stock
- exploring the full extent to which buses can be utilised as a practical alternative to coaches.

We hold valuable information on the engineering work scheduled to take place across the network, which we share with train operators regularly through publications such as the Engineering Access Statement (EAS) and the Confirmed Period Possession Plan (CPPP). We welcome any feedback from train operators as to how we could better use or share this information to support them in prioritising the use of compliant replacement vehicles.

While we note the focus on coaches in this question, there are other solutions that, in some cases, offer a better and/or preferable experience for passengers with accessibility needs, that should form part of a passenger centric solution. These include the use of accessible taxis, minibuses and buses.

### **Question 3**

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

We have attached a separate response reflecting the experience of BEAP members.

### **Question 4**

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

We do not supply replacement services and this information is collected by the Rail Delivery Group on behalf of the industry.

### **Question 5**

**We are interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

We fully support ORR's position that appropriately planned possessions to enable essential maintenance, repairs, renewals and enhancements are key to us running a safe and reliable railway and improving passenger experience.

We agree with ORR's description in paragraph 3.32 of its consultation of the "established industry procedure" for formalising possessions. The Network Code (Part D, 4.6 – "The Decision Criteria") sets out the considerations that we are expected to apply in order to achieve industry objectives. Part D, 4.5 requires us to apply these considerations in a balanced way and give appropriate weight to those which are most important.

Given the lack of compliant rail replacement vehicles, we do not currently believe that factors relating to alternative transport provisions should be given more weight in the possession planning process. This would be at odds with other, more explicit considerations in the Decision Criteria, such as the need to efficiently maintain, develop and improve the capability of the network and its performance.

### **Question 6**

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

We feel that sufficient statutory powers sit with the DVSA to enforce the provision of accessible bus and coach services within the public road transport sector and there is little value in duplication. In line with ORR's approach to regulation being targeted, we do not believe it would be beneficial to replicate this.

### **Question 7**

#### **How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

We support the proposals contained within the consultation that include greater use of contractual incentives to increase the provision of compliant vehicles. However, there are limitations associated with this given the relatively weak incentives that exist at present to achieve compliance for non-local and non-scheduled services in the coach industry.

We recommend that train operators collectively assess the likely response of coach suppliers based on the scale and profitability of rail replacement provision as a proportion of their total business. Additionally, it's crucial to distinguish between the ability to impact the supply of vehicles for planned and unplanned disruption and the likely impact that this approach could have in the short, medium and long term for these different types of disruption. For example, an increase in the supply chain of 200-300 compliant coaches may, all things being equal, allow compliance for virtually all vehicles during planned disruption but significantly higher numbers would be required for full compliance during unplanned disruption.

In order to avoid having a detrimental impact on all passengers, it's important that we continue to have an approach with clear financial incentives for suppliers to provide a service. To address this issue, we believe that change to the legislation that currently offers exemptions in multiple instances for non-local and non-scheduled services and/or significant market level commercial incentivisation (these being key drivers in the lack of vehicle availability) is required.

### **Question 8**

#### **Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

We believe that a 12-week time limit is the minimum period appropriate for assessing the requirement for PSVAR compliant vehicles needed for planned disruption.

As set out in the industry processes, we consult on proposed possessions through the EAS, with several consultations spanning from 64 to 26 weeks prior to timetable change dates. We then publish the CPPP each period, 26 weeks prior to the possessions taking place. We believe that through these consultations train operators have the necessary information to assess the requirement for and procure PSVAR compliant vehicles 12 weeks prior to any planned disruption.

There are some cases where the need for engineering work is identified later than the timescales set out above. We recognise the impact this may have on train operators' ability to procure replacement vehicles and do everything we can to avoid late notice planning. It is important to recognise this when assessing train operators' ability to demonstrate the steps it has taken to procure PVSAR compliant vehicles. In periods 1-10 of 2019/20, four per cent of disruptive possessions were categorised as

'late notice', which, contractually, means they were planned less than 22 weeks out from a possession date.

### **Question 9**

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We support all the proposals as we believe they will have a positive impact. Our comments on each are as follows:

*P1 – Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.*

Use of contractual incentives in combination with other proposals will support an increase in the provision of compliant vehicles. However, in isolation it may not sufficiently address the weak incentives to achieve compliance for non-local and non-scheduled services in the coach industry. It is unclear to what degree this can realistically address the challenges associated with the supply for unplanned disruption in the short-medium term.

The use of such incentives will demonstrate the rail industry's commitment to promoting better accessibility and support disabled passengers with specific needs.

*P2 – For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.*

A 12-week time limit is the minimum period appropriate for assessing the requirement for PSVAR compliant vehicles needed for planned disruption and aligns to the Informed Traveller process.

We believe that in the majority of instances, notwithstanding 'late notice' possessions as referenced in our response to question 8, train operators have the ability to take necessary steps to procure PSVAR compliance vehicles 12 weeks prior to possessions.

*P3 – For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).*

We support this proposal. However, while this is beneficial for passengers that have booked assistance, it does not address issues for those that 'turn up and go'. This reinforces the importance of providing good quality communications in advance of planned engineering works.



Accessible buses, minibuses and taxis are far more available and prevalent than accessible coaches. Increasing the use of these could enable more disabled people to travel in confidence and in a way that provides flexibility, choice and suits their requirements.

*P4 – For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.*

We know how important it is for all passengers to have appropriate, accurate and timely information. That's why we will continue to work collaboratively with train operators to provide this.

*P5 – For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).*

We support the need for good communication and co-ordination to appropriately prioritise the use of what are currently scarce resources to provide the best service and experience for as many passengers as possible. We are keen to support this where possible, for instance through provision of national information about engineering work to enable forums to make fully informed decisions.

#### **Question 10**

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

We believe there is a need for change to the legislation that currently offers exemptions in multiple instances for non-local and non-scheduled services. We also support significant market level commercial incentivisation to support stimulation of the supply of PSVAR compliant vehicles for rail replacement services, particularly for use in response to unplanned disruption.

#### **Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

In addition to the challenges associated with provision of PSVAR compliant vehicles for rail replacement services, we know there is much more that needs to be done to improve the accessibility of the entire rail network – including stations and trains.

For example, there is inconsistent provision of accessible set down and pick up areas at stations and accessible routes to and from these. The timescales for addressing this across the entire network are not short term and, in some cases, it is not practically possible.

That is why we need to ensure that we consider the whole passenger journey, not just the provision of PVSAR compliant vehicles. We are working to improve how we do this. We have established our 'Principles of Design' in which inclusivity is a key theme and our BEAP reviews station schemes. However, we know there is more we can do and look forward to working with the rest of the industry.

### **Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

Over the next four years (CP6) there will be significant volumes of work undertaken resulting in more planned disruption that, combined with the anticipated increase in passenger numbers, is likely to result in an increase in the demand for rail replacement vehicles. Even with the measures that are being explored to increase the supply or incentivise the coach industry, vehicle order times are understood to be more than 12 months and therefore any approach taken should recognise the competing demands and constraints that exist.

There is also a need to carefully consider the very different challenges brought about by planned and unplanned disruption. Unplanned disruption is by its very nature unexpected for all passengers and can be stressful. Therefore, while recognising the need to have a clear plan to achieve full compliance with PSVAR, anything that inhibits our ability to respond to passenger needs while that plan is being delivered will only exacerbate the impact of disruption on passengers.

We know there is more to do to improve the service we provide for all passengers, and a need for specific focus on current and future disabled passengers, using the rail network. The way that the industry delivers rail replacement services forms a key part of that improvement. The development of clear design principles, corresponding changes to our planning process to enable adherence to these, use of our BEAP and the development of the Railway for Everyone study are just some examples of what we are doing to improve accessibility to the rail network.

## Nexus response to ORR consultation on accessibility of rail replacement services

### Background

Nexus is the Tyne and Wear Passenger Transport Executive (PTE) established under the Transport Act 1968 (as amended) and administers funds in order to implement local public transport policies in Tyne and Wear on behalf of a Joint Transport Committee. The Joint Transport Committee forms part of the North East Combined Authority and North of Tyne Combined Authority.

Nexus owns and operates the Tyne & Wear Metro system, which until 2002 ran exclusively on a rail network owned and maintained by Nexus. In 2002 an extension to the system was opened between Pelaw and South Hylton, running on Network Rail infrastructure.

This context means that, for the purposes of planned engineering works, Nexus operates a 'dual system', with Network Rail taking Possessions between Pelaw and South Hylton, and Nexus taking Possessions for the rest of the network.

The nature of the Tyne & Wear Metro service, with short distances between stations, a high frequency service and an urban environment, means that buses are a better form of rail replacement transport than coaches. This sets Tyne & Wear Metro apart from most other Train Operating Companies (TOCs).

### Responses to consultation questions

#### Question 1

*Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?*

Nexus almost exclusively uses buses for rail replacement services. It is a requirement of Nexus' rail replacement contracts that all vehicles are PSVAR compliant and in

recent years Nexus has not experienced any problems in the ability of suppliers to provide PSVAR compliant buses for planned rail replacement services.

## Question 2

*How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?*

Not relevant to Nexus as we do not generally use coaches.

## Question 3

*(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?*

*(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.*

*(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.*

Not applicable to Nexus.

## Question 4

*Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?*

Whilst Nexus does carry out some monitoring of passenger numbers using rail replacement services, this does not cover all services so is not comprehensive enough to be used to estimate passenger numbers using rail replacement services across the course of a year.

## Question 5

*We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?*

Network Rail possessions have not had an adverse impact on Nexus in recent years. As these have been for only part of day or a full day, on weekends, Nexus has been able to procure sufficient rail replacement services.

#### **Question 6**

*Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?*

Nexus does not have any views on this proposal.

#### **Question 7**

*How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?*

An option would be to provide marks for supply of PSVAR-compliant vehicles as part of the quality evaluation of tenders. Therefore a supplier with PSVAR-compliant vehicles who tendered a higher price than another tenderer who could not offer PSVAR-compliant vehicles, may be successful in the tender due to the marks on offer for the PSVAR compliance aspect. The number of marks on offer and the weighting of price versus quality would have to be considered carefully to ensure this provided a meaningful incentive whilst at the same time not leading to a less competitive market.

#### **Question 8**

*Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?*

This timescale is not appropriate for Nexus, as these are based on how Possessions are planned for assets where the TOC and infrastructure company are separate entities, which necessitates longer lead-in times. This is not relevant to a vertically-integrated operation such as Nexus, where Possessions on the part of the network owned and maintained by Nexus are confirmed by 12 weeks prior to the date of the Possession, with procurement of rail replacement services taking place around 6-8

weeks prior to a Possession. The framework rail replacement contract held by Nexus mandates PSVAR compliant buses and this has been delivered successfully for all Possessions in recent years to these timescales.

Applying this artificial deadline to Tyne & Wear Metro would not bring any passenger benefit (since all buses used in Possessions are PSVAR-compliant). In fact it would likely lead to poorer passenger outcomes, as the 12 weeks confirmation currently in use balances the need to plan operational delivery of the Possession with maximising flexibility to combine different works into one Possession. A longer deadline would likely lead to more Possessions taken separately for different works, increasing the overall disruption to Tyne & Wear Metro passengers.

Therefore Nexus would seek to be exempt from this requirement due to the poorer outcomes this would deliver for Tyne & Wear Metro passengers. Whilst the DPPP only applies to the Network Rail network between Pelaw and South Hylton, Nexus has to date applied it consistently across the entire Tyne & Wear Metro system. If not exempted from this requirement, Nexus would consider not applying this part of the ATP to the Nexus network due to the detrimental impact this would bring to passengers.

### **Question 9**

*What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?*

Nexus considers that all of the proposals have different benefits which contribute towards the overall objectives for rail replacement services.

On proposal four, Nexus would be reluctant to add specific reference to accessibility in on-system information (posters/PA announcements/electronic displays) as this would make messages longer and more complicated when the accessibility of our provision is already well understood. Accessibility information is included online and PSVAR-compliant vehicles have been sourced consistently over recent years.

Nexus considers that proposal five, the establishment of a forum, would not add any value to Nexus given the unique context in which Nexus operates, as outlined in the background information section. Furthermore Nexus, as a public sector organisation, must operate in accordance with procurement regulations and more detail would be required on how such a forum could be operated whilst maintaining compliance with procurement regulations.

#### **Question 10**

*Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?*

See response to question 7.

#### **Question 11**

*Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?*

No further information to add.

#### **Question 12**

*Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?*

No further comments to add.

## ORR Accessibility of Rail Replacement Services: Response by Railfuture

Consultation Question No	Railfuture Response
1 Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?	We would confirm the tendency to use coaches rather than buses outside the main urban areas. This is partly due to the availability of vehicles – especially at peak times – and also because buses have limited provision for luggage and are often unsuitable for longer journeys. The disadvantage of using coaches is that the drivers are not familiar with the location of stations and rail operators do not always provide adequate signage of replacement bus stops or sufficient staff to direct and supervise these arrangements.
2 How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?	Early discussions should be held with coach operators, CPT and coach builders. Rail operators' contracts should specify that accessible coaches are required. But in view of the lead time needed for complete fleets of such vehicles to become available – especially in some areas – a sliding scale to be agreed with ORR for each operator should be agreed with ORR e.g. 80% in year 1, 90% in year 2, 100% in year 3.
3 (a) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?	Most passengers would prefer a rail journey by an alternative route, even if it takes a lot longer, rather than a replacement road service. Local buses can sometimes provide an alternative for short journeys in urban areas. Particular problems seem to occur with obtaining suitable vehicles in rural areas or when replacement vehicles are required at short notice e.g. due to emergency engineering works. Coaches or buses without seat belts and sometimes with inadequate luggage capacity are often used. Delays often occur in the extra time taken for passengers to load their luggage into storage areas beneath the coach.
3 (b) If you have a disability, please explain whether, and how, the service was appropriate for your needs.	Our experience is that replacement road services -especially when arranged at short notice – don't take into account the needs of disabled passengers. This includes access from/to stations or replacement bus stops, which can often be situated in a road nearby with poor signage, no shelter and often no lighting.
3 (c) Do you have a preference for the type of replacement service you receive? If so, please explain why.	Coaches are, in general, preferred for longer journeys and also for their greater comfort.
4 Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?	It is clear that such services are disliked by rail passengers, who prefer a re-routed rail journey. Even though the number of disabled passengers using these services is a fairly low proportion of the total users, there are



	often significant numbers of older passengers with luggage.
5 We are particularly interested to understand more – including through provision of relevant data – regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?	Rail operators' ability to provide replacement services – whether by diverting their rail services or by use of road vehicles – can have a major impact on when and where Network Rail possessions are established. Some major possessions e.g. closure of Kings Cross can cause significant issues for rail travellers because of the difficulty of offering alternatives. The use by operators of “Do Not Travel” publicity is misleading when there are alternatives and unhelpful to those who have to make a journey during the possession period.
6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?	We support your preferred approach of amending the ATP Guidance to influence train operators' behaviour to encourage and support the greater availability and use of PSVAR-compliant vehicles in rail replacement services, but not to mandate compliance with PSVAR. To mandate compliance could cause replacement services to be reduced or not provided – particularly in less populated areas.
7 How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?	By the use of long-term call-off contracts which reward suppliers by offering higher prices to those who can commit to (e.g.) 90% of their vehicles being accessible.
8 Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?	We support this proposal. There may be a case for making the time limit higher where major possessions have been agreed much further in advance, but this would depend on operators having resources to be able to plan their requirements earlier. We recommend consultation with operators if a longer time limit is being considered.
9 What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?	We strongly support all these three proposals. The disadvantage of Proposal Three is that it would only help those passengers who had booked assistance in advance of travel. But this would still be an important step forward for those who had booked. Proposal Four would certainly be much better than operators' current reliance on generic information. Much more advance information – including times of replacement services – should form part of the operators' publicity. Proposal Five could be of great help in making adequate accessible vehicles available at times of peak demand and would also improve communication between rail operators who are running replacement services between the same stations to cover the same possessions. All three proposals should be implemented, but Proposal Four would seem to be top priority, followed by Proposal Three.
10 Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement	An approach at high level to the bus and coach industry to address the general issue of the lack of PSVAR-compliant coaches would be very

services that we have not included here?	helpful. Both DfT and ORR should back this approach. See also answers to Questions 2 and 7.
11 Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?	Operators should not assume a physical disability – hidden disabilities may also affect the type of help required.
12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?	<p>1. Rail operators should co-operate to minimise the need to use road transport. This should include ensuring that rail staff have the required training and route knowledge to be able to operate trains over alternative routes.</p> <p>2. Operators should make use of existing alternative local buses and coach services where appropriate (mainly in urban areas where higher frequency bus services operate) by offering ticket acceptance. In these cases, good communication with local services operators is essential.</p> <p>3. Operators should ensure that the replacement vehicles used are suitable for the roads that will be used: urban roads could use low floor buses: motorways and high speed roads need coaches with proper luggage space and seatbelts.</p>

**GC 130220**

# **Rail Delivery Group**

Response to:

Office of Rail and Road consultation into  
“Accessible Travel Policy Guidance –  
accessibility of rail replacement services”

**Date: 14 February 2020**

**Rail Delivery Group response to:**

**Office of Rail and Road consultation into  
“Accessible Travel Policy Guidance – accessibility of rail replacement services”**

**Organisation:** Rail Delivery Group

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

**Type:** Business representative organisation

The Rail Delivery Group (RDG) brings together passenger train operators, freight train operators, as well as Network Rail; and enables them to succeed in both transforming and delivering a successful railway, benefiting customers, taxpayers and the economy. It gives freight and passenger operators a voice while delivering important national ticketing, information and reservation services for passengers and staff.

*For enquiries regarding this consultation response, please contact:*

***Rail Delivery Group***

*2<sup>nd</sup> Floor*

*200 Aldersgate Street*

*London*

*EC1A 4HD*

## Summary

RDG welcomes the opportunity to contribute to the Office of Rail and Road's (ORR's) consultation regarding accessibility of rail replacement services as part of the Accessible Travel Policy Guidance.

RDG is committed to delivering a rail service that provides all customers with the ability to access stations, trains and rail replacement services with an inclusive journey experience.

Following revised advice from the ORR late last year (2019) regarding the application of public service vehicle regulations (PSVAR) to rail replacement services, the RDG on behalf of its members, has worked quickly to engage the Department for Transport, coach industry and accessibility groups to ensure that the industry continues to provide the best possible service to customers and the most effective use of compliant vehicles available for rail replacement services (RRS). Working in partnership with these groups the RDG is developing a path to PSVAR compliance, for planned and unplanned disruption, which balances the needs of customers with the regulatory commitments as set out in the PSVAR.

RDG will write to the ORR in early spring to supplement the response found below, with the outcomes of our ongoing engagement and policy development, which will shape a longer-term sustainable path to compliance.

## Response to consultation questions

*Question 1: Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?*

RDG is working in partnership with the Confederation of Passenger Transport UK (CPT) and rail replacement service providers to refine the data set out in the ORR consultation and analyse the geographical spread of compliant vehicles.

Initial analysis by RDG suggests that there are approximately 2,200 PSVAR-compliant coaches available in Britain. However, of these vehicles, RDG estimates that about 300-400 are currently available for RRS. This is due to the remainder being used under exclusive contracts (e.g. National Express), for school contracts or by tour operators, and others being made non-PSVAR compliant (i.e.. having wheelchair lifts removed to expand seat space).

Historically, there has been a lack of formal monitoring of PSVAR coaches. For example, a vehicle that was originally built to be PSVAR-compliant may have had its accessible features removed, currently the vehicle owner does not have a duty to notify the Driver and Vehicle Standards Agency (DVSA). This means that although the statistics suggest that the vehicle is PSVAR-compliant, it may not be due to modification.

*Question 2 How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?*

At present there is an insufficient supply of PSVAR-compliant coaches to meet the requirements set out in the regulation. Rail operators are increasing their planning horizons in order to secure as many PSVAR-compliant vehicles as possible; for example, moving PSVAR-compliant coaches around the country. Where possible operators are using PSVAR-compliant buses instead of coaches. Subsequently maximising the opportunities for passengers to make journeys on PSVAR-compliant vehicles.

*Question 3 (abc.) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?*

RDG welcomes the focus on the customer's experience and look forward to reviewing the results with ORR to further improve the service offer. In particular, RDG is exploring with accessibility groups whether PSVAR-compliant vehicles meet the needs of all disabled passengers. In some instances, it may still be necessary to make use of other accessible vehicles such as a taxi and/or minibus. However, the industry is mindful that this may lead to segregation and is working with accessibility groups to explore how this can be best addressed.

*Question 4 Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?*

RDG has developed additional industry-wide reporting mechanisms, deployed to all rail companies in February 2020. This will supplement the data already supplied by rail companies to the ORR in relation to the number of disabled passengers, and passengers overall, using RRS. This new data will be reported to DfT on a monthly basis.

*Question 5 We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?*

TOCs and RRS providers have sought to maximise the use of PSVAR-compliant vehicles to ensure that the necessary Network Rail possessions can proceed as planned. For example, this has been enabled by moving compliant vehicles around the country to provide cover for non-compliant coaches.

However, it should be noted that if PSVAR were to apply and considering the limited availability of PSVAR-compliant coaches, operators would have to explore how possessions

could be either delayed or moved. Re-planning work could lead to significant cost implications for Network Rail, including impacts on the supply chain.

*Question 6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?*

Duplication of enforcement would not be judicious, particularly as the PSVAR-compliance regulations are within the remit of DVSA and the DfT, the latter holding significant contractual and financial levers with the TOCs. It is noted that DVSA hold the vehicle operator to account, rather than the commissioning company.

*Question 7 How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?*

To overcome the limitation of supply for PSVAR-compliant vehicles, initiatives to stimulate or incentivise the market need to be considered. RDG is engaging with bus and coach operators to better understand the shape and nature of the current market; including the potential incentives that could be introduced to stimulate compliant vehicle supply. Typically, RRS account for a small percentage of a coach/bus operator's overall business. Vehicles used for RRS will have been primarily acquired for other business purposes, such as private hire or tours.

In the short-term, the rail industry has sought to maximise the use of existing PSVAR-compliant coaches. However, to be fully compliant and sustainable in the long-term, it is unlikely that enhanced contractual terms offered by rail replacement providers unilaterally will increase supply beyond that enabled by PSVAR coming into effect.

*Question 8 Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?*

In principle, advanced notice to all customers is welcomed; and is aligned with the principles of the industry's 'informed traveller'. However, there are many variables that need to be considered when meeting a 12-week limit. For example, the availability and nature of rail replacement supplier fleets may alter after the 12-week deadline – leading to a material change of service. In addition, this timeframe does not take into account short notice works or cancellations due to other, more urgent works that might be required.

*Question 9 What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?*

RDG is currently engaging the coach/bus and accessibility stakeholders to fully understand the advantages and/or disadvantages of different proposals, including those outlined by the ORR. Please find some initial considerations outlined below:

*Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.*

TOCs and RRS providers are adopting this approach and are working together to map supply and transfer of compliant coaches, where possible. However, this proposal assumes that there are enough PSVAR-compliant vehicles available for RRS and that a PSVAR-compliant coach will meet the needs of disabled passengers. Therefore, it is prudent to revisit this proposal after engagement with accessibility groups and assessment of what is needed to increase supply.

*Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.*

As referenced in our response to question 8, this is dependent on a number of variables and does not take into account short notice works or cancellation due to other, more urgent works that might be required.

*Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).*

This proposal is supported by RDG and is already undertaken by train operators.

*Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.*

This proposal is supported by RDG and is being explored through engagement with key stakeholders regarding how this could be improved for the customer.



*Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).*

Operators have the ability to convene and discuss key requirements should the need arise at present; however, there currently is not a whole system approach to the delivery of RRS due to this being a competitive market.

RDG has explored with bus and coach stakeholders how the limited supply of PSVAR-compliant coaches could be managed to meet demand during Easter. However, even after efforts are made to reorganise and relocate supply, or swap coaches for buses (where appropriate), a significant shortfall of PSVAR-compliant coaches still remains.

*Question 10 Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?*

A whole market approach should be adopted by policy-makers when incentivising the use and increase the supply of PSVAR-compliant vehicles. The vehicles used for RRS have a market overlap with those used for the home-to-school market. As previously noted, for bus and coach operators rail replacement is not a primary market; therefore, any additional incentivisation must be compatible across these markets. RDG is in discussion with coach and bus operators to explore how the supply of PSVAR coaches could be stimulated.

*Question 11 Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?*

It is important that the passengers affected by this policy are consulted and their views inform how ORR and the rail industry take proposals forward to ensure that the service provided today meets the needs of all customers.

RDG's discussions with disability stakeholders has highlighted that the application of the PSVAR to RRS can create real practical difficulties in providing a positive journey experience for some disabled rail passengers. PSVAR and applicable rail accessibility regulations are detailed regimes with materially different requirements and may lead to complications when disabled passengers transfer from a conventional rail service to the rail replacement services and vice-versa. For example, some wheelchair users, whose wheelchairs can be used safely and without difficulty when travelling by rail, might not have the same experience using PSVAR-accessible rail replacement service vehicles as the detailed accessibility regimes for road (under the PSVAR) and rail do not align.

It is also observed that the physical infrastructure at many stations (the rail estate to road vehicle interface) is not compatible with the requirements for PSVAR-compliant coaches. Finally, the rail industry is committed to ensuring passengers with hidden disabilities are able to access the network – this is something that PSVAR does not address.

*Question 12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?*

RDG have supplied evidence directly to the ORR and remain open to supporting the identification of further data following this consultation. RDG is committed to providing a rail service that enables all customers the ability to be able to access stations and trains with an inclusive journey experience. RDG will write to the ORR in early spring to supplement this response, with the outcomes of our ongoing engagement and policy development, which will shape a longer-term sustainable path to compliance.

## RNIB response to the Office of Road and Rail's Consultation on Rail Replacement Buses

February 2020

### Introduction

Royal National Institute of Blind People (RNIB), is one of the UK's leading sight loss charities. We recognise everyone's unique experience of sight loss and offer help and support for blind and partially sighted people – this can be anything from practical and emotional support, campaigning for change, reading services and the products we offer in our online shop. We're a catalyst for change – inspiring people with sight loss to transform their own personal experience, their community and, ultimately, society as a whole.

There are currently estimated to be more than 2 million people living in the UK with sight loss. This figure is set to double by 2050. Of the current 2 million, 360,000 are registered as either severely sight impaired or sight impaired (blind or partially sighted.) [1]

Access to transport is consistently cited as a top concern for blind and partially sighted people; forty percent of those we surveyed through our 'My Voice' survey in 2015 told us they were unable to make all of the journeys they wanted to. Over half told us that they needed support to get out of the house. [2]

Thank you for the opportunity to respond to this consultation. Due to limited resources we have had to restrict our feedback to the following issue areas:

- Proactive provision of information to passengers on the accessibility of rail replacement services, and any available alternatives that may be more appropriate,

- Provision of sighted guides to enable blind and partially sighted people to find and use the rail replacement bus service.

## **Proactive provision of information to passengers on the accessibility of rail replacement services, and any available alternatives that may be more appropriate**

Accessible information is essential for blind and partially sighted people. Visual-only sign boards, posters and temporary notices indicating the direction of rail replacement services are generally not accessible to blind and partially sighted people.

Clear audio-visual announcements are extremely important and must be integrated as a fundamental part of the rail replacement service design.

Sufficient time for those with additional access requirements must also be built into the service design.

The service design must also ensure blind and partially sighted people are not left to work things out for themselves, by ensuring rail staff are tasked to proactively identify passengers who may need additional assistance, to supply information and where necessary to link them up with sighted guiding assistance.

This also includes the identification of whether the rail replacement bus service is suitable for any given individual and whether, due to their particular access requirements, an alternative form of transport is necessary.

## **Provision of sighted guides to enable blind and partially sighted people to find and use the rail replacement bus service**

Many blind and partially sighted people will find it difficult or impossible to navigate the walking route from the railway station to find an awaiting rail replacement bus service, and when the bus reaches its various destinations on the way, from where the bus drop drops its passengers back to the railway station.

Rail replacement services typically pick up and drop passengers from temporary parking areas outside the railway station. It is very important

for staff to be prepared and ready to provide sighted guiding assistance to any individual who is unable to safely navigate their way to the rail replacement bus service, and at the other end where the bus drops its passengers.

We think rail replacement services need a clear plan for how to cater for passengers who need sighted guiding assistance for the end-to-end journey. This includes a system to ensure rail staff know they may need to provide guiding assistance, that ensures the driver of the rail replacement service is notified about additional passenger access requirements and to ensure those passengers are met by a member of staff to guide them back to the railway station at the destination, and that rail staff at the receiving end are informed and ready to come out and provide the guiding assistance so the individual or individuals are not left standing on exposed road sides when other passengers have found their own way back to the station.

## Contact information

RNIB would be happy to discuss our response with you, to offer further details and insight if needed, and to provide support with your endeavors to improve travelling by train for blind and partially sighted people.

Please contact:  
RNIB Policy and Campaigns Team  
105 Judd Street  
London  
WC1H 9NE

## Endnotes

1. <https://help.rnib.org.uk/help/newly-diagnosed-registration/registering-sight-loss/statistics>
2. <http://www.rnib.org.uk/knowledge-and-research-hub-research-reports-general-research/my-voice>

## Document ends



# RSSB's response to the Office of Rail and Road's consultation

## Accessible travel policy guidance – accessibility of rail replacement services

February 2020

## Foreword

This document provides RSSB's response to the consultation on providing accessible rail replacement services. RSSB supports the initiative to improve train journey experiences for all passengers. We have developed guidance that focussed on making the railways more accessible, but we understand the importance of having continuity of accessible services from train to bus or coach when journeys are affected by railway engineering work.

Our responses to questions 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12 are on the following pages.

## About RSSB

Through research, standards and analysis RSSB helps its members deliver a better, safer railway. We develop technical and operational standards, provide analysis and insight into health and safety data, carry out research and promote sustainability principles.

In addition, we facilitate groups and committees on behalf of industry, such as Standards Committees, System Interface Committees, groups that focus on safety and risk, sustainable development and health and wellbeing. For more information about what we do see the RSSB website: <https://www.rsb.co.uk/>.

RSSB provides expertise to the Rail Delivery Group's Accessibility Group to share information and knowledge in a safe, cost-effective and efficient manner. Effective use of information is vital to the railway enterprise and underpins the delivery of the aims and objectives of the railway sector.

**Q1. Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

1. It is understood that the recent legal advice received by the ORR from Matrix Chambers suggests that the rail industry is required to make changes to the provision of **planned** rail replacement services, but not to rail replacement services used in an **emergency**. This response therefore concentrates on the former category of road vehicles, which are mainly to replace trains affected by railway engineering work. Most passenger road vehicles available for use to railway undertakings are procured on a contract basis either directly from bus, coach or taxi operators, or via major bus groups such as Arriva.
2. Most modern **buses**, single or double deck, do have low floors with the ability to 'kneel' and allow a wheelchair user to gain access via a deployable ramp.
3. Most modern (and older) **coaches** do not have low floors, or ramp access (and therefore not one or more spaces designed for wheelchair users) mainly because they have high floors to accommodate luggage lockers under the vehicle. There are a small number of coaches designed to meet the requirements of the Passenger Service Vehicle Accessibility Regulations (PSVARs), generally by providing lifts for wheelchair users. It is estimated that, of the tens of thousands of coaches registered in the UK, some 600 accessible coaches could theoretically be available for use on rail replacement services, but many of these would normally be on scheduled express coach routes at any given time.
4. Outside London and the larger conurbations, the number of accessible **taxis** is thought to be very low, although there is no central register of numbers except (it is thought) in London. However, RSSB has no information on the numbers of accessible taxis.
5. This situation presents a major challenge to railway undertakings who would, it is thought, prefer to be able to provide accessible vehicles on all occasions. That aim will take some time to be realised, but the rail industry is committed to provide for all potential and existing customers on a non-discriminatory basis. Helping people with disabilities to have better access to rail helps grow the market and improving facilities for the specific user groups also provides benefits for all users.

**Q2. How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

6. This could be achieved by rail operators contracting with the coach supply chain to provide as many compliant vehicles as are available and by attempting to positively incentivise them to buy more. This could increase costs substantially or result in a significant shortfall of suitable vehicles for the short and medium term. Another solution, which is likely to be widely deployed, will be the replacement of rail replacement **coaches** by rail replacement **buses**. These are more likely to be available at weekends and late evenings / early mornings, when most engineering



work on the railways takes place. However, the use of double-deckers on long inter-urban replacement routes, especially on motorways, may result in a perceived diminution of quality for most users. This may be a trade-off that the industry and its customers will have to live with for some time until the supply of accessible coaches increases.

Q5. We are interested to understand more – including through provision of relevant data – regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

7. If it became a **mandatory** requirement for a train operating company to provide an accessible vehicle on **all** pre-planned rail replacement services, and the required number of accessible coaches (or buses) was not available, then there are several possible scenarios which need to be considered, which could potentially be deployed until such time as the road vehicle fleet was modernised. All of them have potential downsides and difficulties which the industry would need to overcome.
  - a) The train operator would have to provide non-accessible vehicles on some or most services, publicising the fact, and attempt to provide taxis for those wheelchair users (for example) who have pre-booked assistance, and seek to deal with those who had not pre-booked on an ad hoc basis. This might not be practical, or legal, if ORR decided not to permit the use of non-accessible road vehicles on all pre-planned alternative services.
  - b) The train operator could seek to divert users via alternative rail routes, providing suitable publicity, which could involve significantly extended journey times and one or more interchanges. As an example, were the Newcastle-Carlisle line to be closed, passengers could be diverted onto Trans-Pennine services from Newcastle to Leeds or Manchester and thence to Carlisle turning a journey of about 1.5 hours to over 4 hours with one or two changes but with facilities for passengers with reduced mobility, and scope to provide suitable assistance at the interchanges.
  - c) The train operator could offer alternative rail services at a time or date after the engineering work had ended. That would not be practical for travellers whose journeys were time-dependent but could provide a fully accessible journey.
  - d) The train operator could decide not to provide any alternative road services during specified engineering work line blockages. This would probably be in default of franchise commitments and would be against the spirit of providing a fully accessible railway.
  - e) The industry could work together to reduce the number, length and timescales (and the nature) of engineering work blockages. Whilst tighter planning might create some improvements at the margin, this could reduce the ability of Network Rail to maintain and improve the railway infrastructure. RSSB has

previously examined whether it would be possible to revert to the historic practice of using single line working more often during engineering possessions (T500 Research Report - *Assessing the fitness for purpose of single line working procedures*<sup>1</sup>) but as well as identifying safety issues and capacity constraints, the key barrier was found to be the reduction in qualified staff over the past fifty years with the progressive elimination of local signal boxes and replacement by centralised signalling control centres. This has worsened since the report was published in 2004. The report is available via <https://www.sparkrail.org/pages/libraryresults.aspx?k=t500>.

- f) If ORR decided to completely ban the use of non-accessible road vehicles during pre-planned line closures, train operators might have no alternative but to reject some, most, or all engineering work proposals made by Network Rail at the planning stage. This could reduce Network Rail's ability to maintain and renew the railway infrastructure with resultant impacts on capacity, performance, and potentially, system safety.

**Q6. Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

- 8. It seems reasonable because duplicating regulations causes confusion and can sometimes result in unintended consequences.

**Question 7. How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

- 9. RSSB considers that its railway undertaking members would be better placed to respond to this question, although in principal, market pressure could help accelerate the replacement of non-accessible road vehicles.

**Question 8. Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

- 10. The timeline is insufficient, given that the lead time for replacement of existing coach fleets by their owners (and principal users) is likely to be over a five – ten-year period. It is often the older (non PSVAR-compliant) vehicles which are cascaded down for less regular use by rail and other private hire operators.

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<sup>1</sup> T500 Research Assessing the fitness for purpose of single line working procedures, RSSB, June 2018. This research examined the fitness for purpose of procedures and work instructions for single line working, and whether they may be influencing the ability of competent staff to perform to standard.

Question 9. What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

11. See response to question 5.

Question 10. Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

12. Given that the supply chain for rail replacement buses and coaches is relatively weak, and the rail industry is at the behest of operators who have their own need to use the vehicles on their own scheduled and contracted services, rail is in the position of a market taker rather than a market maker.
13. One theoretical solution would be for a private or state-owned agency to be set up to purchase a suitably large fleet of suitable Euro-6 compliant accessible vehicles which would be committed to rail replacement activities. As well as being expensive in capital terms, such vehicles would be heavily underutilised and would need maintenance provision. The running cost would need to cover drivers who would normally be provided by hiring organisations. And some train operators might choose to continue with existing arrangements in some or all circumstances, further reducing the viability of this alternative.

Question 11. Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

14. No.

Question 12. Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

15. RSSB undertook a knowledge search and produced a report in 2012 on the safety of rail replacement bus services entitled *S098 Rail replacement bus services*. This is available via <https://www.sparkrail.org/Lists/Records/DispForm.aspx?ID=3442>. The report concluded that it had ‘... attempted to compare the risk from replacement bus operations with degraded mode working [that is continuing to operate trains through or past engineering works]. The results ... suggested that degraded mode working carries a risk of a similar magnitude to replacement bus services given the uncertainties around the data. For more detailed analysis and greater accuracy, accident data for rail replacement bus services (would) have to be collected systematically and accurately which is not the case at the moment’.

Office of Rail and Road – Rail replacement  
consultation

## Scope response

### Summary

For many of the 14 million disabled people living in the UK, the rail network remains inaccessible, with issues like failing passenger assistance, faulty accessible infrastructure and negative attitudes of staff and other passengers a regular occurrence.

These issues only get worse at times of disruption, when it can be impossible to anticipate whether rail replacement services will be comfortable, accessible or even safe to use.

Scope welcomes ORR's intervention in this issue and its proposals for increasing train operating companies' (TOCs) accountability in this area. Within this response, we set out our thoughts on some of the ORR's proposals, as well as sharing our views on the wider factors at play within the rail replacement issue and what systematic changes should be made to improve disabled people's experiences of using rail services at times of disruption.

### Recommendations

1. ORR to require TOCs to include explicit accessibility criteria within their tenders for rail replacement buses and coaches.
2. Revise ATP guidance to include conditions on TOCs to provide accessible and reliable information in a number of formats regarding the type of vehicle provided for rail replacement and alternate options when scheduled service is inappropriate.
3. Through ATP guidance, the ORR should require TOCs to continue to offer disabled people the option of WAVs as an alternative to rail replacement, even where scheduled replacement services are PSVAR-compliant.
4. In the interim until the entire fleet is compliant, work to maximise the availability of accessible coaches and buses, providing a clear and regular service where possible, and supplementing this with accessible taxis as a standard.
5. While they should remain an option, accessible taxis should not be used as a default. TOCs should work to make rail replacement fleets PSVAR-compliant so that disabled passengers have a choice as to the safest and most comfortable way to travel at times of disruption.
6. Government should work with industry and existing regulators to establish a single regulator for land transport. This would create greater links between the rail, bus and coach, taxi and DVV, tram

### Introduction

1. Travel can be difficult for everyone, but particularly for disabled people. Scope research found that two thirds of disabled people have encountered a problem on public transport within the last year<sup>1</sup>.
2. These problems are exacerbated at times of both planned and unplanned disruption. The disproportionate impact of delays and cancellations on disabled passengers was exemplified by disruptions in May 2018 as a result of timetable changes. ORR's independent inquiry into the disruption found that, during this period, complaints regarding accessibility increased and the impact of poor information provision on disabled passengers was particularly severe<sup>2</sup>.
3. As well as the inconsistent information and longer journey times that often come hand-in-hand with disruptions, many disabled people also have to contend with the uncertainty of knowing whether or not rail replacement services will suit their needs.
4. As such, Scope welcomes the legal advice published by the ORR in September 2019 that rail replacement vehicles should be covered by the Public Service Vehicle Accessibility Regulations (PSVAR). It should be a given that services are safe and accessible, not a gamble.
5. It is extremely disappointing that, given the PSVAR were first established fifteen years ago, the transport industry has continued to overlook the needs of disabled passengers. The fact that the operators have failed to meet the original 1<sup>st</sup> January 2020 deadline for full compliance with PSVAR means that rail replacement remains an uncertainty for many of the 14 million disabled people living and working in the UK.
6. Scope believes that the disjointed nature of public transport contributed significantly to the failure to reach this deadline. Rail replacement seems to have fallen into a grey area between the rail and bus and coach industries - neither of which took steps towards

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<sup>1</sup> Polling was conducted by Opinium in June 2019 on behalf of Scope. 2,004 adults aged 18 and over in the UK with long term impairments or conditions took part. Sample: 1,771 disabled people (all who have used public transport within the last year)

<sup>2</sup> Office of Rail and Road (2018) Inquiry into May 2018 network disruption. [orr.gov.uk/rail/consumers/inquiry-into-may-2018-network-disruption](http://orr.gov.uk/rail/consumers/inquiry-into-may-2018-network-disruption)

making rail replacement accessible until just months before the compliance deadline.

7. Government, regulators and industry must come to a solution which works for all passengers.

## Mandatory tendering

8. Scope strongly supports the ORR's proposal to require TOCs to include accessibility within their tenders for rail replacement buses and coaches.
9. TOCs have highlighted that the major barrier to providing accessible services is a lack of supply of PSVAR-compliant vehicles.
10. Scope believes that the insufficient supply of PSVAR-compliant vehicles can be, in part, attributed to a perceived lack of demand.
11. Were TOCs to include conditions within tendering documents which made it clear that there was a distinct and reliable market for PSVAR-compliant vehicles within rail replacement, this would create a greater incentive for the coach industry to react, as well as a guaranteed return on the investment into PSVAR-compliant vehicles.
12. Up to this point, the DVSA and bus and coach industry have failed to react to the need for accessible rail replacement services.
13. As such, Scope welcomes the ORR's intervention in this area. By setting clear guidance for TOCs on their rail replacement tendering process, the ORR uses their powers to positively impact the supply of PSVAR-compliant rail replacement vehicles, despite their lack of regulatory oversight across the bus and coach industry.

**Recommendation 1:** Scope strongly supports the ORR's proposal to require TOCs to include explicit accessibility criteria within their tenders for rail replacement buses and coaches.

## Information provision

14. Reliable, accessible and up-to-date information access is key to disabled passengers' ability to travel with confidence.

15. Operators across the public transport network have a range of different platforms and standards for providing up-to-date information. This means that finding out essential information about a journey can be difficult, and this can be exacerbated at times of disruption where journeys are subject to cancellations at short notice, timings may differ and routes can change.
16. Scope research found that only a fifth of disabled people find that information about a journey is always accessible and easy to understand<sup>3</sup> and third of disabled people also told us that they have been given incorrect information, either whilst planning or carrying out a journey<sup>4</sup>.
17. This uncertainty surrounding information provision can cause significant anxiety and concern before a journey even begins. 80 per cent of those polled said that they feel stressed at least sometimes, and 27 per cent feel anxious every single time they travel<sup>5</sup>.
18. We know that all passengers struggle with access to information about journey times and routes during times of disruption. However, some disabled people also have to contend with a lack of clarity over accessibility.
19. Scope recognises the fact that, in the short term, it will be difficult to supply a fully accessible rail replacement fleet, simply due to the lack of available PSVAR-compliant vehicles. As such, enforcing more prescriptive requirements on the way TOCs supply information would be a valuable tool in reducing anxiety around rail replacement travel for disabled passengers.
20. Scope recommends that the ORR revises the existing ATP guidance to include conditions on TOCs to provide accessible and reliable information in a number of formats regarding the type of vehicle provided for rail replacement, including details such as whether the vehicle has wheelchair spaces, functioning audio-visual equipment and step-free access.
21. In the interim period until all rail replacement services are PSVAR-compliant, it is essential that

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<sup>3</sup> Opinium. Sample: 2,004

<sup>4</sup> Opinium. Sample: 2,004

<sup>5</sup> Opinium. Sample: 2,004



passengers are kept up to date as to when the next accessible coach or bus will be running, and what alternative travel options are available if the replacement vehicle is not appropriate.

22. This information could be provided through the RDG's new passenger-facing app, as well as directly to staff so that they can find and relay relevant information easily.
23. It should also be made standard practice to inform any passenger at the point of booking who uses rail assistance, or to contact them when disruption occurs or is planned, to communicate information about their journey.
24. With better, more reliable information provision, disabled passengers would be able to travel with more certainty and a better understanding of the access issues they may or may not encounter at each stage of their journey, particularly when using rail replacement services. To continue not to do so is simply unacceptable to disabled passengers.

**Recommendation 2:** The ORR should revise the existing ATP guidance to include conditions on TOCs to provide accessible and reliable information in a number of formats regarding the type of vehicle provided for rail replacement and alternate options when scheduled service is inappropriate.

## Maintaining different options

25. The current system for offering alternative accessible transport - normally accessible taxis - for disabled passengers when services are inaccessible is extremely important and can be invaluable for some disabled passengers who would otherwise be unable to complete certain journeys.
26. Regardless of changes to the accessibility of rail replacement buses, Scope strongly believes that TOCs should maintain the option for disabled people to elect to travel in an accessible taxi.
27. While PSVAR-compliance will have an enormous impact on the experiences of many disabled passengers travelling

by rail replacement, it is important to remember that they may not work for everyone.

28. It is essential that TOCs remain flexible to the needs of the individual and remain able to offer alternative accessible transport in the place of rail replacement when the available replacement service, whether PSVAR-compliant or not, does not work for the individual.
29. Though frustrating, it is important to recognise that, when the 30<sup>th</sup> April deadline comes, there will still not be a sufficient number of PSVAR-compliant vehicles to fulfil TOCs requirements. It is critical that a plan is put in place so that rail replacement services continue to operate during this interim period and that alternative options are found so that disabled passengers are able to travel with confidence.
30. As such, TOCs should work to maximise the availability of accessible coaches and buses, providing a clear and regular service where possible, and supplementing this with accessible taxis as a standard.

**Recommendation 3:** Through ATP guidance, the ORR should require TOCs to continue to offer disabled people the option of WAVs as an alternative to rail replacement, even where scheduled replacement services are PSVAR-compliant.

**Recommendation 4:** In the interim until entire fleet is compliant, work to maximise the availability of accessible coaches and buses, providing a clear and regular service where possible, and supplementing this with accessible taxis as a standard.

31. However, while the taxi option is invaluable to some disabled people, it does not work for everyone and it is essential that passengers are able to make a choice as to how best they can travel safely and comfortably.
32. Using taxis as a default at times of disruption is an unsustainable model. In part, this is down to the sheer lack of wheelchair accessible vehicles across the country. This problem is particularly pronounced in rural areas, where there is often an extremely limited supply of accessible taxis which may be unavailable when needed for rail replacement purposes.

33. Using accessible taxis as a default at times of disruption also sets a dangerous precedent for enforcing segregation upon disabled passengers who may prefer to travel by bus or coach.
34. Having the option to make an autonomous decision is critical in improving disabled people's experiences of using public transport.

**Recommendation 5:** While they should remain an option, accessible taxis should not be used as a default. TOCs should work to make rail replacement fleets PSVAR-compliant so that disabled passengers have a choice as to the safest and most comfortable way to travel at times of disruption.

## Improved regulation

35. Given the fact that the PSVAR regulations were first introduced around 15 years ago, it is frustrating that neither the train nor bus and coach industry has fully taken responsibility for the rail replacement issue.
36. This is because, until legal advice was published in September 2019, rail replacement seemed to fall into a grey area between the two industries. This is an issue which requires collaborations between modes, yet the fragmentation of the UK's public transport system limits this. There is currently no central point through which cross-modal issues can be resolved.
37. In many ways, the rail industry is further ahead than other modes of land transport in terms of regulation, with the ORR acting as the national regulator and the recent introduction of the Rail Ombudsman to handle customer complaints.
38. However, across the public transport industry, there is a lack of accountability and willingness to exercise powers to ensure disabled passengers are treated equally and fairly. This is further exacerbated by the myriad of different regulators, operators, complaints bodies and transport authorities across other modes of transport such as buses, taxis, Private Hire Vehicles (PHVs), light rail and metro systems.
39. Rail replacement is an issue which traverses modes of transport. The rail and bus and coach industries are

the key players in providing accessible rail replacement, but the issue also crosses over into the use of taxis and private hire vehicles where other modes are not suitable for individual passengers.

40. Despite the fact that TOCs rely on the availability of alternative accessible transport to fulfil their ATP commitments, there is little formal collaboration or regulatory alignment between the modes of transport.
41. We believe that the only way to achieve a truly accountable and inclusive transport system is to have a single land transport regulator. This regulator should take into account that journeys frequently require the use of more than one mode of transport and acknowledge that, as well as vehicles themselves being inclusively designed, supporting infrastructure, processes and information provision must also be fully accessible. This is will be key given the role of taxis and coaches to aid TOCs to meet obligations in their ATPs, particularly at times of disruption.
42. Rather than passing the buck to one another, a single transport regulator would enable operators to work together to find effective and sustainable solutions which work for all passengers.

**Recommendation 6:** Government should work with industry and existing regulators to establish a single regulator for land transport. This would create greater links between the rail, bus and coach, taxi and PHV, tram and metro industries, recognising that few journeys use just one mode of transport and enabling better cross-over between throughout the

## About Scope

We're Scope, the disability equality charity. We won't stop until we achieve a society where all disabled people enjoy equality and fairness. At home. At school. At work. In our communities.

We're a strong community of disabled and non-disabled people. We provide practical and emotional information and support when it's needed most. We use our collective power to change attitudes and end injustice.

We campaign relentlessly to create a fairer society. And we won't stop until we achieve a society where all disabled people enjoy equality and fairness.

## Sheffield Transport 4 All – Response to ATP Rail Replacement Transport Consultation

Sheffield Transport 4 All is a pan-disability group which meets quarterly in partnership with public sector bodies

This response is submitted on behalf of the Sheffield Transport 4 All. A group comprised of people with a variety of physical, sensory, and communication difficulties, which was set up with the following aims:

- To promote the adoption of a social model of disability by the Passenger Transport Executive (the PTE), local transport service providers and the Sheffield City Council, in all their transport activities.
- To act as a pool of expertise to advise the Passenger Transport Executive (the PTE), local "public" transport service providers and Sheffield City Council on all aspects of transport provision and transport infrastructure for people with disabilities.
- To champion the interests of people with disabilities in gaining equal access to transport and transport services in Sheffield.
- To implement such access by:
  - Consulting with, and advising, the City Council, PTE and transport providers.
  - Having input into the plans of the above organizations.
  - Identifying key issues and drawing up work plans.
  - Evaluating audits and monitoring reports conducted by or on behalf of the Group.

This also includes seeking to influence national standards, consultations, and protocols which often significantly define the successes and failures of our local transport experience.

Our response follows.

1. Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

N/A

2. How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

Regarding the availability of PSVAR coaches in response to Q3 and Q5: Network Rail as the main cause of pre-planned rail replacement services should take more of a role in helping to resolve supply problems for PSVAR coaches in regions where there are few if any. Purchasing/leasing a fleet to then loan/hire to coach or rail operators would be an excellent way of filling gaps in certain regions where the market has failed.

Regarding data provided to ORR on Q5 can this be used to analyse and publish an approximate shortage figure (say regionally) for rail replacement needs.

3. (a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?

Currently if provision is bad then people will avoid and re-route where possible either out of preference or necessity. It might be important to ensure that alternate routes for accessibility reasons at no extra cost are an option for disabled people and their travel companions. The crunch point comes when there is no alternative route and rail replacement is the only option!

(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.

The few times our members have taken replacement coaches there have been several issues:

- Assistance to find, board and alight were not slick processes where training or practise were not present or non-proactively provided.
- Attitude of coach driving staff towards passengers in general.
- Long distances often to get to replacement coaches for example at Sheffield where a 5-minute walk is required to the Bus interchange. For some this might be too far, for some a guide would be required all the way and has not always been provided. There was clearly nothing in place to ensure that arriving by coach would then guide someone to the station/taxi rank.

With the above issues in mind Sheffield Transport 4 All believes the ORR should consider the following in its guidance:

- Are PSV drivers receiving sufficient training in their Certificate of Professional Competence (CPC) on disability awareness? We have good reason to believe this is way below the standard set in ATP and that this gap should be acknowledged and covered in the guidance. We believe CPC is insufficient and ATP should push for a standard that matches that already specified in Appendix D of ATP 2019.
- Many passengers with disabilities may find it difficult to use on-board coach toilets. Guidance should emphasise the need to ensure station facilities remain open such as toilets for that reason.
- Ensure contracts with rail replacement operators confirm that Assistance Dogs must be carried.
- Require public publication of routes and areas where there is little or no suitable PSVAR compliant transport available.

(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.

Coaches for long distance is important as often there is a need to carry luggage and rail is the only option for some journeys because of the need to travel with luggage

(instead of local bus). Visually Impaired people with appropriate assistance for example can use conventional coaches with assistance and are likely to have luggage for longer trips and these requirements should be met just as much as low floor vehicles for mobility access need to be come standard in the medium to long term after current supply issues can be changed.

The following aspects also emphasise the need to be able to travel by bus/coach for all rather than having to use a taxi:

- Wheelchair users may need to travel with a companion or multiple dependents Operators should be expected to understand how they will support this in their arrangements.
- Rail Replacement capacity needs to be able to match the number of spaces that are available on the rail service that is being replaced.

The above is particularly important for pre-planned replacements but should ultimately be achieved for unplanned replacement in the longer term.

4. Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?

N/A

5. We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

Understanding that Network Rail is the cause of most pre-planned disruption they must take a stake in resolving the lack of PSVAR compliant coaches in areas of low supply to ensure their schedule. Please see Q2 for suggested implementation strategy and ensure Network Rail can maintain it's own maintenance schedule.

We would also like to draw the ORR's attention to Network Rail as a public body which does fall under the Public Sector Equality Duty. In particular the Anticipatory duty within this to provide for different accessibility needs in its work. This should include disruption that Network Rail creates by it's maintenance activities. This should give a good justification for mitigating it's impact where certain areas of the country lack supply of suitable PSVAR coaches and operating or making available for hire such vehicles.

6. Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

It seems that the issues with Coach operators PSVAR gaps and removing lifts there is a clear need for ORR to set a better standard for Rail replacement services in the medium to long term. A pre-notified and phased approach should be adopted. We suggest 5 years before mandatory PSVAR provision on pre-planned rail replacement services (say more than 7-days notice). Then a longer deadline for last minute



replacement should be considered after consultation. In the first phase it might be appropriate to require frequent stopping services to use PSVAR compliant buses and we invite the ORR to consider this.

7. How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?

By making it clear that future contracts might not be let to operators who cannot offer enough PSVAR compliant vehicles is vital. This should be emphasised multiple times in both negotiations and in final contract wording.

8. Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?

As T-12 is the publication of public timetables it would seem that a week or two prior to this would be appropriate to ensure accurate data is in journey planners including lack of PSVAR vehicles, taxi only accessible transport etc. If for any reason this is not happening then Operators must have an obligation placed on them to pro-actively check and notify passengers who might be affected.

9. What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

We encourage ORR to take a trajectory view of options resulting ultimately in ensuring PSVAR compliant vehicles only are in use on every departure. Some non-compliant coaches might be acceptable provided that there are still equivalent wheelchair spaces to the trains being replaced and that the needs to travel with companions/dependents are catered for.

Pragmatically we understand the need for option 2 to be used in the short to medium term. However, in the medium to long term Option 3 must be adopted. We see the time scales as follows: No more than 5 years of option 2 and then after this point all PSVAR coaches and buses should be in use on pre-planned work. A suitable deadline should also be set for unplanned operations though this might be over a longer time scale.

We must emphasise that Option 1 is in NO way acceptable to the members of Sheffield Transport 4 All.

10. Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

ORR should publish yearly tables of Planned and Unplanned Rail replacement services and PSVAR levels. This should be on a per Operator basis and would help give accountability for many different public and citizen bodies. Operators are of

course free to explain why they have a low number to feed action by regulators or others to seed or enforce changes.

11. Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

12. Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

Having seen some operators raise issues of whether stations can support PSVAR compliant bus and coaches it seems ORR should instigate the industry to update National Rail Enquiries Knowledge-base with details on this. It seems many stations also lack information such as help points that have been installed since the last update by operators and other inconsistencies.

Now might also be a good time to help operators adopt the use of B1 and B2 station accessibility gradings as currently a verbatim quote of B is being utilised on knowledge-base. This is not aiding a quick assessment of stations which have step free access to all platforms even if the ramps are steeper than today's standards allow. If wording implies B as the mandatory approach then this needs clarifying before this becomes widespread.

SRA welcome the intention to ensure and upgrade the accessibility of rail replacement services and clearly the procurement process is crucial.

Presumably all drivers will have disability training and CPCs. However inevitably (especially given the time lag for accessibility in coaches), taxis will be required and we urge that these drivers are also trained in disability awareness and customer care.

Kristine Beuret OBE FCILT FCIHT TPP  
Chair of National Association of Taxi Users  
and  
Director, Social Research Associates  
(specialists in social aspects of transport and disability research)

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14 February 2020

## **Southeasterns response to the ORR Accessible Travel Policy Guidance - Accessibility of rail replacement services: a consultation 20 December 2019**

**Dear Sir/Madam,**

We are grateful to have the opportunity to respond to this consultation on the issue of only being able to use PSVAR accessible buses and coaches on rail replacement services, for both planned and unplanned disruption.

Southeastern is committed to making our services accessible to disabled people, so they have confidence to use our services, even when we have disruption, whether planned or unplanned.

To facilitate travel for all during disruption, we have done what we could to ensure that PSVAR compliant buses have been used for rail replacement. When we have not been able to procure enough of them, especially on routes where coaches are more appropriate, we always ensure that disabled people, whether they are wheelchair users or have another disability, which in many cases can be hidden and not mobility related, we will provide other alternative accessible transport (AAT) for them so they are able to complete their journey.

In direct response to your questions please see below. We have duplicated each question then set out our response underneath.

We have then set out the five proposals made by the ORR, in the order to which we feel they should be applied, or indeed stated where we do not believe they are a workable solution with our reasons why.

Finally at the end we have provided our additional views and duplicated some data in the appendix, which we have already sent to the ORR but include now to emphasise a couple of points we will be making.

*Question 1 Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?*

As previously mentioned, Southeastern (SE) does all that it can to ensure that disabled people are able to travel, even when there is either planned or unplanned disruption to the service that requires replacement transport, either buses or coaches.

Southeastern work with Go Ahead London (GAL) who sources and supplies buses and coaches for its rail replacement services.

Appendix 1 repeats a table already sent in request to the ORR back in September 2019, which illustrated that the overwhelming type of vehicles used for rail replacement by Southeastern during the preceding 12 months were buses. This table also shows that every bus procured, was PSVAR compliant.

The table also shows that SE did use some coaches, around 10% of total replacement vehicles, and these were generally used on specific routes where a coach was deemed to be the best mode of transport to replace the train service, as it was on longer routes.

Unfortunately (GAL) were unable to locate accessible coaches for any of these journey's as accessible coaches are, as has already been illustrated in previous responses to the ORR, very few and far between.

However, as a responsible and law abiding train operator, we have stipulated with GAL, through our contract with them, that we will only accept 100% compliant PSVAR vehicles. If that means we cannot obtain an accessible coach then a replacement compliant bus will be used instead.

We have not yet been able to assess the impact on passengers but we will continue to monitor customer satisfaction with these services.

This also applies to unplanned rail replacement services but further research carried out, looking back over a preceding 6 month period, we were able to assess that over 99% of the replacement vehicles used were PSVAR compliant and so we expect that to be the case going forward from now i.e. we will only obtain and use 100% compliant bus or coach vehicles for both planned and unplanned rail replacement services.

*Question 2 How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?*

For clarification is this question supposed to reference buses and coaches. Although we are in a good position with obtaining PSVAR buses this may not be the same for every operator nor possibly for every blockade. In reference to coaches only we know we have access, in our area, to very few PSVAR compliant coaches (i.e. incorporating a wheelchair lift), approximately 10 vehicles a day. However that availability will vary much



Let's talk

depend on what other rail replacement services are being utilised both by us and our neighbouring Train operators. Also buses and coaches need drivers and depending on the time of year, they can also be in short supply. If we cannot secure compliant coaches we will resort to using compliant buses on those routes instead – which will not be as comfortable or convenient for passengers if a coach was actually originally specified. Ultimately this is a question more to be answered by bus operators i.e. what do they need to increase the amount of accessible buses they can put at Toc's disposal?

However to confirm, unless a further derogation is given against the deadline, currently the end of April, going forward, Southeastern will only be using PSVAR compliant vehicles, whether buses or coaches (this may lead to a reduced bus service being available).

### *Question 3*

*(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?*

*(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.*

*(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.*

As this question is aimed mostly at users we will not directly answer it other than to say in our research those aspects that are important to people using replacement services is Comfort, Availability, Frequency and Punctuality ,although not necessarily in that order.

However, we would also urge the ORR to seek a much broader response on these important questions rather than those few organisations who are likely to respond to this consultation. We believe that most responses are likely to be from organisations that represent people who are either wheelchair or scooter users and so will be biased to their viewpoint. Of course that viewpoint is valid and we are not saying it isn't. However there are going to be many disabled people who travel on our services, and by default, at times on our replacement services, whose views will not be gathered through this consultation, but who should be heard, or at least given the opportunity to be heard.

We also feel that these are leading questions more pointing to the problems with the replacement services that they may experience as opposed to the benefits that some will have, particularly when comparing the experience of coach travel to bus travel.

We would urge the ORR to consider how best they could gather this insight. They could perhaps consider a short survey, where the questions are more about understanding how they may feel about some of the issues they may face, like a convoluted bus journey as opposed to a more comfortable and direct coach service ( which includes an on board toilet for instance).



Let's talk

This survey could then be put out to users of railcards, especially the Senior and Disabled card users, of whom RDG have many tens of thousands of contacts who have already consented to being consulted on issues that may directly affect them. This way it will then be possible to gather views that will give a much wider base to consider the impact of only being able to use buses where currently coaches are the preferred mode.

*Question 4 Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?*

In appendix 1, which was sent to the ORR in September, we also listed the amount of booked assists we had received for journey's when we had rail replacement buses on part of the journey. This showed that demand for assistance was extremely low but some caveats need to be considered here.

- i) This is not the total amount of people who are disabled who travelled on these particular services. Its not even the total amount of people travelling who need assistance.
- ii) As it is we already know that less than one in five people who require assistance actually book. (average obtained from data supplied monthly to the ORR)
- iii) We also know that those disabled people who need assistance represent much less than 1% of those disabled people that are travelling (Comparing those people who had assistance to the % of people who describe themselves as disabled on NRPS surveys)
- iv) We are also fortunate as a network, in that there are often other routes people can take, even if a little convoluted, from six different London Terminals, so they are still able to make their journey by train rather than change for a bus or coach journey.
- v) Where we showed that everyone who booked assistance actually had Alternative Accessible Transport ( a Taxi ) , this would have been arranged in cooperation with the disabled person and would have been their preference rather than ours, so although the replacement transport may well have been suitable for them we still arranged an accessible taxi for them.

Other than recording whether the replacement buses were full, half full or empty, we do not do counts on passengers using replacement services. The information recorded at the time is to pass onto our overall Control so they can determine demand and evaluate whether additional vehicles are needed. So we do not have any accurate counts of passenger numbers. Obviously we do make sure to let people know well in advance that there will be a bus service (when planned) and try and ensure that they are aware of alternative routes by train that they could take. We also consider special events during planning for Engineering works, including Football and sporting events, so that we can ensure that sufficient replacement services are available.



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*Question 5 We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?*

For some Operators who made this point it will be because they could not see how they could run a full replacement rail service with the limited number of PSVAR compliant vehicles, especially of coaches, that they have at their disposal. Although Train companies would not want to put themselves in this position, they would feel that this would have to be their position so as to not fall foul of the regulations.

However having access to the railway to carry out important maintenance is a fundamental safety requirement and the only way other important operational facility work is undertaken to improve the service and reduce delays etc. is also dependent on having access to the network. This ultimately means that whilst there might be some compromises available, Network Rail would eventually get access to maintain the line via the Access Disputes Resolution Committee if it came to it . However this will reduce the willingness of Train Operating companies to do Proactive work which will lead to needing Rail replacement services whilst there is a lack of PSVAR vehicles and they risk getting a fine or a criminal record, whilst trying to maintain a suitable amount of replacement buses and coaches.

There will also need to be cooperation between bus contractors and rail companies to ensure that there are sufficient vehicles available as a big bus replacement requirement in one part of the UK rail network can affect the opportunity to undertake a similar sized replacement service elsewhere on the network.

It is also likely to reduce the week or longer bus replacement engineering works that have become popular lately as a much more efficient and cost effective way of getting large line infrastructure improvements completed. This is because of the challenges of ensuring sufficient bus replacement services during the week when many buses ( and drivers) will be on their normal scheduled bus services.

*Question 6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?*

We agree with the ORR's proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP guidance. We also agree that requiring explicit contractual provisions with suppliers of RRV's (subject to reasonable caveats regarding the availability / practicality of supply) is an appropriate way for the ORR to address the question of compliance in its ATP guidance.

*Question 7 How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?*



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Southeastern contract directly with our owning Groups bus company Go Ahead London (GAL) who already operate a fully compliant PSVAR bus fleet on its many scheduled bus routes throughout London and the rest of the country.

Being a larger operator, there are options for it to explore in order to increase its fleet to boost the amount of rail replacement jobs that can be conducted in-house.

This assumption may also be made for other larger operators, although not confirmed.

However for the many numerous smaller operators, the cost implications of buying and maintaining vehicles that are PSVAR compliant is much more significant. The regulation doesn't affect smaller operators as they don't impact private hire work. Coupled with recent necessary investment in engine upgrades to combat the Ultra-Low Emission Zone in London, most smaller businesses aren't in a position to buy additional vehicles.

Although contractual arrangements can be used to ensure that only compliant vehicles are used, that will likely have little to no effect on the supply base or availability. Rail replacement is insufficient in volume and isn't as financially rewarding as most private hire or contract work to make it a full source of income; in fact it is a very minor part of most bus/coach operator's income, likely to be in single figures as a % of overall work to even negligible for others. The work is extremely sporadic with heavy demand at times in one area to little or no demand in others so it does not generate sufficient profit to create a business case for investment in newer vehicles or modification work to older vehicles for which the remainder of the workload does not fall under PSVAR regs – therefore operators are simply pulling out of supplying the industry - when GAL requested that its suppliers confirmed whether they had PSVAR compliant vehicles and if so how many would they be able to supply post 1<sup>st</sup> January 2020, there was a significant reduction in operators making their services (bus and coaches) available for rail replacement.

Southeastern has in fact already specified to GAL that we only want to procure fully PSVAR vehicles as replacement services from the 1<sup>st</sup> January however we know that for key geographical reasons we are in a much better position than most other Toc's. We have not yet been able to fully understand the implications for all of our future blockades that we know about, but we will endeavour to monitor this.

Ultimately this is a question to be answered more fully by Bus operators themselves as they are private companies and it is up to them to best illustrate how they can be incentivised to have fully PSVAR compliant vehicles available for all their work, not just that part of it which involves scheduled bus services and rail replacement work. Undoubtedly if the incentive is sufficient it will ensure that all buses and coaches available for any kind of private work could be accessible and the effect will be they will open up more opportunities for people who are disabled, especially wheelchair users, to gain access to these services which they would not normally be able to.

In conclusion, there is an opportunity to increase the quantity of PSVAR vehicles for rail replacement however, it is not enough to cover the deficit lost by the introduction of the



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regulations at least not in the short to medium term, where as government funding could greatly accelerate these opportunities.

*Question 8 Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?*

In our experience Toc's use a rail replacement organisation that sub-contracts work at much less than 12 weeks out. Even if work was contracted out earlier to meet the T-12 timing the ORR are suggesting, we do not see what difference this would make to any passenger who is not likely to be checking whether or not there is a bus service when they wish to travel let alone whether it will be PSVAR compliant.

This may be a perverse incentive – i.e. if only non-compliant vehicles can be sourced at 12 weeks out, there would be no incentive for the TOC to continue to reach out to the supply-base for compliant vehicles.

Also by this point, because of other work that may be happening already on other parts of the network it may already be the case that getting sufficient bus and/or coaches may not be possible or at least committing to this by suppliers, who may well be taking the view that the highest bidder wins ( with the price they are likely to get increasing the nearer to the time the bus or coach is required).

*Question 9 (This is answered at the end before the five proposals)*

*Question 10 Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?*

As for Question 7, we believe this needs incentivising for Bus operators so it would be good to hear that as an industry they have put forward contingent proposals that will increase the availability of accessible vehicles for train operators

*Question 11 Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?*

This has already been expressed in the correspondence you attached to this consultation from both bus and train operators. That is that PSVAR compliance is very much about wheelchair access where as accessibility to disabled people, especially those with hidden disabilities, is about so much more.

For many the comfort and convenience of a coach, with air conditioning, carpeting, comfortable seats, with seatbelts, PA systems, on board toilets, lots of luggage space etc. makes a replacement journey so much more acceptable. For them, who may have many



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different types of hidden disabilities, this is a much more convenient and acceptable replacement for a train, especially where the journey by road may be long and through winding country roads or on busy motorways. Certainly for longer journey's where there is a need for the vehicle to have a tachograph, this means they won't need to change vehicles or stop on the way.

Even if someone does need the wheelchair space, this can still be a problem for them, even on a PSVAR compliant bus or coach, if they are actually using a scooter rather than a wheelchair. This is because scooters can be much less manoeuvrable than a wheelchair and some will simply not be able to negotiate into the wheelchair space, through the much narrower confines of a bus when compared to a train. Coaches also generally need to know that a scooter or wheelchair has been crash tested and this sort of information is unlikely to be known by owners of vehicles especially when they didn't know they would need to provide this information.

Also having a PSVAR bus is one thing, there often needs to be the physical infrastructure where the buses have to stop to pick up passengers to facilitate deploying a ramp or for the bus to 'kneel' down. On scheduled bus services at their normal bus stops, work has been done over the years to raise the kerbs so the on board ramp can be deployed/. However, when on rail replacement services there is often no access to raised kerbs, some replacement buses have to pick up in car parks where there is no kerb at all, so in fact even though we may well be using a PSVAR compliant bus, we will still need to organise replacement taxis for some mobility aid users.

*Question 12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?*

We believe that by not delaying these regulations, it is likely to lead to reduced choice for passengers and where they do need to get buses, much extended waiting time. We note you have requested data on taxi availability. We are not in a position to give this kind of data and would suggest speaking to the DfT. However we do know from experience , that especially in the evenings and weekends, we find it very difficult to source accessible taxis if we haven't already booked them in advance, but we also find it difficult to source even standard taxis simply because they tend to supply to meet the normal demand and are not often able to supply a lot of taxis at once. Many taxis can be owner/occupied and often, even if available will prefer turn up cash fares rather than booked account fares where the prices can be agreed in advance and they have little scope to negotiate.

The other issue with using taxis only is how we manage the small groups of passengers so there is a fair system of allocation of taxis to passengers. There is also the lack of covered/indoor waiting areas for the longer waiting times people will experience if we only have taxis available for rail replacement.



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Question 9 *What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?*

We have set out our preference in the responses to the proposals in order, and included our comments under each proposal.

*Proposal one*

*Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.*

We have already done this but as has already been mentioned this will not necessarily increase the availability of buses and coaches available to hire.

*Proposal three*

*For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).*

Southeastern already do this. A list of booked assists is checked initially 7 days in advance of any engineering works and if required taxis are booked for replacement where there is either a potential lack of accessible buses or coaches or in discussion with the person requiring assistance it is decided that the bus travel will not be suitable for them. This can often be for reasons related to hidden disabilities like anxiety rather than just being because they are a wheelchair user.

For major unplanned events, where the delays will be significant, like bad weather, Assisted Travel will do the same and make alternative arrangements for disabled people who have booked assistance – this includes localised disruption like on going lift availability at a station.

However this is only possible for people who have booked assistance and have planned their journey.

*Proposal four*

*For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.*

To be effective this would need to make this information available on journey planners so people could quickly and easily check this information. The only way to make this information comprehensively available is to change industry data systems to support identification whether a rail replacement service is PSVAR compliant or not (in a similar way to which all downstream systems can identify and understand whether 1<sup>st</sup> class is available on any given train). As well as planning systems and the data standard for the



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exports from these, there are many downstream systems which would need to be changed and tested to support this – ticket machines, CIS systems & displays, journey enquiry engines and systems like RJIS, mobile apps etc. However, to enable this, the resourcing of replacement services would need to be carried out prior to preparing and sending the schedule data to Network Rail at T-18, or TOCs will need to re-submit their bus plans to NR for upload at a second occasion once resourcing is complete.

However we do not see that all these changes can happen in the short or medium term and in fact it is likely PSVAR compliance would improve (prior to any such system changes) through a general shift to coach manufacturers only making PSVAR compliant vehicles and therefore improving availability for rail replacement. For the interim the best we could do is to identify compliant replacement services on electronically available pdf-style timetables / lists.

#### *Proposal two*

*For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR compliant vehicles at least 12 weeks before all major planned engineering works.*

As for the answer to question 8 we do not see how this will help either Toc's or ultimately passengers, when the answer at this point is that we have not been able to secure fully compliant services. If this was to be made public at the 12 week stage, this is only likely to put disabled people off from travelling rather than giving them any reassurance.

#### *Proposal five*

*For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).*

We would welcome working more closely on rail replacement requirements with other Toc's, Bus Operators and Network Rail.

However there is also a potential issue here around fair access to the market for all suppliers, including small operators as the ability to engage at National level will favour large operators. As they may also then need to share cost information with competitors there could be a potential competition law infringement – clearly legal advice needs to be sought here by the ORR before deciding on this course of action as a solution.

### **Conclusion**

Although Southeastern are in a good place when it comes to PSVAR bus replacement this isn't typical across the network nor is it the case when it comes to coach replacement. Although we have decided that to avoid any issue with PSVAR infringement we will only be using compliant buses, we know this will have an impact on some of our disabled passengers who will find bus instead of coach replacement, difficult to deal with.



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We will continue to only contract to procure PSVAR buses but we do believe that for all our passengers, until the supply of PSVAR buses and especially coaches has become the normal, this will have a negative impact on all passengers especially during times of high demand and with emergency replacement. We will continue to use other Alternative Accessible Transport , i.e. Taxis, where needed, which will often be for people where the bus they would be getting is accessible (at least PSVAR compliant). This is because their needs are not restricted to mobility problems and this would acknowledge that just because we have PSVAR compliant buses and coaches does not mean that all disabled people will be able to travel without problems. Ultimately we want to be able to convey all our passengers in comfort , but to do so will require us to have flexibility around what transport we use.

Thanks,

David Wornham  
 Passenger Services Director

## Appendix 1

Metric number	Metric description	2018-19							2019-20					
		P6	P7	P8	P9	P10	P11	P12	P13	P1	P2	P3	P4	P5
1	For each rail period, how many <u>unique</u> rail replacement vehicles (buses and coaches) were used during planned disruption?	494	603	444	482	440	549	526	522	412	577	538	330	290
1a	How many <u>unique</u> rail replacement buses were used during planned disruption?	440	554	365	410	412	438	478	488	376	519	484	324	283
1b	How many <u>unique</u> rail replacement coaches were used during planned disruption?	54	49	79	72	28	111	48	34	36	58	54	6	7
2	Of the total (metric 1) how many were PSVAR compliant?*	440	554	365	410	412	438	478	488	376	519	484	324	283
2a	Of the rail replacement bus total (metric 1a) how many were PSVAR compliant? *	440	554	365	410	412	438	478	488	376	519	484	324	283
2b	Of the rail replacement coach total (metric 1b) how many were PSVAR compliant? *	0	0	0	0	0	0	0	0	0	0	0	0	0
3	For each rail period, what were the total number of rail replacement vehicle journeys due to planned disruption?	1907	2143	1677	1763	1661	1873	2430	2132	1630	2151	1956	944	900
3a	How many vehicle journeys were on rail replacement buses due to planned disruption?	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
3b	How many vehicle journeys were on rail replacement coaches due to planned disruption?	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
4	Of the total rail replacement vehicle journeys (metric 3), how many were undertaken by PSVAR compliant vehicles?*	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
4a	Of the rail replacement bus journey total (metric 3a) how many journeys were undertaken by PSVAR compliant vehicles? *	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
4b	Of the rail replacement coach journey total (metric 3b) how many journeys were undertaken by PSVAR compliant vehicles? *	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
5	For each period, the number of passengers that requested booked or unbooked assistance that used a rail replacement vehicle (bus or coach)?	4	3	6	5	1	5	1	7	3	1	4	2	2
5a	For each period, the number of passengers that requested booked or unbooked assistance that were carried on a rail replacement bus service?	4	3	6	5	1	5	1	7	3	1	4	2	2
5b	For each period, the number of passengers that requested booked or unbooked assistance that were carried on a rail replacement coach service?	0	0	0	0	0	0	0	0	0	0	0	0	0
6	How many Alternative Accessible Transport (AAT) journeys were required for rail replacement services if the bus or coach was inaccessible?	2	1	4	5	0	3	0	6	2	0	1	2	1
6a	How many times Alternative Accessible Transport (AAT) journeys were required for rail replacement services if the bus was inaccessible?	2	1	4	5	0	3	0	6	2	0	1	2	1
6b	How many times Alternative Accessible Transport (AAT) journeys were required for rail replacement services if the coach was inaccessible?	0	0	0	0	0	0	0	0	0	0	0	0	0



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# **Accessible Travel Policy Guidance**

## **Accessibility of Rail Replacement Services**

**Date: 14<sup>th</sup> February 2020**

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**South Western Railway response to consultation:**  
**Accessible Travel Policy Guidance – accessibility of rail**  
**replacement services**

**Organisation:** South Western Railway

**Address:** 4<sup>th</sup> Floor, South Bank Central, 30 Stamford Street, London SE1 9LQ

Train Operating Company

**Introduction:** South Western Railway operates commuter services from our Central London Terminus at London Waterloo to south west London. SWR has some of the busiest routes in the country, operating nearly 1,700 services each weekday. We provide commuter, inter-urban, regional and long-distance services to customers in South West London and southern counties of England, as well as providing connectivity to the ports and airports in the region. As well as commuters and business travellers, SWR transports leisure travellers across the region, to many tourist and heritage sites, and the numerous major sporting and social events that take place along the route every year. We recognise the important role that SWR plays in this region, with so many people and businesses relying on the services that we provide.

For enquiries regarding this consultation response, please contact:

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**Accessibility and Inclusion Manager**

**South Western Railway**

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London SE1 9LQ

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### EXECUTIVE SUMMARY

First MTR South Western Trains (“SWR”) thanks the ORR for the opportunity to respond to the *Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation dated 20 December 2019* (the “Consultation”).

SWR has provided as much relevant information in answering each question posed by the Consultation. Particular attention is drawn to the fundamental barrier to a fully compliant rail replacement service: there are not enough compliant coaches available in the UK. SWR sees it as unlikely that this barrier can be surmounted in the short term, even with increased government funding. This is because current legislation stifles any compelling reason for coach operators to operate PSVAR compliant coaches. Further, the amount of time and investment that is required to build and finance a PSVAR compliant coach industry is not practical in the short to medium term. Coach operators currently take on rail replacement work in addition to their usual work, however rail replacement work is not a core part of any coach operators’ business.

SWR agrees with the ORR that Buses can and do play a key part in providing rail replacement services. There are however challenges to using buses for such services. These include, amongst others discussed below, the availability of buses, passenger comfort, luggage capabilities and the availability of drivers. Bus operators currently work with the Train Operating Companies (TOCs) however, they have their own business and regulatory pressures that must consider and are not able to make rail replacement services a primary consideration when running their businesses.

Given the fundamental lack of supply of PSVAR compliant vehicles, particularly coaches, SWR sees the best course of action as continuing to provide the best possible service to all its customers. This can only be done where SWR has the discretion to address the individual requirements of each passenger in the best way it sees. This may mean that some passengers are carried by taxis where buses or coaches are not right for the passenger, like SWR currently does. Requiring adherence to more stringent requirements is likely to harm SWR’s ability to provide the best possible service to each passenger.

SWR agrees that more can be done by government, the ORR, TOCs, bus, coach and taxi companies to assist those passengers with disabilities. SWR is constantly looking at new ways to improve its services to all its passengers. SWR however, does not agree that the rail industry can solve this problem by itself.

SWR provides a short response to each of the five proposals put forward by the ORR in the Consultation, however, further detail on these proposals can be found in the response to the twelve questions.

#### **Proposal one: Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.**

It is unclear what constitutes “appropriate steps” and therefore assessing the viability of this proposal is difficult. Should this mean contractually requiring compliant vehicles to the exclusion of all other vehicles, this proposal could not be implemented without addressing the fundamental supply shortage of compliant vehicles, particularly coaches.

#### **Proposal two: For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of,**

**PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.**

This proposal would require the process of planning for disruptions to start approximately eight (8) weeks earlier compared to what currently happens. This will fundamentally require Network Rail's cooperation, as without such cooperation this proposal could not be implemented.

**Proposal three: For planned disruption, the train operator should take appropriate steps to contact those passengers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).**

SWR currently seeks to do exactly this. This proposal however, only addressing planned disruption and those passengers that have pre-arranged assistance. This proposal does not address emergency disruption or passengers that do not pre-arrange assistance.

**Proposal four: For planned disruption, train operators should provide passengers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.**

SWR supports the sentiment of this proposal, however, we have concerns about its practicality. Although it may be possible to give general information to customers on what type of replacement transport is likely to be available, however, we could not guarantee that there will be a compliant coach at the location for a particular train service that has been replaced, and we could not guarantee that the customer would be able to board the coach.

**Proposal five: For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).**

SWR sees such a forum as a possible way to identify how best to manage the limited supply of compliant vehicles. However, each TOC has a responsibility to its passengers to deliver services and without any mechanism to resolve the fundamental supply shortage of compliant vehicles, such a forum may have limited impact. Any such forum should include passenger groups.

Given the above and the answers to the below questions, SWR's view is the Accessible Travel Policy Guidance should not be changed. To do so would oblige all TOCs to standards they cannot currently meet due to factors outside of their control. Further, SWR sees it as the role of the government to address the fundamental lack of supply of compliant vehicles by providing the legislative framework to facilitate such a change in the coach industry.

Again, SWR thanks the ORR for the opportunity to provide our view on this complicated and important consultation.



**Alan Penlington, Customer Experience Director**

### Response to Specific Consultation Questions

#### Question 1

Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

Availability of PSVAR compliant vehicles and the use of PSVAR compliant vehicles are two different issues.

The key considerations for the availability of PSVAR compliant vehicles are:

- Supply of compliant vehicles;
- Coach operator business models;
- The cost of change to coach operators;
- Bus operating companies' existing obligations.

The key considerations for the use of PSVAR compliant vehicles are:

- Quality of service to passengers (including passenger comfort and convenience);
- Infrastructure limitations;
- Compliance with other regulatory requirements, namely the EU tachograph and driver hours regulations; and
- The accessibility of vehicles for passengers with other disabilities.

#### Availability

##### Supply

The ORR noted in Chapter 1 of this consultation the supply of accessible vehicles, particularly coaches, is a key challenge for the industry. To illustrate this key challenge at a TOC level, rather than an industry level, the following table details the lack of availability of PSVAR compliant coaches in coach company fleets.

TOC	FTS Core Coach Operators <sup>1</sup>	Estimated Fleet Size of Core Coach Operators	No of PSVAR coaches	% of coach fleet which is PSVAR compliant
SWR	50	750	54	7

These figures have been collated by our vehicle sourcing supplier First Travel Solutions ('FTS') and only concern coaches.

The percentage of compliant vehicles get better when we include buses into rail replacement services, although doing so presents other challenges that are discussed below. The following table is a snapshot from January 2020.

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<sup>1</sup> Core Coach Operators are those operators that most reliably supply coaches for rail replacement services.

Date (2020)	Vehicles Required	Compliant Booked	Non-Compliant Booked	% PSVAR Compliant
1-5 January	172	102	70	59%
6-12 January	236	135	38	57%
13-17 January	59	21	38	36%
18-24 January	209	120	89	57%
25-31 January	238	155	84	65%
<b>January Total</b>	<b>914</b>	<b>533</b>	<b>319</b>	<b>58%</b>

This table highlights that even with the addition of buses, there is a significant way to go before a fully compliant service can be provided. There is also a significant disparity across different TOCs. For example, TOCs in the south of the UK (SWR, Southern, South Eastern and GWR) have large parts of their networks in or close to London where stations are closer together (allowing higher use of buses) and where more coach operators frequent. Conversely, TOCs in the north of the UK (TPE, Hull Trains, LNER, Northern, Avanti and ScotRail) have much longer distances between stations (resulted in a greater need for coaches) and fewer coach operators close to where rail replacement services are needed. Consequently, we see a disparity in compliance rates as evidenced in the above table.

It must be noted that the above table tells the story for January 2020 where the majority of engineering work took place inside the M25. Particularly for TOCs in the south of the UK, the level of compliant vehicles is directly related to where rail replacement services are required. If services are required closer to London, like in January, we see higher compliance rates. If services are required in more remote or rural areas, compliance is much lower and comparable to that of northern TOCs.

The clear message from these tables is it is not possible to run a fully compliant rail replacement service using coaches in the UK. Adding buses to rail replacement services goes some way to filling the gap but is not enough to make services fully compliant. Buses in most situations are not appropriate vehicles for rail replacement services due to the lack of storage capacity for luggage, lack of comfort during long distances, lack of toilet facilities, and other regulatory requirements such as those under EU Regulation No 165/2014 (Tachographs in Road Transport) and EC Regulation 561/2006 (the so-called Driver Hours regulations).

The supply of compliant vehicles is the key factor that must be addressed. While several options are discussed later in this response, the two ways the supply of PSVAR compliant coaches can be increased are:

1. Legislatively remove the current exemptions the coach industry relies on for tour operations and private hires under the Transport Act 1985 and the PSVAR; and
2. Government funding provided to retrofit existing vehicles and/or buy new compliant vehicles.

### Coach Operators Existing Business

In the UK, coach operator's primary business is tour operations and private hire work. As discussed above, these activities are exempt from the purview of PSVAR. Based on the understanding from our supplier, First Travel Solutions (FTS)<sup>2</sup>, rail replacement services make up a marginal part of the business for coach companies. Therefore, the problem becomes how

<sup>2</sup> FTS receive rail replacement requirements from GWR, SWR, TPE and Hull Trains and source vehicles to meet these requirements.

can coach operators be influenced to use compliant vehicles without causing them to withdraw from the rail replacement market all together. The answer that delivers long term change and the best result for passengers who use wheelchairs and mobility scooters is legislative change coupled with government funding for more compliant vehicles.

It has been suggested that the TOCs can simply pay higher rates for PSVAR compliant vehicles. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC. We do not believe this will influence the coach operator's existing business operations enough to incentivise the retrofitting of existing fleets or purchase of new compliant fleets – the costs associated with doing so far outweigh the increase fees the TOCs may pay.

#### Cost of Retrofitting Existing Fleets and Buying New Fleets

The following table provides a summary of the cost and time required to retrofit an existing non-compliant coach or buy a new compliant coach.

ACTION REQUIRED	COST PER VEHICLE	TIME PER VEHICLE
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

These retrofitting costs are only for the installation of wheelchair lifts or similar mechanisms. There are other considerations for coach companies to account for such as, emissions standards, clean air zones and mechanical integrity.

According to the ORR's consultation paper at paragraph 1.8 of chapter 1, non-compliant coaches were used 55,176 times in the last 12 months for rail replacement services in the UK<sup>3</sup>. If we assume, for the purposes of putting an approximate figure on the total cost of retrofitting existing coaches or buying replacement coaches, that the number of unique vehicles that provided rail replacement services in the last 12 months is one tenth (1/10) of this number, there are approximately 5,500 unique coaches providing rail replacement services.

Using this assumption, the cost of a fully compliant coach industry is therefore:

- If all current non-compliant vehicles are retrofit - £165,000,000 (approximately); or
- If all current non-compliant vehicles are replaced with new vehicles - £1,375,000,000 (approximately).

A further consideration for coach operators is the increasing prevalence of clean air zones in many cities and required compliance with emission standards. Coach operators are fined for breaches the requirements of clean air zones. Coach operators are required to either convert or replace aging vehicles that do not meet the latest emissions standards. Both concerns carry financial costs for the coach operators and affect their primary business in a way that PSVAR

<sup>3</sup> The ORR states this figure does not include 6 TOCs who were unable to provide full PSVAR vehicle information.

compliance does not (due to the aforementioned exemptions). If faced with a requirement to comply with emissions standards (affecting their core business) and a requirement to comply with the PSVAR (affecting a marginal part of their business), it will be up to each coach operator to decide which requirement takes precedence. However, we anticipate many coach operators to prioritise compliance with emissions standards over PSVAR – therefore further limiting the supply of compliant coaches.

### Bus Operating Companies' Existing Obligations

According to the ORR, 99.96% of buses used for rail replacement services are PSVAR compliant. Most, if not all, of these buses are owned or used by bus operating companies who are obliged to provide regular local bus services. This obligation comes from the traffic commissioner in each local area and the provision of these regular local bus services is a requirement to maintain the operating licence held by each bus operating company.

Consequently, bus operating companies' top priority is to ensure it has enough buses to operate the bus routes it has committed to operate. This leaves few buses to procure for rail replacement services. This lack of supply is more acute on week days as more regular local bus services are run on week days than on weekends.

The net result of bus operating companies' existing obligations to run regular local bus services is it is not always possible to procure buses for rail replacement services, especially for emergency rail replacement service and/or on week days. It is not in the business interest of bus operating companies to have a higher percentage of their fleet on stand by in case rail replacement services are needed. Like coach operators, rail replacement services do not form a core part of bus operating companies' businesses – it is considered an additional service that may be provided if buses are available.

## Use

### Quality of Service to Passengers

The quickest path to a fully compliant rail replacement service is to primarily use buses. As the ORR states, 99.96% of buses used currently for rail replacement services are PSVAR compliant. Putting aside the availability issues discussed above, using buses has a significant impact on all passengers.

Buses have less seating capacity than most coaches. Consequently, more buses are required to transport the same number of passengers than coaches. This additional need feeds back into the availability issues discussed above and from a passenger perspective means a greater risk of delays in service, especially in the case of emergency rail replacement services.

Buses are not designed or built to the same level of comfort as coaches. For example, coaches are fitted with air conditioning while buses tend not to be. This difference in specification means in the case of longer rail replacement services passengers are less likely to be comfortable sitting on a bus than a coach. For example, a rail replacement journey between Southampton Airport Parkway and Bournemouth normally takes 50 minutes via a main A-road and motorway. Compared to the intended journey by rail or using coaches for rail replacement services, using buses will result in passengers travelling in less comfort for longer. This is likely to result in lower passenger satisfaction and an overall worse service for passengers.

Buses do not have the same luggage capacity as coaches. Most coaches have significant luggage storage compartments in the undercarriage of the coach. Buses are not designed in

the same way and require passengers to leave the luggage in a smaller defined area. Therefore, if a wheelchair user is in the defined area on a bus, other passengers are required to put their luggage on or under seats which often times results in a further reduction in seating capacity. This practice creates safety issues as the luggage is normally not secured when in the aisle of the bus, therefore there is the potential for unsecured luggage to harm other passengers in the event of a traffic incident.

Buses do not have seatbelts. Coaches are required to be fitted with seatbelts and standing passengers are not permitted.

Buses do not have toilet facilities on board. This issue is more acute the longer the rail replacement journey is. For example, as mentioned above Southampton Airport Parkway to Bournemouth takes 50 minutes on a coach. During that time, it is highly likely passengers will need to use toilet facilities and if unavailable passenger comfort and satisfaction will drop. It must be added however, that the toilet facilities on a coach are usually not accessible to wheelchair users.

The use of more buses to provide rail replacement services may bridge the compliance gap in the short term. However, the above impacts on passengers must be considered and addressed if/where possible.

### Infrastructure Limitations

The ORR makes reference, at paragraph 2.27 of the consultation, to some of the limitations presented by ageing station infrastructure. We believe more detail is required to flesh out these issues as the challenges presented are significantly more acute in more remote regions.

The first issue here is the ability for compliant vehicles to pick up and drop off passengers at stations. Some stations have varying curb heights or are designed in a way that prevents vehicles from stopping close to the curb. Varying curb heights mean there are different heights that passengers need to step up or down, presenting risks of tripping or falling – this is especially acute with passengers that use movement assistance tools such as walking sticks or crutches. The distance between the curb and the vehicle will primarily affect the use of passenger lifts and ramps used to allow wheelchair and scooter users to embark and disembark the vehicle. Lifts have a limitation to how far out from the bus and how far down to the ground they can go. For example, if a station has a low curb that is below the clearance of the coach, the lift may not reach to the ground and the wheelchair user may not be able to use the lift. This prevents the compliant vehicle from performing the very function it was hired to do.

The second issue with infrastructure is the availability of step free access. Elevators and ramps at all stations is vital to make all stations accessible for all passengers. Currently all stations do not have step free access. This issue becomes particularly acute when passengers are required to change platforms and there are no elevators or ramps available. Often this will mean some passengers cannot change platforms and subsequently cannot use the service they have paid for.

Station infrastructure is a key issue in addressing accessibility for disabled passengers because it can prevent passengers from being able to use rail replacement services, even when fully compliant vehicles have been procured. Even if more compliant vehicles are available for rail replacement services, some station infrastructure does not allow for compliant vehicles to pick up and drop off passengers.

### Compliance with Regulations: EU Tachograph Regulations and EU Driver Hours Regulations

EU Regulations concerning the use of tachographs and driver hours create additional complications in the use of PSVAR compliant vehicles.

Turning to the EU tachograph regulations first, it is a requirement that any vehicle operating a “regular service” or a “special regular service” (as defined in the Regulation) over 50 kilometres (route length) or any vehicle operating any “non-regular service” (as defined in the Regulation) must have a tachograph installed and that the tachograph must be used by the driver. For the purposes of rail replacement services, we understand the DVSA believe rail replacement services to be a “special regular service”. Therefore, any rail replacement service over 50 kilometres must be provided by vehicles with a tachograph installed.

We understand most, if not all, coaches in the UK have tachographs installed, however, most buses in the UK do not have tachographs installed. Bus operators have informed us the routes they are required to operate for local communities are less than 50 kilometres, therefore these buses are caught by the exemption and need to comply with the UK drivers’ hours rules as set out in the Transport Act 1968. Where this becomes a problem is where TOCs are required to contract buses for rail replacement services that are over 50 kilometres. If a bus does not have a tachograph it would not be used for a service over 50 kilometres. Consequently, the ability to use buses for rail replacement services is limited to services that are under 50 kilometres.

EU Driver Hours regulations require that drivers’ work a maximum of 56 hours in any one week and 90 hours in any two week period. This restriction is relevant where rail replacement services are driven by drivers who are employed by bus or coach operators to drive on a full-time basis.

For example, a driver is employed to drive a regular bus service Monday to Friday on 9 hour shifts (we are told by bus and coach suppliers this the normal shift length), then accepts to drive rail replacement service for 8 hours on the Sunday of the same week, the driver would be unable to work their full number of hours the following week for their employer.

The driving of the rail replacement service causes the driver to become subject to the EU Driver Hours regulations. Because this unavailability of drivers adversely impacts the bus operators’ ability to deliver the services it is required to deliver, bus operators can refuse to allow their drivers to drive rail replacement services. This leaves TOCs in a position where they have a compliant bus but no driver. The vehicle cannot be used and therefore the procurement of the vehicle is meaningless.

The consequence for the TOCs is bus and coach companies may be more reluctant to supply their drivers to drive rail replacement services. Vehicles and drivers are inseparable as one does not work without the other. Therefore, TOCs must be able to procure not only vehicles but the drivers to drive the vehicles. We are told by our suppliers they already face driver shortages and to further limit driver availability will result in an inability to meet the minimum levels of service they are obliged to provide. This issue is more acute for bus operators due to their commitments to local traffic commissioners.

### Accessibility of Vehicles for Passengers with other Disabilities

The PSVAR requirement for vehicles to be accessible in accordance with Schedule 1 is specifically targeted for wheelchair accessibility. This focus while important does exclude those passengers with other disabilities, especially those with hidden disabilities. These



passengers have a range of specific needs depending on their disability and can include a need to avoid loud noises, announcements to be made verbally, screens to be used for written instructions and announcements. These specific needs are currently managed by the TOCs and tailored solutions are provided to passengers that request them where possible. Often times these specific needs are met through the use of accessible taxis. Taxis provide a tailored service to the passenger where a coach or a bus cannot. In addition to this, SWR trains have a dedicated 'Quite Zone' on mainline services and this is a facility which both buses and coaches do not offer.

All TOCs continue to improve their services for all passengers with the goal being a fully accessible service for all passengers. However, until this is realistically possible, TOCs should have the freedom to address the specific needs to passengers that require assistance in the best way they can.

### Question 2

#### How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

The data and analysis provided by the ORR within the consultation document clearly demonstrates that there is insufficient supply of PSVAR vehicles available to meet demand for rail replacement vehicles.

The best way to allow journeys to be taken on PSVAR compliant vehicles is to increase the number of vehicles that are available. This solution will take significant time and significant investment.

Until this happens, the following options may be available, however it must be noted that many of these options required the cooperation of Network Rail.

#### Increase supply of PSVAR vehicles

##### 1. Determine the requirements for rail replacement services earlier

SWR use a third-party operator to procure vehicles for rail replacement services. Currently, we receive the requirements for planned rail replacement services 6 to 10 weeks before the services are needed. To have a better chance to procure compliant vehicles, the requirements for planned rail replacement services would be needed 16 weeks before the services are needed. This extended time line may give our third-party supplier the opportunity to source compliant vehicles and still meet the ORR reporting requirement of 12 weeks before the services are needed.

This may enable us to secure more PSVAR compliant coaches from operators by booking them earlier and whilst more are still available. This will be particularly important during the peak coaching season in June and July. However, this would not guarantee that we can secure all accessible PSVAR vehicles, due to the lack of supply of compliant vehicles discussed in our response to Question 1.

To meet the extended timeline of 16 weeks, Network Rail would need to finalise possessions much sooner and TOCs would have to finalise timetables at T-16 instead of the current T-12 practice. Currently, timetables may be amended up to 1 day before operation due to changing Network Rail priorities or proposed work.

By determining the requirements for rail replacements services 16 weeks before the services are needed SWR has a better chance to secure compliant vehicles as suppliers may have more vehicles available at T-16 than at T-6 – T-10.

### 2. Shorter Distances required for Rail Replacement Services

Changing the amount of track that is possessed will reduce the distance SWR is required to provide rail replacement services for. Shorter distances make the use of buses for rail replacement service much more viable. The passenger comfort and safety issues discussed in Question 1 diminish with shorter distances. The risk of EU tachograph regulations applying to the vehicles is reduced to zero (if the route distance is below 50 kilometres). If coupled with rail replacement requirements being known at T-16, the number of compliant vehicles available increases – bus operators can better plan to accommodate these services using their vehicles with more time.

Changing to shorter distance possessions means it is much more likely SWR can use compliant buses as an option for providing rail replacement services.

### 3. Structure of services

Today, rail replacement services are operated to emulate the rail service it is replacing, i.e. vehicles stop at each station on the route. Rail replacement services could be redesigned to allow for the use of more compliant buses. Compliant coaches would still be sources where possible to operate the long-distance parts of the route, or a direct service from end to end, while buses could be used to operate shorter journeys along the route.

For example, a possession requiring road transport to operate between London Waterloo and Woking:

PSVAR coaches could be recruited to operate direct (non-stop) between London Waterloo and Woking, with PSVAR buses used to run shuttles for stations between London Waterloo and Woking.

While this structure of rail replacement services gives SWR a better opportunity to run a fully compliant service, there are drawbacks. Some customers may need to change vehicles part way through their journey, likely causing dissatisfaction. Frequent changes may also cause issues especially for those older or disabled customers who may struggle with the transfer, especially if travelling with luggage, or may be concerned or anxious about connections.

### 4. Higher rates and incentives

As discussed in Question 1, it has been suggested that all TOCs could incentivise the coach industry to use compliant vehicles by paying higher rates. In theory, this would create a higher demand for PSVAR compliant coaches, however, this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC.

An alternative to higher rates being paid by the TOCs is for funding to come direct from the DfT to coach operators to incentivise coach conversions and the purchase of compliant coaches. An example of a similar fund is the Access for All fund.

Another alternative may be to incentivise coach companies subsidising the cost of compliant coaches. An example of a similar incentive is used for the purchasing of electric vehicles, reducing the cost to the buyer.

### Reduce demand for PSVAR vehicles:

#### 1. Scale of pre-planned engineering blocks

Currently, when possessions of the line are taken to facilitate engineering works, train services can be withdrawn from whole branch lines, e.g. Staines to Reading, when the works may be taking place on a small section of the track.

Consideration could be given to mandating that the minimal possible section of track is possessed to facilitate works, with train planning teams then looking at how best to continue to offer the maximum possible train service, recognising that this may be impacted by resources, including the quantity of units, drivers and conductors who may be available.

It could also be the case that possessions take the 'little and often' approach, rather than larger possessions, reducing the quantity of vehicles needed, however, this may protract the timescales and costs of delivery of infrastructure improvements. This would also lead to a more negative view of the industry as customers will still be buying train tickets, but less likely to make their journey by train.

#### 2. Use of diversionary routes

SWR seeks to use diversionary routes where possible, however, there are significant challenges that are associated with the use of diversionary route. These challenges are:

- Operating on these diversionary routes requires significant driver and traincrew knowledge. This knowledge also needs to be maintained;
- Services using diversionary routes are required to 'slot in' to the existing timetable for that route. This can be challenging, particularly on busy commuter routes;
- The resulting journey time is, in most cases, much longer than the originally intended journey;
- The capability of the rolling stock on the diversionary route's tracks can be a factor where the train is electric, and the diversionary route is not electrified.

#### 3. Ticket Acceptance

Consideration of what is deemed reasonable for an alternative journey should be considered. Currently, we will offer RRS if we deem it will be quicker for the passenger to travel part of the journey by coach, rather than going by alternative routes by rail. However, it is recognised this may cause inconvenience through increasing end to end journey times and is reliant on other operators having the capacity to accommodate the extra passengers.

For example, currently when we have engineering work on the West of England line, we will operate RRS coaches between Yeovil Junction and Exeter St Davids. We are not able to use PSVAR buses as the route is a long distance, includes sections of the motorway and passengers usually have considerable luggage to transport. Theoretically, we could advise passengers from London and Reading to travel to Salisbury on our services and then use the

Great Western Railway (GWR) services to Castle Cary or Westbury where they can change for GWR services to Exeter.

This would reduce the demand in coaches at Salisbury. However, it would increase the journey time of passengers greatly and adds additional pressure on the capacity of GWR.

#### 4. Rejection of possessions

Another consideration is for the industry to adopt a process whereby possessions are not accepted unless a full compliment of PSVAR vehicles required to provide the road transport operation are secured.

This would likely increase the planning timescales and may see some essential maintenance or upgrade works delayed, impacting the performance and reliability of train services due to infrastructure faults.

### Question 3

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

It is recognised that this question is aimed at customers.

We would encourage the ORR, Department for Transport (DfT) and any other government bodies involved in decisions affecting the provision of rail replacement vehicles to undertake an all-encompassing assessment of customer needs, with engagement with Transport Focus, so that any new approach considers the needs of ALL customers.

### Question 4

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

Specific data on the number of disabled passengers and the number of overall passengers using rail replacement services is not currently recorded. The number of accessible taxis used to assist passengers is recorded.

The following taxis were booked for passengers:

29 September – Hounslow to Windsor (Passenger in Powered Wheelchair).

16 November – 2 taxis from Bitterne to Fareham

16 November – 1 taxi Sherbourne to Yeovil Junction

17 November – 1 taxi Eastleigh to Havant

30 November - 1 taxi Virginia Water to Woking (although ordered, the customer then sourced their own taxi, so taxi was stood down).

It must be noted that this data does not record the type of passenger that utilised the taxi. The passengers may be a wheelchair or mobility scooter user; however, it is just as likely that the passengers are older, have a non-visible disability or have another type of mobility impairment.

### Question 5

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

Within SWR, the effects on how we work around engineering possessions at weekends will be challenging, where a worst-case scenario is a 'Do Not Travel' message.

The impact on a proposed blockade over several days would be very damaging and costly to the DfT and ORR. With buses being fully employed on their local networks this means they are not available for use on replacement bus services.

Most bus companies now run with a 10% spare vehicle capacity to their peak vehicle requirement (PVR). For example, if a bus depot has 60 vehicles on the road at peak time, it will usually have around 66 vehicles within its allocated fleet. At least one vehicle per week will be out of traffic for annual test preparation/submission and the remaining vehicles will be in the garage for 21-day safety inspections and spare for local work. This means that only coaches are generally available for use during weekdays depending on the time of year. For instance, from May to September, coach companies are at their peak season and therefore usually decline rail replacement work.

It is also important to note that the Bus/Coach industry is some 14000 drivers short and struggle to cover anything above their service/contractual commitments.

Under the current proposals and available compliant vehicles, it is very likely that SWR could not agree to any proposed blockade. The result of this action will be a series of costly weekend blocks for upgrade projects, heavy track renewals, station development and re-signalling work. The cost of this would have to be met by the ORR and could also force the company into agreeing to double disruption on many routes. This imports more risk into a 'Do Not Travel' scenario due to the lack of available. This in turn could fail due to the limited availability of vehicles.

As an operator, we push for revised access as business as usual to avoid buses but often isn't possible, especially for SWR on a third-rail network and adjacent line open safe-working restrictions.

SWR agrees that the work Network Rail does to maintain and upgrade the UK rail network is important and in the long term is to the benefit of all passengers. However, during possessions, replacing services for extended periods of time is already challenging. If these possessions were pushed to all occur on weekends the result would be a series of costly weekend blocks for upgrade projects, heavy track renewals, station development and re-signalling work. The cost of these possessions would need to be met by the ORR and DfT. Such a program could also force the company into agreeing to double disruption on many routes.

The alternative to the current program of engineering possessions or pushing all possession to weekends is for Network Rail to reprogram engineering work to consider the availability of replacement services. As discussed in Question 2, engineering possessions should only be scheduled where it is possible to obtain compliant vehicles to operate rail replacement services. Failing this, SWR will be forced to reconsider proposed possessions any may be required to reject possessions due to the lack of available compliant vehicles.

Accommodating current engineering possessions is challenging. Should Accessible Travel Policies mandate the use of compliant vehicles only, and the current way of scheduling engineering possessions continues, SWR will be forced to either reject engineering possessions or issue 'Do Not Travel' notices to passengers. Neither result is good for passengers.

### Question 6

#### **Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

The approach proposed by ORR is sensible and duplicate enforcement would not be appropriate. DVSA are the enforcement body for PSVAR across the bus and coach industry and should continue in this role.

### Question 7

#### **How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The lack of supply of compliant vehicles, as detailed in Question 1, means that imposing additional contractual requirements on vehicle suppliers is very unlikely to increase supply. Also, in our response to Question 1 we detailed the challenge faced by the existing business models of vehicle suppliers. In the case of coach companies, their core business is tour operations and private hires. Neither of these operations is required to be compliant with the PSVAR. In the case of bus operators, their existing commitments to run regular local bus services makes rail replacement services a secondary priority.

If SWR were to impose stricter contractual arrangements on coach and bus operators to mandate the use of compliant vehicles only, we expect many operators to simply decline the business offered by SWR. Rail replacement services are not a core part of any coach or bus operators' business. When coupled with the risks associated with the PSVAR and the Equality Act 2010, we understand an even greater number of suppliers to decline the business offered by SWR.

As discussed in Questions 1 and 2, the proposal for all TOCs to pay a higher rate for compliant vehicles would result in very little improvement in the supply of compliant vehicles. The costs associated with retrofitting existing non-compliant vehicles or purchasing new compliant vehicles are far too high to be solely borne by the TOCs paying higher fees for rail replacement services. Further, any increase in fees paid by the TOCs would ultimately need to be compensated for by DfT under existing Franchise Agreement payments (Schedule 4 and Schedule 8 specifically). Therefore, such an incentive is actually an increase cost to the DfT.

Finally, contractually mandating the supply of compliant coaches is very unlikely to be enforceable in the event of a contractual dispute. In the current market, most suppliers are simply not capable of supplying compliant vehicles, particularly coaches.

These factors mean that incentivising bus and coach operators through contractual arrangements is unlikely to result in any change. If TOCs imposed a requirement to source only compliant vehicles, suppliers could not meet the requirement. Therefore, the bus and coach operators would immediately be in breach of the contracts.

The best approach with regard to contractual arrangements with bus and coach operators is to mirror the obligations of TOCs in their Franchise Agreements. This type of obligation allows the TOCs to provide the most tailored service to the customer's needs. A more prescriptive obligation on bus and coach operators is highly likely to cause operators to decline rail replacement work resulting in a worsening supply compliant vehicle.

### Question 8

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

The proposed 12-week time limit may have benefits however such a time limit is completely dependent on when Network Rail finalises their possessions schedule and when Network Rail and the TOCs finalise the affected timetables. Presently, Network Rail and each TOC endeavour to agree the timetables at T-12 weeks. This allows the TOC plan rail replacement services and procure vehicles to operate these services in time for the planned possessions. Planning is finalised, and vehicle requirements sent to suppliers between T-10 weeks and T-6 weeks, depending on the extent of rail replacement services required. Vehicle operator tenders are usually received and finalised by T-4 weeks.

To comply with the proposed 12-week time limit to demonstrate all appropriate steps have been taken to assess requirements and to procure compliant vehicles, the above T-4 week timeline where vehicle operator tenders are finalised will need to move to T-12 weeks. This will have a direct knock on effect on the previous steps in the process, beginning with when Network Rail finalise their plans for work.

Consequently, to comply with a 12-week time limit reporting requirement, the following revised timelines will need to apply:

- Network Rail to finalise planned engineering work schedule by T-24 weeks.
- Network Rail and TOCs finalise timetables at T-20 weeks.
- Rail replacement service planning and resource requirements determined and sent to suppliers by T-18 to T-14 weeks.
- Tenders finalised and awarded by T-12 weeks.

Without this wholistic time line in place, a 12-week time limit to report will not be possible.

### Question 9

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We have ranked the proposals and what we see as the advantages and disadvantages in the table below. It must be noted however that none of these proposals address the cores issue: there are simply not enough compliant vehicles and without legislative change or government funding, this situation will continue.

Proposal	Advantages	Disadvantages	Ranking
One	Places a contractual obligation to maximise the no. of psvar vehicles	Unlikely to increase the no of psvar vehicles	5
Two	Requires TOCs to demonstrate they have taken reasonable steps to procure psvar at 12 weeks  Will require NR and TOCs to finalise timetables much earlier  Should increase the number of psvar vehicles due to earlier recruitment	NR and TOCs will need to change their planning timescales for RRS  Last minute changes to RRS by NR and/or TOCs is unlikely to be possible	4
Three	Passengers requiring assistance could receive individual messages to sort travel.	Increased resources needed at the contact centre and at stations  NR and TOCs will need to change their planning timescales for RRS	2
Four	Rail passengers will know which RRS journeys will be operated by psvar vehicles  An impact of the earlier timetable planning should be an increase in the number of PSVAR-compliant vehicles due to earlier recruitment	Will require development of the Rail Industry CIS systems  NR and TOCs will need to change their planning timescales for RRS	3



Five	Forum could be a good initiative if it encourages better planning and co-ordination by NR and across TOCs to manage demand for vehicles.	Needs to have a defined objective	1
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### Question 10

Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

The fundamental issue is the coach industry has exemptions from PSVAR to conduct their primary business operations: tours and private hires. This directly translates into a lack of compliant vehicles available for rail replacement vehicles where the ORR has stated only 175 out of 55,351 rail replacement coach journeys were compliant in the last 12 months.

To address this fundamental issue either legislative change will be required to remove these current exemptions, or more vehicles will need to be made compliant or compliant vehicles bought. With both paths forward, significant investment will be needed, primarily coming from the DfT. As stated above the following estimates represent the costs involved with making an assumed 5,500 coaches compliant:

ACTION REQUIRED	COST PER VEHICLE	TOTAL INVESTMENT REQUIRED
Retrofit an existing coach	£30,000 (approximately)	£165,000,000 (approximately)
Buy a compliant coach	£250,000 (approximately)	£1,375,000,000 (approximately)

The only option we believe will make a significant impact and improve the accessibility of coaches in the UK is significant investment by the DfT into the coach industry because coach operators are currently not incentivised to spend the amount of money required to operator compliant coaches.

### Question 11

Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

The ORR should consider in their assessment the needs of all customers. Prioritisation of the needs of those who require level access could cause significant and damaging detriment to the accessibility of the service for those with hidden and potentially complex disabilities.

The focus must be on providing a service which meets the needs of all customers, providing a range of vehicles to meet varied needs, tailored to allow flexibility and encourage use of the most suitable vehicles, rather than a focus on compliance.

For example, the addition of quiet carriages on many services allows those customers who do not cope well in noisy environments to use the railways in a way that is comfortable and safe for them. Quiet carriages are cannot be replicated when using buses or coaches for rail replacement services and therefore these passengers may find a taxi more appropriate to their needs.

We strongly believe that equality can be achieved, with dignity and comfort for all by using practical solutions, without imposing compliance standards that may not fully consider the impact on all rail passengers.

### Question 12

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

As a general comment, we do not believe mandating restrictive policy guidance or regulations about the types of vehicles to be used for rail replacement services will result in a better service for all passengers. Fundamentally, the vehicles to operate a fully compliant rail replacement service do not exist in the UK. Without more compliant vehicles, TOCs cannot procure compliant vehicles.

The current system of using accessible taxis has worked with success across the entire UK rail network. The advantages of using accessible taxis are:

- In most cases, a taxi can transport the passenger to their end destination (home or otherwise), not just to the passengers intended station of departure;
- Taxis can stop at motorway services or the like for comfort breaks to suit the individual needs of the passenger;
- Taxis can be quiet environments with greater ease than a bus or coach, thereby allowing noise sensitive passengers a more appropriate method of travel; and
- Taxis can accommodate blind passengers with guide dogs easier than a bus or coach can.

Like buses and coaches, the use of taxis present unique challenges:

- availability in rural and regional areas can be limited; and
- there can be delays where taxis are not pre-booked or where passengers requiring assistance do not notify the TOC of their needs in advance;

The use of taxis is a proven way to assist passengers who require assistance. Mandating the need to use compliant buses or coaches has the potential to force all passengers onto these buses and coaches. This will have the unintended consequence of reducing the accessibility of the railways for those passengers that require assistance, but do not have mobility restrictions.



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13 February 2020

Dear Sirs,

Thank you for the recent invitation to respond to consultation on the provision of accessible travel during times of disruption. As Transport for London is in a different position regarding geographical extent than most train operating companies, we shall reflect on our experiences.

## Background

For its rail replacement services, Transport for London<sup>1</sup> tenders services to its pool of approved bus operators. The majority of buses used are regular red London buses, which come with the added advantage of being able to programme the customer information 'next stop' displays and announcements. The fleet we call upon for rail replacement operations is effectively those that are used on school buses or peak hour service enhancements between Monday and Friday.

The vast majority of TfL replacement services are already operated by accessible vehicles which are compliant with the Public Service Vehicle Accessible Regulations (PSVAR) 2000. This is because they fulfil the function of a regular local bus during the week, which have had to be compliant since 1 January 2016/2017 (in respect of single and double deck buses respectively).

On planned closures there is only one instance where we have routinely sought coaches, which are vehicles that are generally non-PSVAR compliant. This is during closures of the Piccadilly line towards Heathrow Airport. This is because we will operate an express replacement service, and the coaches are more suitable for customers with luggage, more suitable for the longer journey time, and more suitable for operation along the motorways leading to the airport.

Sometimes a closure, particularly on London Underground, will require trains to terminate at a non-accessible station, where usually the terminus or

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<sup>1</sup> In this context, Transport for London includes rail modes known as Docklands Light Railway, London Overground, London Trams, London Underground and TfL Rail.

interchanges would be accessible. If a customer arrives by replacement bus at an inaccessible station our staff are asked to book a special taxi to take them to a suitable location: this is stated in our staff documentation published for each closure.

On occasion we seek vehicles to replace our train services on an unplanned basis. In the first instance we will call upon the pool of approved contractors to TfL to provide us with buses. Sometimes these contractors cannot provide vehicles, as the buses/drivers are committed on other work and we need to use non-PSVAR compliant vehicles. This has not happened for some years and only happens in extremis.

### **Planned Disruption**

There are a wide range of companies supplying coaches which are used for rail replacement services, which represents a perfectly functioning and perfectly competitive market. The vehicles used to form rail replacement services also have other uses, ranging from school buses through to day trips and long-distance touring. These markets have not required the provision of accessible vehicles, either due to historical interpretation of the law (such as PSVAR 2000) or customer demand and requirements. Therefore, the requirement for PSVAR vehicles to operate school bus services and rail replacement services is intrinsically linked, as many vehicles are used for both.

Transport for London would be concerned about the instant industry-wide mandatory tendering of accessible vehicles, as this is likely to place an increased demand on the limited supply of accessible vehicles, the majority of which are buses. This in turn will restrict the supply of such vehicles for TfL's own replacement services which means either fewer services operated or higher costs paid for the scarce resource.

It is clearly going to take some time for the suppliers of replacement buses/coaches to move to accessible vehicles, whether purchasing new, reflecting the time taken to manufacture vehicles, or purchasing second hand, and relying on the larger operators' routine fleet replacement. In the meantime, the use of wholly unsuitable vehicles, e.g. city buses for longer motorway journeys, should not be encouraged.

The provision of taxis is cited as an alternative, but some customers do not find taxis suitable or comfortable. It might be that the later generation of taxi vehicles, which are generally taller than older London style taxis, may present a more comfortable/spacious travelling environment. These may be a more suitable mitigation in the short term.

### **Provision of Information**

London Underground operates a 'turn up and go' approach to customers with accessibility needs. Appropriate assistance will be provided to visually impaired

customers or those requiring ramps to access the train. During disruption we supply customer information staff around bus stops, particularly those where there is an interchange between train and bus. Our agency staff supplier has recently started including briefing their employees on the same basics of communication and assistance that would be provided to our own staff.

On London Overground and TfL Rail, the station staff are usually redeployed to the replacement bus stops to assist customers. We believe that the deployment of staff to replacement bus stops provides assistance and reassurance for all customers, irrespective of any accessibility need.

It is TfL's experience that customers with specific accessibility needs undertake more journey planning, out of necessity, than other customers. As a matter of routine the tube map is therefore provided in a variety of formats<sup>2</sup>. Therefore, during planned disruption, it is likely that customers with such needs will research their journey beyond the details of a planned closure and alternative travel information. Critically this could include whether the interchange station between train and replacement bus meets the customers' accessibility need.

The provision of basic planned closure information can be quite complicated in an area with dense urban transport provided by a variety of operators, such as London. Despite communication by multiple means<sup>3</sup>, a proportion of customers remain unaware of planned closures.

### **Emergencies and Unplanned Closures**

There are times when a railway is closed for unforeseeable reasons. In those instances it is often desirable to provide alternative bus services, particularly if the closure is going to be prolonged, or if 'rail heading' from another line reduces the customers' journey time. In these circumstances Transport for London would initially call upon the operators who are approved contractors to Transport for London; as described above these will nearly always be fully accessible, PSVAR compliant, vehicles.

However, unplanned disruption can occur at any time, and usual operators may be unable to help, particularly when buses have weekday and school day commitments. In these circumstances a wider pool of operators and vehicles may be called upon, which may not be PSVAR compliant.

In an emergency or unplanned closure we would wish to maintain flexibility in vehicles used in order to keep the maximum number of people moving possible. We would like to retain the flexibility in these times to use some traditional

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<sup>2</sup> Including step-free, stairs-free, tunnels, large print, black & white, etc  
<https://tfl.gov.uk/maps/track/tube>

<sup>3</sup> This includes a weekly customer email, look ahead and weekly posters in stations, public address messages in stations, a dedicated web page at [tfl.gov.uk/check](https://tfl.gov.uk/check), six month track and station closure lookaheads on the website, and a dedicated page in the Metro free newspaper every Friday.

methods of transporting customers with particular accessibility needs, such as stand-by taxis or an accessible bus on standby.

For the avoidance of doubt, emergencies and unplanned closures would include industrial action.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Mark Curran', with a horizontal line underneath.

**Mark Curran**  
**Rail Closures Planning Manager**

# **Accessible Travel Policy Guidance**

## **Accessibility of Rail Replacement Services**

### Executive Summary

TransPennine Express (“TPE”) thanks the Office of Rail and Road (“ORR”) for the opportunity to respond to the Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation, dated 20 December 2019 (the “Consultation”).

TPE has provided as much relevant information as possible in answering each question posed by the Consultation. Particular attention is drawn to the fundamental barrier to a fully compliant rail replacement service: there are not enough PSVAR compliant coaches available in the UK. TPE sees it as unlikely that this barrier can be surmounted in the short term, even with increased government funding. This is because current legislation stifles any compelling reason for coach operators to operate PSVAR compliant coaches. Further, the amount of time and investment that is required to build and finance a PSVAR compliant coach industry is not practical in the short to medium term. Coach operators currently take on rail replacement work in addition to their usual work, however rail replacement work is not a core part of any coach operators’ business.

TPE agrees with the ORR that Buses can and do play a key part in providing rail replacement services. There are however challenges to using buses for such services. These include, amongst others discussed below, the availability of buses, passenger comfort, luggage capabilities and the availability of drivers and their suitability for customers with disabilities but who are not necessarily wheelchair users. Bus operators currently work with the TOCs however they have their own business and regulatory pressures that they must consider and are not able to make rail replacement services a primary consideration when running their businesses.

Given the fundamental lack of supply of PSVAR compliant vehicles, particularly coaches, TPE sees the best course of action as continuing to provide the best possible service to all its customers. This can only be done where TPE has the discretion and autonomy to address the individual requirements of each passenger in the best way it sees. This may mean that some customers are carried by taxis where buses or coaches are not right for the passenger, like TPE currently does. Requiring adherence to more stringent requirements is likely to harm TPE’s ability to provide the best possible service to each and every customer.

TPE agrees that more can be done by government, the ORR, TOCs, bus, coach and taxi companies to assist those customers with disabilities. TPE is constantly looking at new ways to improve its services to all its customers. TPE however does not agree that the rail industry can solve this problem by itself.

TPE provides a short response to each of the five proposals put forward by the ORR in the Consultation, however further detail on these proposals can be found in the response to the twelve questions.

**Proposal one:** Train operators must take appropriate steps to source PSVAR-compliant vehicles through explicit requirements in tenders and contracts with vehicle suppliers.



It is unclear what constitutes “appropriate steps” and therefore assessing the viability of this proposal is difficult. Should this mean contractually requiring compliant vehicles to the exclusion of all other vehicles, this proposal could not be implemented without addressing the fundamental supply shortage of PSVAR compliant vehicles, particularly coaches.

**Proposal two:** For planned disruption, the train operator must be able to demonstrate it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles at least 12 weeks before all major planned engineering works.

This proposal would require the process of planning for disruptions to start approximately eight (8) weeks earlier compared to what currently happens. This will fundamentally require Network Rail’s cooperation, as without such cooperation this proposal could not be implemented.

**Proposal three:** For planned disruption, the train operator should take appropriate steps to contact those customers that have booked assistance in advance of travel to provide information on the use of rail replacement services and discuss the individual needs and preferences of the passenger (which may result in increased use of buses or taxis in some circumstances).

TPE currently seeks to do exactly this. This proposal however only addresses planned disruption and those customers that have pre-arranged assistance. This proposal does not address emergency disruption or customers that do not pre-arrange assistance.

**Proposal four:** For planned disruption, train operators should provide customers with appropriate, accurate and timely information about the accessibility of the rail replacement transport they will be providing for the affected service and the options available to the passenger to be able to make their journey.

TPE sees this proposal as achievable subject to significant changes being made to industry systems. It will also require the coordination between TPE and the bus/coach operators to confirm the precise vehicles that will be provided.

**Proposal five:** For planned disruption, train operators should establish a regular communication forum – including amongst others DfT, RDG and suppliers of rail replacement services to identify and better manage the availability and use of PSVAR-compliant vehicles at times of high demand (e.g. Christmas, Easter and bank holidays).

TPE sees such a forum as a possible way to identify how best to manage the limited supply of compliant vehicles. However, each TOC has a responsibility to its customers to deliver services and without any mechanism to resolve the fundamental supply shortage of compliant vehicles, such a forum may have limited impact. Any such forum should include passenger groups.

# Consultation Response

## Accessibility of Rail Replacement Services

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Given the above and the answers to the below questions, TPE's view is the Accessible Travel Policy Guidance should not be changed. To do so would oblige all TOCs to standards they cannot currently meet due to factors outside of their control. Further, TPE sees it as the role of the government to address the fundamental lack of supply of compliant vehicles by providing the legislative framework to facilitate such a change in the bus and coach industry.

Again, TPE thanks the ORR for the opportunity to provide our view on this complicated and important consultation.



**Louise Ebbs**

Strategy Director

TransPennine Express

### Q1. Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

Availability of PSVAR compliant vehicles and the use of PSVAR compliant vehicles are two different issues.

The key considerations for the availability of PSVAR compliant vehicles are:

- Supply of compliant vehicles;
- Coach operator business models;
- The cost of change to coach operators;
- Bus operating companies' existing obligations.

The key considerations for the use of PSVAR compliant vehicles are:

- Quality of service to customers (including passenger comfort and convenience);
- Infrastructure limitations;
- Compliance with other regulatory requirements, namely the EU tachograph and driver hours regulations; and
- The accessibility of vehicles for customers with other disabilities.

## Availability

### Supply

The ORR noted in Chapter 1 of this consultation the supply of accessible vehicles, particularly coaches, is a key challenge for the industry. To illustrate this key challenge at a TOC level, rather than an industry level, the following table details the lack of availability of PSVAR compliant coaches in coach company fleets.

FTS Core Coach Operators <sup>1</sup>	Estimated Fleet Size of Core Coach Operators	No of PSVAR coaches	% of coach fleet which is PSVAR compliant
58	870	95	11

These figures have been collated by our vehicle sourcing supplier First Travel Solutions ('FTS') and only concern coaches.

The percentage of compliant vehicles get better when we include buses into rail replacement services, although doing so presents other challenges that are discussed below. The following table is a snapshot from January 2020.

Date (2020)	Vehicles Required	Compliant Booked	Non-Compliant Booked	% PSVAR Compliant
1-5 January	25	13	12	52%
6-12 January	82	28	24	34%
13-17 January	35	25	10	71%
18-24 January	52	27	25	52%
25-31 January	120	17	102	14%
<b>January Total</b>	<b>314</b>	<b>110</b>	<b>203</b>	<b>35%</b>

This table highlights that even with the addition of buses, there is a significant way to go before a fully compliant service can be provided. There is also a significant disparity across different TOCs. For example, TOCs in the south of the UK (SWR, Southern, South Eastern and GWR) have large parts of their networks in or close to London where stations are closer together (allowing higher use of buses) and where more coach operators frequent. Conversely, TOCs in the north of the UK (TPE, Hull Trains, CrossCountry, LNER, Northern, Grand Central, Avanti and ScotRail) have much longer distances between stations (resulted in a greater need for coaches) and fewer coach operators close to where rail replacement services are needed. Consequently, we see a disparity in compliance rates as evidenced in the above table.

<sup>1</sup> Core Coach Operators are those operators that most reliably supply coaches for rail replacement services.

It must be noted that the above table tells the story for January 2020. Particularly for TOCs in the south of the UK, the level of compliant vehicles is directly related to where rail replacement services are required. If services are required closer to London, like in January, we see higher compliance rates. If services are required in more remote or rural areas, compliance is much lower and comparable to that of northern TOCs.

The clear message from these tables is it is not possible to run a fully compliant rail replacement service using coaches in the UK. Adding buses to rail replacement services goes some way to filling the gap but is not enough to make services fully compliant. Buses in most situations are not appropriate vehicles for rail replacement services due to the lack of storage capacity for luggage, lack of comfort during long distances, lack of toilet facilities, and other regulatory requirements such as those under EU Regulation No 165/2014 (Tachographs in Road Transport) and EC Regulation 561/2006 (the so-called Driver Hours regulations).

The supply of compliant vehicles is the key factor that must be addressed. While several options are discussed later in this response, the two ways the supply of PSVAR compliant coaches can be increased are:

1. Legislatively remove the current exemptions the coach industry relies on for tour operations and private hires under the Transport Act 1985 and the PSVAR; and
2. Government funding provided to retrofit existing vehicles and/or buy new compliant vehicles.

### Coach Operators Existing Business

In the UK, coach operator's primary business is tour operations and private hire work. As discussed above, these activities are exempt from the purview of PSVAR. Based on the understanding from our supplier, First Travel Solutions (FTS), rail replacement services make up a marginal part of the business for coach companies. Therefore, the problem becomes how can coach operators be influenced to use compliant vehicles without causing them to withdraw from the rail replacement market all together. The answer that delivers long term change and the best result for customers who use wheelchairs and mobility scooters is legislative change coupled with government funding for more compliant vehicles.

It has been suggested that the TOCs can simply pay higher rates for PSVAR compliant vehicles. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice,

the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC. We do not believe this will influence the coach operator’s existing business operations enough to incentivise the retrofitting of existing fleets or purchase of new compliant fleets – the costs associated with doing so far outweigh the increase fees the TOCs may pay.

### Cost of Retrofitting Existing Fleets and Buying New Fleets

The following table provides a summary of the cost and time required to retrofit an existing non-compliant coach or buy a new compliant coach.

Action Required	Cost Per Vehicle	Time Per Vehicle
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

According to the ORR’s consultation paper at paragraph 1.8 of chapter 1, non-compliant coaches were used 55,176 times in the last 12 months for rail replacement services in the UK. If we assume, for the purposes of putting an approximate figure on the total cost of retrofitting existing coaches or buying replacement coaches, that the number of unique vehicles that provided rail replacement services in the last 12 months is one tenth (1/10) of this number, there are approximately 5,500 unique coaches providing rail replacement services.

Using this assumption, the cost of a fully compliant coach industry is therefore:

- If all current non-compliant vehicles are retrofit - £165,000,000 (approximately); or
- If all current non-compliant vehicles are replaced with new vehicles - £1,375,000,000 (approximately).

A further consideration for coach operators is the increasing prevalence of clean air zones in many cities and required compliance with emission standards. Coach operators are fined for breaches the requirements of clean air zones. Coach operators are required to either convert or replace aging vehicles that do not meet the latest emissions standards. Both concerns carry

financial costs for the coach operators and affect their primary business in a way that PSVAR compliance does not (due to the aforementioned exemptions). If faced with a requirement to comply with emissions standards (affecting their core business) and a requirement to comply with the PSVAR (affecting a marginal part of their business), it will be up to each coach operator to decide which requirement takes precedence. However, we anticipate many coach operators to prioritise compliance with emissions standards over PSVAR – therefore further limiting the supply of compliant coaches.

### Bus Operating Companies' Existing Obligations

According to the ORR, 99.96% of buses used for rail replacement services are PSVAR compliant. Most, if not all, of these buses are owned or used by bus operating companies who are obliged to provide regular local bus services. This obligation comes from the traffic commissioner in each local area and the provision of these regular local bus services is a requirement to maintain the operating licence held by each bus operating company.

Consequently, bus operating companies' top priority is to ensure it has enough buses to operate the bus routes it has committed to operate. This leaves few buses to procure for rail replacement services. This lack of supply is more acute on week days as more regular local bus services are run on week days than on weekends.

The net result of bus operating companies' existing obligations to run regular local bus services is it is not always possible to procure buses for rail replacement services, especially for emergency rail replacement service and/or on week days. It is not in the business interest of bus operating companies to have a higher percentage of their fleet on stand by in case rail replacement services are needed. Like coach operators, rail replacement services do not form a core part of bus operating companies' businesses – it is considered an additional service that may be provided if buses are available.

### Use

#### Quality of Service to Customers

The quickest path to a fully compliant rail replacement service is to primarily use buses. As the ORR states, 99.96% of buses used currently for rail replacement services are PSVAR compliant. Putting aside the availability issues discussed above, using buses has a significant impact on all customers.

Buses have less seating capacity than most coaches. Consequently, more buses are required to transport the same number of customers than coaches. This additional need feeds back into the availability issues discussed above and from a passenger perspective means a greater risk of delays in service, especially in the case of emergency rail replacement services.

Buses are not designed or built to the same level of comfort as coaches. For example, coaches are fitted with air conditioning while buses tend not to be. This difference in specification means in the case of longer rail replacement services customers are less likely to be comfortable sitting on a bus than a coach. For example, a rail replacement journey between Manchester Airport and York normally takes 2 hours 50 minutes on a coach. Compared to the intended journey by rail or using coaches for rail replacement services, using buses will result in customers travelling in less comfort for longer. This is likely to result in lower passenger satisfaction and an overall worse service for customers.

Buses do not have the same luggage capacity as coaches. Most coaches have significant luggage storage compartments in the undercarriage of the coach. Buses are not designed in the same way and require customers to leave the luggage in a smaller defined area. Therefore, if a wheelchair user is in the defined area on a bus, other customers are required to put their luggage on or under seats which often times results in a further reduction in seating capacity. This practice creates safety issues as the luggage is normally not secured when in the aisle of the bus, therefore there is the potential for unsecured luggage to harm other customers in the event of a traffic incident.

Buses do not have seatbelts. Coaches are required to be fitted with seatbelts and standing customers are not permitted.

Buses do not have toilet facilities on board. This issue is more acute the longer the rail replacement journey is. For example, as mentioned above Manchester Airport to York takes 2 Hours and 50 Minutes on a coach. During that time, it is highly likely customers will need to use toilet facilities and if unavailable passenger comfort and satisfaction will drop.

The use of more buses to provide rail replacement services may bridge the compliance gap in the short term. However, the above impacts on customers must be considered and addressed if/where possible.



### Infrastructure Limitations

The ORR makes reference, at paragraph 2.27 of the consultation, to some of the limitations presented by ageing station infrastructure. We believe more detail is required to flesh out these issues as the challenges presented are significantly more acute in more remote regions.

The first issue here is the ability for compliant vehicles to pick up and drop off customers at stations. Some stations have varying curb heights or are designed in a way that prevents vehicles from stopping close to the curb. Varying curb heights mean there are different heights that customers need to step up or down, presenting risks of tripping or falling – this is especially acute with customers that use movement assistance tools such as walking sticks or crutches. The distance between the curb and the vehicle will primarily affect the use of passenger lifts and ramps used to allow wheelchair and scooter users to embark and disembark the vehicle. Lifts have a limitation to how far out from the bus and how far down to the ground they can go. For example, if a station has a low curb that is below the clearance of the coach, the lift may not reach to the ground and the wheelchair user may not be able to use the lift. This prevents the compliant vehicle from performing the very function it was hired to do.

The second issue with infrastructure is the availability of step free access. Elevators and ramps at all stations is vital to make all stations accessible for all customers. Currently all stations do not have step free access. This issue becomes particularly acute when customers are required to change platforms and there are no elevators or ramps available. Often this will mean some customers cannot change platforms and subsequently cannot use the service they have paid for.

Station infrastructure is a key issue in addressing accessibility for disabled customers because it can prevent customers from being able to use rail replacement services, even when fully compliant vehicles have been procured. Even if more compliant vehicles are available for rail replacement services, some station infrastructure does not allow for compliant vehicles to pick up and drop off customers.

### Compliance with Regulations: EU Tachograph Regulations and EU Driver Hours Regulations

EU Regulations concerning the use of tachographs and driver hours create additional complications in the use of PSVAR compliant vehicles.

Turning to the EU tachograph regulations first, it is a requirement that any vehicle operating a “regular service” or a “special regular service” (as defined in the Regulation) over 50 kilometres (route length) or any vehicle operating any “non-regular service” (as defined in the Regulation) must have a tachograph installed and that the tachograph must be used by the driver. For the purposes of rail replacement services, we understand the DVSA believe rail replacement services to be a “special regular service”. Therefore, any rail replacement service over 50 kilometres must be provided by vehicles with a tachograph installed.

We understand most, if not all, coaches in the UK have tachographs installed, however most buses in the UK do not have tachographs installed. Bus operators have informed us the routes they are required to operate for local communities are less than 50 kilometres, therefore these buses are caught by the exemption and need to comply with the UK drivers’ hours rules as set out in the Transport Act 1968. Where this becomes a problem is where TOCs are required to contract buses for rail replacement services that are over 50 kilometres. If a bus does not have a tachograph it would not be used for a service over 50 kilometres. Consequently, the ability to use buses for rail replacement services is limited to services that are under 50 kilometres.

EU Driver Hours regulations require that drivers’ work a maximum of 56 hours in any one week and 90 hours in any two week period. This restriction is relevant where rail replacement services are driven by drivers who are employed by bus or coach operators to drive on a full-time basis.

For example, a driver is employed to drive a regular bus service Monday to Friday on 9 hour shifts (we are told by bus and coach suppliers this is the normal shift length), then accepts to drive rail replacement service for 8 hours on the Sunday of the same week, the driver would be unable to work their full number of hours the following week for their employer.

The driving of the rail replacement service causes the driver to become subject to the EU Driver Hours regulations. Because this unavailability of drivers adversely impacts the bus operators’ ability to deliver the services it is required to deliver, bus operators can refuse to allow their drivers to drive rail replacement services. This leaves TOCs in a position where they have a compliant bus but no driver. The vehicle cannot be used and therefore the procurement of the vehicle is meaningless.

The consequence for the TOCs is bus and coach companies may be more reluctant to supply their drivers to drive rail replacement services. Vehicles and drivers are inseparable as one does not work without the other. Therefore, TOCs must be able to procure not only vehicles

but the drivers to drive the vehicles. We are told by our suppliers they already face driver shortages and to further limit driver availability will result in an inability to meet the minimum levels of service they are obliged to provide. This issue is more acute for bus operators due to their commitments to local traffic commissioners.

### Accessibility of Vehicles for Customers with other Disabilities

The PSVAR requirement for vehicles to be accessible in accordance with Schedule 1 is specifically targeted for wheelchair accessibility. This focus while important does exclude those customers with other disabilities, especially those with hidden disabilities. These customers have a range of specific needs depending on their disability and can include a need to avoid loud noises, announcements to be made verbally, screens to be used for written instructions and announcements. These specific needs are currently managed by the TOCs and tailored solutions are provided to customers that request them where possible. Often times these specific needs are met through the use of accessible taxis. Taxis provide a tailored service to the passenger where a coach or a bus cannot.

All TOCs continue to improve their services for all customers with the goal being a fully accessible service for all customers. However, until this is realistically possible, TOCs should have the freedom to address the specific needs to customers that require assistance in the best way they can.

### **Q2. How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The data and analysis provided by the ORR within the consultation document clearly demonstrates that there is insufficient supply of PSVAR vehicles available to meet demand for rail replacement vehicles.

The best way to allow journeys to be taken on PSVAR compliant vehicles is to increase the number of vehicles that are available. This solution will take significant time and significant investment.

Until this happens, the following options may be available, however it must be noted that many of these options required the cooperation of Network Rail.

### **Increase supply of PSVAR vehicles**

#### **1. Determine the requirements for rail replacement services earlier**

TPE use a third-party operator to procure vehicles for rail replacement services. Currently, we receive the requirements for planned rail replacement services 6 to 10 weeks before the services are needed. To have a better chance to procure compliant vehicles, the requirements for planned rail replacement services would be needed 16 weeks before the services are needed. This extended time line may give our third-party supplier the opportunity to source compliant vehicles and still meet the ORR reporting requirement of 12 weeks before the services are needed.

This may enable us to secure more PSVAR compliant coaches from operators by booking them earlier and whilst more are still available. This will be particularly important during the peak coaching season in June and July. However, this would not guarantee that we can secure all accessible PSVAR vehicles, due to the lack of supply of compliant vehicles discussed in our response to Question 1.

To meet the extended timeline of 16 weeks, Network Rail would need to finalise possessions much sooner and TOCs would have to finalise timetables at T-16 instead of the current T-12 practice. Currently, timetables may amended up to 1 day before operation due to changing Network Rail priorities or proposed work.

By determining the requirements for rail replacements services 16 weeks before the services are needed TPE has a better chance to secure compliant vehicles as suppliers may have more vehicles available at T-16 than at T-6 – T-10.

#### **2. Shorter Distances required for Rail Replacement Services**

Changing the amount of track that is possessed will reduce the distance TPE is required to provide rail replacement services for. Shorter distances make the use of buses for rail replacement service much more viable. The passenger comfort and safety issues discussed in Question 1 diminish with shorter distances. The risk of EU tachograph regulations applying to the vehicles is reduced to zero (if the route distance is below 50 kilometres). If coupled with rail replacement requirements being known at T-16, the number of compliant vehicles available increases – bus operators can better plan to accommodate these services using their vehicles with more time.

Changing to shorter distance possessions means it is much more likely TPE can use compliant buses as an option for providing rail replacement services.

### 3. Structure of services

Today, rail replacement services are operated to emulate the rail service it is replacing, i.e. vehicles stop at each station on the route. Rail replacement services could be redesigned to allow for the use of more compliant buses. Compliant coaches would still be sources where possible to operate the long-distance parts of the route, or a direct service from end to end, while buses could be used to operate shorter journeys along the route.

For example, a possession requiring road transport to operate between Manchester Airport and Leeds:

PSVAR coaches could be recruited to operate direct (non-stop) between Manchester Airport and Leeds, with PSVAR buses used to run shuttles between Manchester Airport and Manchester Stations, between Manchester Stations and Huddersfield, and between Huddersfield and Leeds.

While this structure of rail replacement services gives TPE a better opportunity to run a fully compliant services, there are drawbacks. Some customers may need to change vehicles part way through their journey, likely causing dissatisfaction. Frequent changes may also cause issues especially for those older or disabled customers who may struggle with the transfer, especially if travelling with luggage, or may be concerned or anxious about connections.

### 4. Higher rates and incentives

As discussed in Question 1, it has been suggested that all TOCs could incentivise the coach industry to use compliant vehicles by paying higher rates. In theory, this would create a higher demand for PSVAR compliant coaches, however this will require a review of reimbursement payments under the Franchise Agreements, specifically Schedule 4 and Schedule 8 payments, before this could be agreed. In practice, the amount to which fees for rail replacement services would need to increase to incentivise coach operators to operate more compliant coaches is not economically viable for any TOC.

An alternative to higher rates being paid by the TOCs is for funding to come direct from the DfT to coach operators to incentivise coach conversions and the purchase of compliant coaches. An example of a similar fund is the Access for All fund.

Another alternative may be to incentivise coach companies subsidising the cost of compliant coaches. An example of a similar incentive is used for the purchasing of electric vehicles, reducing the cost to the buyer.

### **Reduce demand for PSVAR vehicles**

#### **1. Scale of pre-planned engineering blocks**

Currently, when possessions of the line are taken to facilitate engineering works, train services can be withdrawn from whole branch lines, e.g. York to Scarborough or Leeds to Hull, when the works may be taking place on a small section of the track.

Consideration could be given to mandating that the minimal possible section of track is possessed to facilitate works, with train planning teams then looking at how best to continue to offer the maximum possible train service, recognising that this may be impacted by resources, including the quantity of units, drivers and conductors who may be available.

It could also be the case that possessions take the 'little and often' approach, rather than larger possessions, reducing the quantity of vehicles needed, however this may protract the timescales and costs of delivery of infrastructure improvements.

#### **2. Quantity of pre-planned engineering blocks taking place simultaneously**

Network Rail schedule engineering works according to maintenance plans, ensuring that the railway is functioning and available to support train running. To maximise the number of compliant vehicles being used for rail replacement services, Network Rail should be required to consider the ability of TOCs to procure compliant rail replacement vehicles when planning engineering blocks. Currently, no considerations is given to how customers will complete their journeys when engineering blocks are planned and TOCs are left to plan around engineering blocks as best they can. A requirement to consider how engineering blocks will impact customers and TOCs would allow more availability of compliant vehicles by reducing the demand.

#### **3. Use of diversionary routes**

TPE seeks to use diversionary routes where possible, however there are significant challenges that are associated with the use of diversionary route. These challenges are:

- Operating on these diversionary routes requires significant driver and traincrew knowledge. This knowledge also needs to be maintained;
- Services using diversionary routes are required to 'slot in' to the existing timetable for that route. This can be challenging, particularly on busy commuter routes;
- The resulting journey time is, in most cases, much longer than the originally intended journey;
- The capability of the rolling stock on the diversionary route's tracks can be a factor where the train is electric and the diversionary route is not electrified.

#### 4. Ticket Acceptance

Consideration of what is deemed reasonable for an alternative journey should be considered. Currently, we will offer RRS if we deem it will be quicker for the passenger to travel part of the journey by coach, rather than going by alternative routes by rail. However, it is recognised this may cause inconvenience through increasing end to end journey times and is reliant on other operators having the capacity to accommodate the extra customers.

For example, an alternate route to transport customers from Glasgow to Manchester Airport may be to agree ticket acceptance with other TOCs for customers to travel from Glasgow to Carlisle, Carlisle to Newcastle (this would required ticket acceptance), then Newcastle to Manchester Airport. While it achieves the end goal of transporting customers via rail, a 3 hours and 38 minute journey will take 6 hours and 32 minutes.

#### 5. Rejection of possessions

Another consideration is for the industry to adopt a process whereby possessions are not accepted unless a full compliment of PSVAR vehicles required to provide the road transport operation are secured.

This would likely increase the planning timescales and may see some essential maintenance or upgrade works delayed, impacting the performance and reliability of train services due to infrastructure faults.

Each of these five points present opportunities to reduce demand during regular maintenance schemes, however, they may not address the issues when significant upgrades to the railway take place.

Between 2020 and 2027, the Transpennine Route Upgrade (TRU) will have an enormous affect on the TransPennine Express network, as the line between Manchester and Leeds is upgraded. To give a scale of the impact, it is important to compare business as usual reliance on rail replacement, with the potential reliance throughout TRU.

Under business as usual, roughly 1 in 10 weeks may see significant engineering works taking place, resulting in line closures and a need for an amended timetable. During TRU, this reverses, with 9 in 10 weeks likely to see significant engineering works taking place, and just 1 in 10 weeks where a full, undisturbed timetable may be possible.

With this, the demand for rail replacement vehicles will increase substantially, and so any consideration of the most suitable approach must consider this. As a business, we are exploring what solutions may be needed during TRU in order to run a compliant rail replacement service, however this cannot be achieved without sustaining substantial additional costs to the scheme.

- Q3.**
- (a) Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**
  - (b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**
  - (c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

It is recognised that this question is aimed at customers.

We would encourage the ORR, Department for Transport (DfT) and any other government bodies involved in decisions affecting the provision of rail replacement vehicles to undertake an all-encompassing assessment of customer needs, with engagement with Transport Focus, so that any new approach considers the needs of ALL customers.



**Q4. Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

Specific data on the number of disabled customers and the number of overall customers using rail replacement services is not currently recorded. The number of accessible taxi's used to assist customers is recorded.

In January, TPE provided 224 accessible taxis for customers who required additional assistance. This comprised of 187 cars, 1 large minibus, 2 small minibuses and 34 people carriers.

**Q5. We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

The ORR notes there are significant planned engineering works that are scheduled to take place in 2020. Each of these planned engineering works will require the use of rail replacement services. The following table details the number of possessions that are currently planned for TransPennine Express from January 2020 to 17 May 2020 and the number of vehicles that will be required for rail replacement services.

Week	Date	Vehicle Route	Required Vehicles	Standbys	Total
40		No requirements + 5 vehicles	N/a	N/a	0
41	06 - 09/01/2020	Manchester Picc (a/s) to Huddersfield / Huddersfield - Brighouse / Huddersfield (a/s) to Leeds / Huddersfield - Dewsbury	6 (per day)	0	24
42	12/01/2020	Cleethorpes - Scunthorpe (via a/s)	9	6	15
43	19/01/2020	Cleethorpes - Scunthorpe (via a/s)	10	6	16
44	26/01/2020	Cleethorpes - Scunthorpe (via a/s)	10	6	16
44	26/01/2020	Huddersfield - Manchester	8	8	16
44	26/01/2020	Huddersfield - Stalybridge - Manchester	4	0	4
44	26/01/2020	Leeds - Dewsbury - Huddersfield	11	4	15
44	26/01/2020	Manchester Picc (a/s) - Huddersfield	5	0	5
44	26/01/2020	Leeds (a/s) - Huddersfield	5	0	5

# Consultation Response

## Accessibility of Rail Replacement Services

44	26/01/2020	Manchester Airport - Manchester Vic - Huddersfield - Leeds	10	2	12
45		No requirements	N/a	N/a	0
46		No requirements	N/a	N/a	0
47		No requirements	N/A	N/A	0
48	22/02/2020	Overnight services - Manchester Airport to York (via MAN/ SYB/ HUD/ LDS)	21	5	26
49	29/02/2020	Overnight services - Manchester Airport to York (via MAN/ SYB/ HUD/ LDS)	21	5	26
49	01/03/2020	Manchester Picc - Manchester Airport	6	4	10
50	08/03/2020	Overnight services - Manchester Airport to York (via MAN/ SYB/ HUD/ LDS)	21	5	26
50	08/03/2020	Manchester Picc - Manchester Airport	6	4	10
50	08/03/2020	Scarborough - York (via Malton/ Seamer)	4	2	6
51	14/03/2020	Overnight services - Manchester Airport to York (via MAN/ SYB/ HUD/ LDS)	21	5	26
51	15/03/2020	York - Darlington (via THI/DAR)	3	4	7
51	15/03/2020	Newcastle - Durham	2	4	6
52	21/03/2020	Overnight services - Manchester Airport to York (via MAN/ SYB/ HUD/ LDS)	21	5	26
52	21/03/2020	Doncaster - Sheffield	6	0	6
52	22/03/2020	Newcastle - Durham	2	4	6
52	22/03/2020	York - Darlington (via THI/DAR)	3	4	7
53	28/03/2020	Overnight services - Manchester Airport to York (via MAN/ SYB/ HUD/ LDS)	21	5	26
53	29/03/2020	York - Darlington (via THI/DAR)	3	4	7
53	29/03/2020	Newcastle - Durham	2	4	6
1	04/04/2020	Edinburgh - Carlisle (via LOC)	16	5	21
1	05/04/2020	Edinburgh - Carlisle (via LOC)	17	5	22
2	11/04/2020	Hull - Selby (via Brough)	8	4	12
2	11/04/2020	Edinburgh - Carlisle (via LOC)	17	5	22
2	11/04/2020	Manchester Airport - Preston	8	4	12
2	12/04/2020	Edinburgh - Carlisle (via LOC)	18	5	23
2	12/04/2020	Carlisle - Preston (VIA A/S)	16	6	22
2	12/04/2020	Hull - Selby (via Brough)	8	4	12
2	12/04/2020	Manchester Airport - Preston	7	4	11
2	12/04/2020	Liverpool Lime Street - Man Victoria	12	4	16
2	13/04/2020	Edinburgh - Carlisle (via LOC)	17	5	22
2	13/04/2020	Manchester Airport - Preston	8	4	12
3	18/04/2020	Edinburgh - Carlisle (via LOC)	18	5	23
3	19/04/2020	Edinburgh - Carlisle (via LOC)	17	5	22

4	25/04/2020	Edinburgh - Carlisle (via LOC)	18	5	23
4	26/04/2020	Edinburgh - Carlisle (via LOC)	17	5	22
5	02/05/2020	Edinburgh - Carlisle (via LOC)	18	5	23
5	02/05/2020	Manchester Airport - Preston`	8	4	12
5	03/05/2020	Edinburgh - Carlisle (via LOC)	18	5	23
5	03/05/2020	Carlisle - Preston (VIA A/S)	16	6	22
5	03/05/2020	Manchester Airport - Preston	7	4	11
6	09/05/2020	Edinburgh - Carlisle (via LOC)	17	5	22
6	10/05/2020	Edinburgh - Carlisle (via LOC)	18	5	23
7	16/05/2020	Edinburgh - Carlisle (via LOC)	17	5	22
7	17/05/2020	Edinburgh - Carlisle (via LOC)	18	5	23
8	23/05/2020	Edinburgh - Carlisle (via LOC)	17	5	22
8	24/05/2020	Edinburgh - Carlisle (via LOC)	18	5	23
8	24/05/2020	Carlisle DIRECT to Preston	TBC	TBC	0
8	24/05/2020	Manchester Airport - Preston	7	4	11
9	30/05/2020	Edinburgh - Carlisle (via LOC)	18	5	23
9	31/05/2020	Edinburgh - Carlisle (via LOC)	17	5	22

The distances of these rail replacement services mean that coaches are the best type of vehicle for customers, although as discussed above in Question 1, sourcing compliant coaches will be challenging.

Current planned engineering, especially when considering blockades, involves the possessions of large parts of rail network for extended periods of time which are not restricted to weekend only possessions. A recent example of this is the possession the Manchester Piccadilly to Leeds line. This possession lasted for 4 days during the week and resulted in all services requiring to be run by rail replacement services.

TPE agrees that the work Network Rail does to maintain and upgrade the UK rail network is important and in the long term is to the benefit of all customers. However, during possessions, replacing services for extended periods of time is already challenging. If these possessions were pushed to all occur on weekends the result would be a series of costly weekend blocks for upgrade projects, heavy track renewals, station development and re-signalling work. The cost of these possessions would need to be met by the ORR and DfT. Such a program could also force the company into agreeing to double disruption on many routes.

The alternative to the current program of engineering possessions or pushing all possession to weekends is for Network Rail to reprogram engineering work to consider the availability of

replacement services. As discussed in Question 2, engineering possessions should only be scheduled where it is possible to obtain compliant vehicles to operate rail replacement services. Failing this, TPE will be forced to reconsider proposed possessions any may be required to reject possessions due to the lack of available compliant vehicles.

Accommodating current engineering possessions is challenging. Should Accessible Travel Policies mandate the use of compliant vehicles only, and the current way of scheduling engineering possessions continues, TPE will be forced to either reject engineering possessions or issue 'Do Not Travel' notices to customers. Neither result is good for customers.

**Q6. Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

The approach proposed by ORR is sensible and duplicate enforcement would not be appropriate. DVSA are the enforcement body for PSVAR across the bus and coach industry and should continue in this role.

**Q7. How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The lack of supply of compliant vehicles, as detailed in Question 1, means that imposing additional contractual requirements on vehicle supplies is very unlikely to increase supply. Also, in our response to Question 1 we detailed the challenge faced by the existing business models of vehicle suppliers. In the case of coach companies, their core business is tour operations and private hires. Neither of these operations is required to be compliant with the PSVAR. In the case of bus operators, their existing commitments to run regular local bus services makes rail replacement services a secondary priority.

If TPE were to impose stricter contractual arrangements on coach and bus operators to mandate the use of compliant vehicles only, we expect many operators to simply decline the business offered by TPE. Rail replacement services are not a core part of any coach or bus operators' business. When coupled with the risks associated with the PSVAR and the Equality Act 2010, we understand an even greater number of suppliers to decline the business offered by TPE.

As discussed in Questions 1 and 2, the proposal for all TOCs to pay a higher rate for compliant vehicles would result in very little improvement in the supply of compliant vehicles. The costs associated with retrofitting existing non-compliant vehicles or purchasing new compliant vehicles are far too high to be solely borne by the TOCs paying higher fees for rail replacement services. Further, any increase in fees paid by the TOCs would ultimately need to be compensated for by DfT under existing Franchise Agreement payments (Schedule 4 and Schedule 8 specifically). Therefore, such an incentive is actually an increase cost to the DfT.

Finally, contractually mandating the supply of compliant coaches is very unlikely to be enforceable in the event of a contractual dispute. In the current market, most suppliers are simply not capable of supplying compliant vehicles, particularly coaches.

These factors mean that incentivising bus and coach operators through contractual arrangements is unlikely to result in any change. If TOCs imposed a requirement to source only compliant vehicles, suppliers could not meet the requirement. Therefore, the bus and coach operators would immediately be in breach of the contracts.

The best approach with regard to contractual arrangements with bus and coach operators is to mirror the obligations of TOCs in their Franchise Agreements. A more prescriptive obligation on bus and coach operators is highly likely to cause operators to decline rail replacement work resulting in a worsening supply compliant vehicle.

**Q8. Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

The proposed 12-week time limit may have benefits however such a time limit is completely dependant on when Network Rail finalises their possessions schedule and when Network Rail and the TOCs finalise the affected timetables. Presently, Network Rail and each TOC endeavour to agree the timetables at T-12 weeks. This allows the TOC plan rail replacement services and procure vehicles to operate these services in time for the planned possessions. Planning is finalised, and vehicle requirements sent to suppliers between T-10 weeks and T-6 weeks, depending on the extent of rail replacement services required. Vehicle operator tenders are usually received and finalised by T-4 weeks.

To comply with the proposed 12-week time limit to demonstrate all appropriate steps have been taken to assess requirements and to procure compliant vehicles, the above T-4 week timeline where vehicle operator tenders are finalised will need to move to T-12 weeks. This will have a direct knock on effect on the previous steps in the process, beginning with when Network Rail finalise their plans for work.

Consequently, to comply with a 12-week time limit reporting requirement, the following revised timelines will need to apply:

- Network Rail to finalise planned engineering work schedule by T-24 weeks.
- Network Rail and TOCs finalise timetables at T-20 weeks.
- Rail replacement service planning and resource requirements determined and sent to suppliers by T-18 to T-14 weeks.
- Tenders finalised and awarded by T-12 weeks.

Without this wholistic timeline in place, a 12-week time limit to report will not be possible.

### **Q9. What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

We have ranked the proposals and what we see as the advantages and disadvantages in the table below. It must be noted however that none of these proposals address the cores issue: there are simply not enough compliant vehicles and without legislative change or government funding, this situation will continue.

Proposal	Advantages	Disadvantages	Ranking
One	Places a contractual obligation to maximise the no. of PSVAR vehicles	Unlikely to increase the no of PSVAR vehicles	5
Two	Requires TOCs to demonstrate they have taken reasonable	NR and TOCs will need to change their planning timescales for RRS	3

	<p>steps to procure PSVAR at 12 weeks</p> <p>Will require NR and TOCs to finalise timetables much earlier</p> <p>Should increase the number of PSVAR vehicles due to earlier recruitment</p>	<p>Last minute changes to RRS by NR and/or TOCs is unlikely to be possible</p>	
Three	<p>Customers requiring assistance could receive individual messages to sort travel.</p>	<p>Increased resources needed at the contact centre and at stations</p> <p>NR and TOCs will need to change their planning timescales for RRS</p>	2
Four	<p>Rail customers will know which RRS journeys will be operated by PSVAR vehicles</p> <p>An impact of the earlier timetable planning should be an increase in the number of PSVAR-compliant vehicles due to earlier recruitment</p>	<p>Will require development of the Rail Industry CIS systems</p> <p>NR and TOCs will need to change their planning timescales for RRS</p>	1
Five	<p>Forum could be a good initiative if it encourages better planning and co-ordination by NR and across TOCs to manage demand for vehicles.</p>	<p>Needs to have a defined objective</p>	4

**Q10. Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

The fundamental issue is the coach industry has exemptions from PSVAR to conduct their primary business operations: tours and private hires. This directly translates into a lack of compliant vehicles available for rail replacement vehicles where the ORR has stated only 175 out of 55,351 rail replacement coach journeys were compliant in the last 12 months.

To address this fundamental issue either legislative change will be required to remove these current exemptions, or more vehicles will need to be made compliant or compliant vehicles bought. With both paths forward, significant investment will be needed, primarily coming from the DfT. As stated above the following estimates represent the costs involved with making an assumed 5,500 coaches compliant:

Action Required	Cost Per Vehicle	Time Per Vehicle
Retrofit an existing coach	£30,000 (approximately)	4 to 6 weeks per vehicle (approximately)
Buy a compliant coach	£250,000 (approximately)	6 months per vehicle once specification agreed (approximately)

The only option we believe will make a significant impact and improve the accessibility of coaches in the UK is significant investment by the DfT into the coach industry because coach operators are currently not incentivised to spend the amount of money required to operate compliant coaches.

**Q11. Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the**



### protected characteristic of disability or any other protected characteristic?

The ORR should consider in their assessment the needs of all customers. Prioritisation of the needs of those who require level access could cause significant and damaging detriment to the accessibility of the service for those with hidden and potentially complex disabilities, and follows the stereotypical view that wheelchair users define disabilities, when in reality they make up just 5% of all people with disabilities in the UK.

The focus must be on providing a service which meets the needs of all customers, providing a range of vehicles to meet varied needs, tailored to allow flexibility and encourage use of the most suitable vehicles, rather than a focus on compliance.

For example, the addition of quiet carriages on many services allows those customers who do not cope well in noisy environments to use the railways in a way that is comfortable and safe for them. Quiet carriages are cannot be replicated when using buses or coaches for rail replacement services and therefore these customers may find a taxi more appropriate to their needs.

We strongly believe that equality can be achieved, with dignity and comfort for all by using practical solutions, without imposing compliance standards that may not fully consider the impact on all rail customers or have been devised with consideration of rail replacement operations.

### **Q12. Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

As a general comment, we do not believe mandating restrictive policy guidance or regulations about the types of vehicles to be used for rail replacement services will result in a better service for all customers. Fundamentally, the vehicles to operate a fully PSVAR compliant rail replacement service do not exist in the UK. Without more compliant vehicles, TOCs cannot procure compliant vehicles.

The current system of using accessible taxis has worked with success across the entire UK rail network. The advantages of using accessible taxis are:

- In most cases, a taxi can transport the passenger to their end destination (home or otherwise), not just to the customers intended station of departure;
- Taxis can stop at motorway services or the like for comfort breaks to suit the individual needs of the passenger;
- Taxis can be quiet environments with greater ease than a bus or coach, thereby allowing noise sensitive customers a more appropriate method of travel; and
- Taxis can accommodate blind customers with guide dogs easier than a bus or coach can.

Like buses and coaches, the use of taxis present unique challenges:

- availability in rural and regional areas can be limited; and
- there can be delays where taxis are not pre-booked or where customers requiring assistance do not notify the TOC of their needs in advance;

The use of taxis is a proven way to assist customers who require assistance. Mandating the need to use compliant buses or coaches has the potential to force all customers onto these buses and coaches. This will have the unintended consequence of reducing the accessibility of the railways for those customers that require assistance, but do not have mobility restrictions.



Stephanie Tbyn  
Deputy Director Consumer Policy  
Consumer Policy Team  
Office of Rail and Road  
25 Cabot Square  
London E14 4QZ

February 2020

Dear Stephanie,

## **Accessible Travel Policy Guidance – accessibility of rail replacement services: a consultation.**

Thank you for the opportunity to comment on your recent consultation. This letter is a response from the only Disabled People's Organisation focusing on accessible transport, Transport for All, on behalf of its members and the needs of all Deaf, disabled and older passengers.

We are disappointed in the slew of exemptions from accessibility regulations; regulations put in place to redress the imbalance in our transport network. The issue of compliance is not only a legal obligation but, in our view, one that takes a stand for the future visibility and rights of disabled passengers across the network.

Our responses to the consultation questions are below:

### **Question 1**

**Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?**

No

### **Question 2**

**How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?**

The need for more accessible coaches is our primary concern and this, not the allocation of existing vehicles, needs to be prioritised by all stakeholders.

### **Question 3**

**(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?**

**(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.**

**(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.**

Disabled people are not confident in the process, meaning that many choose not to travel at all when there are rail replacement services, taking away their independence and impacting on their well-being, social connectivity and their economic status. Knowing the rail replacement coaches are an option for them, as all non-disabled do, is an integral part of being treated as an equal customer.

The taxi provision can be unreliable, the communication between rail operators and taxi companies is not standardised and disabled passengers report feeling that they are, variously: 'singled out', 'feel like a nuisance', 'stared at by other passengers'. The pernicious effect of this individualised approach is to further entrench the notion that disabled and non-disabled people should receive different services, as though there were no other options.

**Question 4**

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

No

**Question 5**

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

N/A

**Question 6**

**Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

We would like to see a connected approach to regulation and enforcement with DfT, DVSA and ORR having clear roles which are communicated directly to disabled passengers. Duplication of enforcement does not guarantee compliance. For disabled passengers there needs to be a clear pathway of regulation and sanctions, so they know their rights and can use the law to enforce them when regulators and rail operators fall short.

**Question 7**

**How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

The moral and legal imperative of providing an inclusive and accessible service should be the incentive and train operators should model best practice by prioritising suppliers who provide PSVAR-compliant vehicles.

**Question 8**

**Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

12 weeks is a reasonable period of time however it is the sanctions placed on operators who do not provide PSVAR-compliant vehicles that are the key issue; not the steps they take to try to

procure the vehicles, but what happens if they don't. While we support a phased approach to introducing enforcement of regulations, we do not support the on-going extensions to changes in the law designed to increase access and inclusion for disabled passengers.

### **Question 9**

**What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?**

Proposal 1 and 5 are what should be happening already.

Proposal 2 raises concerns as the process of simply *trying* to hire accessible coaches should not be accepted as a reasonable adjustment.

Proposal 3 is unsustainable and continues to single out disabled people as needing an individualised service which conflicts with the aim of this legislation; to offer an equitable, inclusive service. The training and development needs for those staff working with the disabled passengers would be great so as to avoid more incidents of incorrect information, offensive terminology and misunderstandings on access and impairment.

Proposal 4 is a long overdue requirement for disabled passengers and would require investment in accessible, mobile friendly websites that cascade up to the minute information.

### **Question 10**

**Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?**

This is a legal obligation and is designed to level the playing field for disabled passengers, it should not be perceived as an optional process under which there will be limited sanctions and continued exemptions.

A staged approach to the eventual full enforcement of this legislation is our suggestion for incentivisation.

### **Question 11**

**Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?**

N/A

### **Question 12**

**Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?**

This legislation is part of redesigning our transport network under the social model, of redressing the balance for disabled people, for whom disabling barriers have literally been built, and continue to. The rights of passengers to travel freely and independently should be a core aim of all transport providers and we strongly recommend that this wider point is not lost and is understood and promoted by ORR, DfT and all other stakeholders.

Yours sincerely

**Kirsty Hoyle**  
Chief Executive Officer

***Winner of CILT award for best practice in passenger transport (2013)***

*promoting quality public transport.....*

Consumer Policy Team  
Office of Rail and Road  
25 Cabot Square  
London  
E14 4QZ

12th February 2020

Dear Team,

### **Consultation on Accessible Travel Policy Guidance -**

TravelWatch NorthWest (TWNW) is an independent Community Interest Company representing all public transport users in North West England. We welcome the opportunity to respond to this consultation.

The principle underlying any approach is that passengers with impairments should be able to make journeys with as much independence as possible and with a level of pre-journey planning as near as possible to that of passengers with no impairments.

#### ***Question 1***

***Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?***

We broadly agree with the details of the proportion of buses, coaches, PSVAR compliant and non-compliant given in Chapter 1 of the consultation report. It is important to recognise the huge differences between London & South East and the rest of the UK, the latter being heavily dependent on coaches rather than buses.

Accessible taxis and minibuses have been observed being used as part of the rail replacement operation, suggesting they are used more than has been recorded.

It is difficult to give any indication of how many rail replacement users are disabled as many disabilities are not visible and many disabled people are able to use non-PSVAR compliant vehicles with assistance which is usually provided by rail staff, drivers or travelling companions

We agree that passengers prefer coaches to buses for longer journeys which of course exacerbates the problem of non-PSVAR compliance.

### **Question 2**

***How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?***

Under the current arrangements the management of rail replacement services is fragmented with each TOC organising its own coaches, leading to sub-optimal use of the coaches. A line closure at Oxenholme illustrates this. Three operators, serving different destinations - Avanti, TPE and Northern - all source their own road transport. If only one of these TOCs is able to source a fully accessible coach, which is likely, then a wheelchair passenger for example may well be disadvantaged as coaches contracted to a TOC can only be used to serve destinations served by that TOC. To the travelling public this is inexplicable.

Similarly, rail replacement co-ordinators are provided by each TOC, this is inefficient as there is duplication of personnel and nobody in overall charge. It can also lead to poor use of rail replacement vehicles, eg with each TOC running half empty coaches to the same destination while other destinations are not served.

To overcome both these scenarios a different way of sourcing and managing rail replacement transport could be examined, perhaps by Network Rail or an independent company (they do exist and some TOCs use them). One organisation would provide the rail replacement co-ordinating staff and take responsibility for running the rail replacement operation.

### **Question 3**

***(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?***

TWNW has for many years expressed concerns about the quality and organisation of rail replacement buses or coaches. Attached are a number of reports of surveys we have undertaken over the last few years. Though none are very recent it is likely that such scenarios exist today.

One example of successful replacement road transport provision was the arrangement made with Blackpool Transport during the closure of the line to Blackpool North in 2017/18 for electrification. The vehicles used were accessible to those with impaired mobility, audio announcements were made to assist those with impaired vision, visual displays allowed those with impaired hearing to know what was happening and progress on the journey. Blackpool Transport has implemented a programme of disability awareness raising for its employees.



However, un-planned use of bus and coach replacement services presents additional challenges. By their very nature, these have to be arranged at the last minute when operators might be using their accessible vehicles for other pre-planned purposes. Additional casual staff might have to be found to drive the buses/coaches (with implications for disability awareness raising). When this occurs, if the replacements are inaccessible to passengers with impairments of any kind, TOCs should be ready and willing to secure accessible taxis and should do so with a minimum of debate and delay thus avoiding additional hassle for passengers with impairments.

A recent experience of unplanned work from a passenger viewpoint relates to November 2019 when the railway was blocked with no warning due to the overhead wires coming down between Preston and Lancaster. Very few rail replacement coaches were available leading to a very long queue for them. The passenger was told the wait would be between two and four hours. He opted to catch a local bus from the bus station (10 minutes walk) to Lancaster.

***(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.***

No comment

***(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.***

We note again that passengers prefer coaches for longer distances.

There is no mention of the obvious alternative to road - diverted rail services. Research by Transport Focus has shown that wherever possible passengers want to travel by train and are prepared to accept a longer journey time to avoid using a replacement bus. In recent times, TOCs have seemed reluctant to use diversionary rail routes to circumvent line blockages.

One example is the lack of use of the Settle to Carlisle line when the West Coast main line is blocked between Preston and Carlisle. We have been engaged in extensive correspondence with train operators and government ministers for a number of years on this issue. Taking into account time taken to change from train to road coach, this option adds little, if anything to the journey time and it does avoid problems for passengers with impairments.

Diversions on this route happened regularly during the 1980s with Pendolinos being pulled by diesel locos, but it no longer happens. With more bi-mode trains being delivered, including some for Avanti and TPE, diversions should be easier to arrange. We know that it no longer happens partly because of cost considerations – lack of route knowledge which would be costly to maintain. If the line is closed for engineering work or infrastructure failure, Network Rail pays the bill for rail replacement coaches. We are aware that franchise specifications encourage the use of trains as much as possible including, as well as diversions, running as close to the obstruction as possible to keep any replacement road element to a minimum.

**Question 4**

**Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?**

No comment.

**Question 5**

**We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?**

We recognise the need for the railway to carry out engineering works in order to maintain and improve the network. However, planning should be based around sufficient alternative transport being available. It is imperative that passengers are able to complete their journeys without significant delay. Ideally this would be by diverting trains over other routes, but where diversions are not possible it is vital that sufficient road transport is provided. While disabled people must be catered for, it is not necessary for every coach used to be fully accessible.

**Question 6 Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?**

We agree this should not be duplicated.

**Question 7 How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?**

There is a difficulty here. It may well be the case that coach operators will only invest in PSVAR compliant vehicles if there is a business case for doing so. Given that rail replacement work is not guaranteed and only likely to happen on a handful of days each year the rail industry may have to pay the coach operators large premium payments to encourage investment in PSVAR compliant coaches.

As the document says – “Unplanned disruption is, by its nature, unpredictable, and we do not think there are specific incentives for it”. Such disruption should be mitigated by keeping passengers on trains as much as possible by diversions and working as close as possible to and from the point of obstruction (see above question 3 (c) ). Hopefully the increased numbers of PSVAR-compliant vehicles over time in response to DVSA enforcement will also help.

**Question 8 Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?**

This seems reasonable

***Question 9 What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?***

Proposal 3 & 4 – agree. This should always be implemented as far as possible.

Proposal 5 - the key to this is operators working together, a scenario often notably absent as exemplified in our reply to question 2.

***Question 10 Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?***

No further comment

***Question 11 Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?***

Whilst the consultation appears to focus mainly on the accessibility needs of passengers with a range of mobility impairments, meeting the requirements resulting from a range of other impairments must not be overlooked. For example, routes from train to bus/coach should consider how people with impaired vision could be supported. So too, passengers with intellectual impairments might need to have the situation explained to them in ways which they can understand. There is a need for clear, unambiguous signage to assist those with impaired hearing.

Many impairments are not immediately obvious at first meeting, staff from the bus and coach operators might benefit from basic or additional participation in disability awareness raising. Note that the term “training” has not been used since experience shows that this can result in mechanical, unthinking responses which fail to take into account the needs of particular individuals. This should also include drivers of vehicles as well as co-ordination staff. This will also benefit **all** passengers. Route knowledge of drivers, which has shown to have been lacking on a substantial number of occasions over many years, is another area in need of attention.

***Question 12 Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?***

The consultation is focused on the needs of people with disabilities. While these needs clearly must be catered for, it is equally important to consider the

needs of people without disabilities and find a way of meeting everyone's needs. These include people with luggage, prams, baby buggies and cycles.

There are a significant number of people (most who are not registered as disabled) who have difficulty getting on and off buses and coaches even when they meet the PSVAR requirements, simply because the step from roadway to vehicles is too great for them to manage comfortably or at all. For stage carriage bus services this is overcome by having a high kerb which matches the low floor of the bus. Observations at railway stations in North West England indicate that the vast majority do not have raised kerbs (or even no kerb) to enable this large group of people to board rail replacement buses and coaches. Furthermore, in many cases it is difficult for people, especially mobility impaired, to get from the rail station to the bus boarding point (and vice versa), for example because of steps, steep gradients, lack of dropped crossings or lack of tactile paving. This is a fundamental issue - there is no point in having a PSVAR compliant vehicle if people cannot board or alight it due to the lack of a raised kerb or an inaccessible walking route.

Bearing the above in mind, the following criteria are critical for all passengers especially the mobility impaired -

- the location of the boarding and alighting points – ideally on a level area at as short a distance as possible from the train's arrival/departure platform taking into account health and safety and also available parking space for multiple vehicles;
- the route from train to bus/coach which should be as direct as possible and might include use of lifts or graded pathways if there are steps to negotiate;
- the provision of information about the route including clear signage but also recognising the needs of passengers with visual and intellectual/learning impairments and the difficulties created for passengers with impaired hearing if public address is used;
- the allocation of time allowed to move between train and bus/bus and train so that additional anxiety is not created for passengers with impairments;
- the awareness of staff about the range of impairments and their potential impact on the situation of some passengers transferring between trains and road vehicles.

Thank you for the opportunity to respond.

Yours sincerely,

*John*

John Moorhouse  
Company Secretary



# Weekly FD Consulting Ltd

please reply to: Suite 591, 33 Great George Street, Leeds LS1 3AJ

14<sup>th</sup> February 2020

To: Consumer Policy Team  
Office of Rail and Road  
25 Cabot Square  
LONDON  
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## Consultation Response

I write to respond to the above consultation. I respond in my capacity as a transport consultant, which includes work with a number of bus and coach operators. I am the holder of a PCV driving licence, and have driven rail replacement services (principally in Yorkshire and Hertfordshire/London) for various bus operators. I worked out that I drove my first rail replacement coach in September 2005 and the most recent a couple of months ago – it just so happened that both were non-accessible coaches made in the 1990s.

In a personal capacity I have a deep understanding of both the bus/coach and rail industries, and have previously held full-time roles in both sectors. I also own a number of heritage buses and heritage railway vehicles, and in preservation I have driven diesel trains and operated signalbox levers.

In this response, I refer to 'intermediaries' as the five main parties who arrange rail replacement vehicles on behalf of TOCs – First Travel Solutions, Arriva Road Transport, CMAC, Abellio Rail Replacement and Stagecoach Rail Replacement. I exclude Transport for London given that they have provided 100% PSVAR vehicles for a number of years now.

### Question 1

Can you provide any data or information beyond what is set out here on the availability and use of accessible buses and coaches for rail replacement services?

The vast majority of rail replacement services are procured by the intermediaries referenced above. It is the procurement policies of these providers that are at fault, rather than the TOCs or the bus/coach operators. Put simply, they seem to have a preference for their regular operators and rarely even call other operators who they know have accessible vehicles – even where these operators are already 'on their system'. One imagines this will be price-driven.

Note that paragraphs 10 and 3.1.2 of your consultation document are incorrect specifying that "From 1 January 2020 this will apply to all coaches too". The majority of coaches (being those manufactured after Oct 2004) were required to be compliant from new. The fact that they were not, and that no one chose to enforce this for 15 years, is a most regrettable issue indeed, although now a moot point.

Anecdotally, I find (in Yorkshire at least) that there is overprovision of rail replacement buses. A couple of years ago there was engineering work between Leeds and

Sheffield (via Wakefield Westgate) and I myself was driving a coach on behalf of Arriva Road Transport (for the Cross Country TOC) between Leeds and Westgate for the afternoon and early evening. My loadings could be counted on two hands all day. These services duplicated services provided on behalf of Arriva Rail North TOC (which at the time were still arranged through Abellio) and further coaches arranged by Stagecoach (on behalf of Virgin Trains East Coast TOC – now LNER). Each TOC had its own coaches and separate controllers. This provision could have been a lot more intelligent had vehicles been scheduled in a coordinated way. From memory, the through Cross Country trains were diverted via Pontefract Baghill and the Leeds to London trains via Hambleton.

Having questioned it previously, I was informed that it was a franchise requirement that any train partially cancelled be duplicated by a bus, even in cases where it could be more effective to use other trains to cover.

One thing that happens in London but doesn't happen anywhere else is the augmentation of local bus routes, where they serve the affected stations. If this happened regionally, this could well offer an easier form of transport for everyone, including those with accessibility needs, and would serve the needs of all travellers better by taking people nearer to where they wished to be.

This would however require a change in provincial legislation, so is probably outside the scope of the current consultation.

Returning to your question, in the general case, I find the intermediaries refuse offers of accessible buses, and requiring coaches instead.

## Question 2

How can rail operators prioritise the available accessible coaches to maximise the opportunities for passengers to make journeys on PSVAR-compliant vehicles?

To consider this question, it is necessary to note that PSVAR legislation MANDATES the use of fully accessible vehicles. Whilst I do not doubt that ORR has significant influence over DVSA, the point remains that it is not germane for ORR to ask a question which is essentially “how can ORR assist its TOCs and their suppliers to break the law with the minimum impact”.

There is a lot of emphasis in the consultation around wheelchair-bound persons, however PSVAR seeks to facilitate people with a range of impairments. For example there are items that cater for blind and partially sighted people (contrasting coloured grab rails, for example), items that cater for people who can walk but not very well (kneeling suspension, slip resistant floors, limits on angles of slopes) as well as provisions for deaf people and people who are hard of hearing, for example illuminated screens that show whether the bus will be stopping at the next stopping place. People with either hearing dogs or guide dogs will be able to use a seat provided for the purpose of having space for the assistance dog at the side.

One way to prioritise is to make reference to booked passenger assistance requests made with the TOCs. Doing this however ignores two things:

- disabled people have as much right to ‘turn up and go’ as anyone else, and to change their plans on the day if it is convenient to them
- it may not be apparent from an assistance request what form of assistance a particular passenger needs – for some passengers it may well be wheelchair accessibility, for others it may be minimal steps, and for others it may simply be some time and patience.

## Question 3

(a). Where you have experience of using rail replacement buses or coaches or taxis, what are your views on the importance and suitability of these services?

Many rail replacement journeys are run to the convenience of the rail industry, rather than trying to get trains to the closest stations each side of a worksite for a short bus journey in between. One TOC, Trans Pennine Express, runs regular overnight rail replacements (from Liverpool or Manchester Airport to York) purely in response to train driver shortages rather than for infrastructure reasons.

It would appear to be ORR's responsibility to inform operators to run trains wherever possible and for as much of the journey as possible.

For example, it is possible to get from Manchester to York via two different diversionary routes which do not touch each other at all, therefore wherever there is a closure there should always be an alternative available (the two I am thinking of are: Manchester Victoria via Rochdale, Bradford Interchange, Leeds (reverse), Harrogate and into York from the north, and alternatively Piccadilly, Wakefield Kirkgate, Sherburn to approach York from the south – presently I do not believe TPE rail crews sign as many diversionary routes as they could do). There are of course shorter diversions available.

Other options may be appropriate to the scenario of running rail replacement buses along a route serving all stations, for example is it feasible to allow trains to make stops on a diversionary route that may be convenient for passengers to access stations on other lines, for example suggesting that passengers 'park and ride' at an alternative station with a large car park?

For example, LNER ran diversions through Lincoln on various dates in 2019 (and doubtless will do so again) with the train stopping Peterborough then Doncaster with a bus serving Peterborough, Grantham, Newark, Retford and Doncaster. If it were possible for these diverted LNER trains to stop at Lincoln rather than go straight through, passengers from Retford or Newark could travel by (pre-existing) local train to Lincoln and not need to travel on a bus at all.

(b). If you have a disability, please explain whether, and how, the service was appropriate for your needs.

Not relevant to me

(c). Do you have a preference for the type of replacement service you receive? If so, please explain why.

A very strong preference for a diverted/rerouted train where at all possible and for as far as possible, and with road transport only where the line is genuinely blocked.

#### Question 4

Can you provide any additional data on the number of disabled passengers, and passengers overall, using rail replacement services?

Data, no. Anecdotally, in the regions, local passengers seem to avoid rail replacement buses and travel by other means when rail lines are closed.

#### Question 5

We are particularly interested to understand more - including through provision of relevant data - regarding the potential impact on Network Rail possessions identified by some train operators. What further information is available to support this point?

Possessions are typically either at a junction, or between two fairly close-by stations. Some will, of course, have a bigger impact on customers than others. Taking the current Kings Cross weekend closures as a case in point, many passengers will reroute their journey such that they need not pass through Kings Cross at all.

Assuming one arrives at Finsbury Park, the mixture of trains to Moorgate, and Victoria and Piccadilly lines from Finsbury Park underground (as well as an array of local buses, including to most areas of Central London) means that very few passengers indeed will need to actually go to Kings Cross. If this were in the provinces, the TOCs would be required to provide a rail replacement bus to connect with every train to go the last couple of miles and to terminate outside Kings Cross mainline station.

#### Question 6

Do you have any views on our proposal not to duplicate the enforcement of PSVAR by mandating compliance with PSVAR in the ATP Guidance?

DVSA enforce compliance against operating licence holders and drivers. It is surely ORR's role to enforce the TOCs and their suppliers (the five main parties referenced above). By not including this compliance, all that will happen is that a small bus/coach operator will face investigation (including criminal prosecution and a subsequent public inquiry with OTC, the costs of representation alone at either being sufficient to bankrupt many small operators) with no sanction for the TOC or the supplier (noting that while the suppliers are often part of a bus operating group, they themselves are a separate legal entity which does not directly hold a licence).

I do therefore believe it is appropriate for ORR to mandate compliance among the TOCs and their intermediary suppliers.

I also believe that it is appropriate for ORR and DVSA/OTC to make an agreement for a sunset period for the use of non-accessible coaches on rail replacement. From the perspective of the bus/coach industry, such a defined sunset period would remove uncertainty of whether it is proper for a coach company to accept an offer of work (to supply a non-accessible coach) to undertake work that the operator knows is subject to PSVAR compliance, and to remove any threat of enforcement action from all parties.

In my view, intermediaries should be required to show an audit trail that they have attempted to procure accessible buses and accessible coaches (noting that both will have a price premium over what they typically like to pay for a non-accessible coach) and it seems equitable that each rail replacement operation (whether planned or unplanned) MUST include 10% accessible vehicles, spread out at time intervals where possible.

I would add that the operators I work with have invested in accessible vehicles and are ready to discuss terms with the TOCs and their intermediaries, and we would really like to have conversations about helping the TOCs meet their rail replacement needs in a compliant way, which would be around what we can offer now, and what the TOCs can offer (in terms of uncoming work) to support further investment.

In my view, any sunset period that is granted should be no later than the end of 2020, and should be dependant upon all intermediaries (from NOW) starting to ask for accessible vehicles NOW, and demonstrating by some form of audit trail that they have attempted to procure accessible vehicles, detailing who from, when phoned, and so on.

It may be considered appropriate that if (say) three coaches are doubling up on the 12:00 departure that one of them can be compliant and the other two may not be, but again for the protection of the coach driver and coach operator, this sort of scenario should be explicitly worded into a policy which has the support of all regulatory bodies. ORR is allowing something analogous to rail vehicles, in that a non-compliant pacer may operate coupled to a compliant unit.

Furthermore, any coach operator who wishes to avail of the exemption (for however long) should (NOW) be required to place an order for a new or used coach, and should



be reassured by one or more of the intermediaries/the TOCs that in doing so they will receive sufficient future work in order to make doing so a sound business decision.

It is worth reminding the reader that the nature of the coach industry has changed significantly over the past 30 years. Back then, private hire with businesses, social groups, and so on was a significant business line, as were international journeys, day trips and so on. Nowadays, for the majority of the coach operators who work with the intermediaries, 90% of their work will be a mixture of school transport and rail replacements.

I close this section of my response by reminding you that coach operators are, in addition to PSVAR, subject to compliance with a number of forthcoming 'clean air zones', with Leeds, York and Birmingham expected to start in July 2020 with several other cities due to announce start dates for their zones during 2021. The effect of this is that the coach/bus operators need to find investment of £16,000 per coach or bus in addition to investment for PSVAR. From the published responses to clean air zone consultations that I have seen, submissions by either ORR or the individual TOCs, requesting some form of concession for rail replacement services, have been conspicuous by their absence.

Indeed, in Yorkshire, it may be that ORR's legal advice would be needed to clarify the extent that rail replacement services (which ORR has already defined as scheduled and local services) need to comply with the requirements of the York CAZ, and how local bus/coach operators can work with the TOCs to manage this in a compliant manner.

#### Question 7

How can train operators use contractual arrangements to incentivise suppliers to increase the provision of PSVAR-compliant vehicles?

Arguably take their middlemen out of it. TOCs could also consider some form of incentivised ongoing standby role for operators with a PSVAR compliant coach.

Fundamentally however, the bus and coach operators need to be paid more in recognition for providing a quality product. There is a general reliance on what I will term 'gutter operators' whereas what is needed are for the intermediaries and TOCs to build relationships with quality operators who have invested.

TOCs should oblige their suppliers to meet minimum payment terms, which in my view should be no longer than 14 days.

#### Question 8

Do you have a view on the 12-week time limit we have proposed for a train operator to demonstrate that it has taken appropriate steps to assess the requirement for, and to procure the use of, PSVAR-compliant vehicles?

Compliant buses and coaches are available now. The issue is that the middlemen do not wish to pay for them. If this consultation is to be anything other than lip service, conversations and meetings need to happen, and coach operators need to be more involved in the process. Some time to take stock, and then a 12 week limit going forwards, seems sensible.

#### Question 9

What do you see as the advantages and/or disadvantages of each of the proposals? Do you have a preferred ranking or view as to whether some or all could be used in combination?

It will be location dependent. Across Yorkshire and Greater Manchester, from my own knowledge of operators, it is possible to get very close to 100% PSVAR compliance now. With adjustment to the long distance TPE rail replacements (which as far as I can see, just need replacement with a train most days) this should rise to 100%.

#### Question 10

Are there any other measures that you consider would assist in incentivising the use of PSVAR-compliant vehicles for rail replacement services that we have not included here?

Just facilitating (and mandating) better and more frequent dialogue between TOCs, their intermediaries, and the coach operators.

#### Question 11

Do you have any additional information not given above which you consider we should take into account in our equality and regulatory impact assessment, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic?

I would restate that there are various forms of disability and impairment, and the bus and coach industry is actually good at recognising this, and the fact that different people need different form of adjustment.

It is perhaps worth pointing out that some in the bus/coach industry can envisage future refinements to PSVAR, for example around audio and visual announcements of next stopping points, perhaps including more braille signage, and potentially around carrying more than one wheelchair on a vehicle. There may be areas to mandate more detailed training for drivers and controllers in addition.

For some years now, I have voluntarily been providing (external) destination displays showing calling points for regular rail replacement bookings, including the mechanism to refresh this information as calling points are passed, and would be happy to expand on this (including interior screens) in conjunction with the intermediaries.

#### Question 12

Do you have further data, information or comments relevant to our proposed approach or to the information or evidence of the impact of our proposals on passengers or rail, bus and coach industries outlined in this consultation document?

I recognise that a balance needs to be struck between a strict compliance with these regulations and the fact that on an unplanned basis it is sometimes necessary to move large numbers of people by road, and that it doesn't take much for such circumstances to create a genuine emergency situation.

Yours sincerely

**James Fairchild ACMA CGMA MILT**  
Director, Weekly FD Consulting Ltd

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