



OFFICE OF RAIL REGULATION

# **Disabled people's protection policies – a regulatory statement**

**July 2014**

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# Disabled people's protection policies – a regulatory statement

## Introduction

1. In October 2013, responsibility for approving and monitoring train and station operators' disabled people's protection policies (DPPPs) transferred to us from the Department for Transport (DfT). Since then, we have been engaging with stakeholders, including operators and groups representing those with disabilities to understand how well the current arrangements work and the role of DPPPs in supporting confident use of the railway.
2. This statement sets out our approach to our approval and monitoring role following this engagement.

## Background

3. Access to public transport is for many a necessity of everyday life. As the regulator, we recognise the importance of the rail network being open to everyone regardless of disability. It is our role to oversee that the operators of trains and stations enable passengers with a disability to make their journeys easily and confidently, whether those journeys are made independently or with assistance.
4. Train and station operators are required by their operating licences to establish and comply with a DPPP approved by the Office of Rail Regulation (ORR). A DPPP sets out, amongst other things, the arrangements and assistance that an operator will provide to protect the interests of disabled people using its services and to facilitate such use. Further details on the content and structure of DPPPs, the scope of our role and the legislative and regulatory background to this, are available on our [website](#). Guidance to operators on how to produce DPPPs was published by DfT in 2009 and is available on our website<sup>1</sup>.

## Key issues arising from our engagement with stakeholders

5. We are grateful to all those who have engaged with us since October 2013. We have noted the following issues and themes arising from this engagement:
  - (a) whilst there is good practice amongst operators, this is not being applied consistently across the industry;
  - (b) feedback that, in the majority of cases, the assistance provided by operators is delivered successfully, but that there are still too many cases where things go wrong;
  - (c) whilst the assistance available tends to work well for those with more visible disabilities, this was not so good for those with less visible disabilities;

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<sup>1</sup> How to write your Disabled People's Protection Policy: A guide for Train and Station Operators, available at: [http://orr.gov.uk/data/assets/pdf\\_file/0015/5604/how-to-write-your-dppp.pdf](http://orr.gov.uk/data/assets/pdf_file/0015/5604/how-to-write-your-dppp.pdf).

- (d) there is inconsistency in the quality of service provided by staff towards those requiring assistance; and
  - (e) a view that more could be done – both by the rail industry and those representing disabled people – to promote awareness of the rights of disabled people when travelling and the assistance that is available.
6. It was also emphasised to us that whilst the majority of customers generally have positive experiences from using the assistance provided, a negative experience when something goes wrong can have a profound impact on a disabled person's confidence of travelling by rail and sense of independence.

## Our policy objective

7. We are aware that significant investment over the last decade has led to greater accessibility at many stations, improving the experience of disabled travellers and enabling more journeys to be made independently of any assistance. We also recognise from our recent engagement that there is a determination amongst operators to provide a better quality service to customers with disabilities.
8. However, the evidence available to us shows that, for those who rely on assistance to enable them to make their journeys, the systems in place do not deliver consistently good levels of service<sup>2</sup>. Furthermore, there is relatively little awareness of the support and facilities available to disabled people who wish to travel by rail<sup>3</sup>. We are clear that this must improve as soon as possible. Accordingly, our key focus is for operators to:
- (a) assist and enable people to use the railways confidently, taking account of the wide range of different impairments or needs of disabled and other passengers; and
  - (b) continuously improve the quality and awareness of the assistance available.

More specifically, our overall policy objective is to:

**Empower confident use of the railway by disabled passengers  
and promote awareness of the advice and help available**

## Policy development

9. In considering how best to deliver our objective, we have been mindful of the conversations we had with operators in 2012-13 to understand how they engage with their customers<sup>4</sup>. We know from this that many operators have put a lot of effort into developing

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<sup>2</sup> This is informed by both our engagement and also Passenger Focus's report on Passenger Assist, published in March 2014 and available at <http://www.passengerfocus.org.uk/news/articles/industry-heads-slowly-in-the-right-direction-in-improving-assistance-for-disabled-rail-passengers>.

<sup>3</sup> See *Disabled travellers' awareness of rights – final report*, March 2014, prepared by Accent Scotland for ORR, available at [http://orr.gov.uk/data/assets/pdf\\_file/0010/11710/disabled-travellers-rights-awareness.pdf](http://orr.gov.uk/data/assets/pdf_file/0010/11710/disabled-travellers-rights-awareness.pdf).

<sup>4</sup> The Passenger Engagement report can be found on our website at [http://www.orr.gov.uk/data/assets/pdf\\_file/0003/13989/passenger-engagement-report.pdf](http://www.orr.gov.uk/data/assets/pdf_file/0003/13989/passenger-engagement-report.pdf).

arrangements to help them to deliver their DPPP obligations effectively. We recognise the importance of this in creating a framework for delivering good outcomes for passengers.

10. Bearing this in mind we intend to implement an approach based on improving organisational culture. This will involve focusing on the internal arrangements that an operator has in place to deliver its obligations. When approving DPPPs we want operators to demonstrate to us that their arrangements and approach reflect an organisational culture which drives effective delivery and continuous improvement. When monitoring DPPPs, we will look at how well these arrangements are delivering by focusing on the outcomes that are being achieved.
11. Currently, there is little data to indicate how well operators are performing against their DPPP obligations. This has meant that those operators that do perform well are not recognised, nor is it clear who needs to improve. It has also led to people with disabilities often having to rely on anecdotal information on the experience they can expect if they travel by rail.
12. To address this we will work with stakeholders to establish a core data set of measures for operators to report against to provide a robust evidence base for our monitoring. We will then use this evidence, alongside any other relevant information, to inform whether we need to carry out closer scrutiny of an operator.
13. We set out below in more detail how this will work in terms of the approval, monitoring and enforcement of DPPPs.

## **Our approach**

### **Approval of DPPPs**

14. In line with the 2009 guidance, DPPPs are currently structured in two parts: a passenger-facing document providing information to customers; and a separate policy document which sets out internal arrangements<sup>5</sup>. In particular, parts D2, D3 and D8 of the guidance already set out expectations for what should be included in the policy document. However, we have noted that existing policy documents tend not to be as clear, or specific, as they should be.
15. When reviewing DPPPs submitted to us for approval, we will pay particular attention to the internal arrangements described in the policy document. We will expect these to demonstrate convincingly that the operator has embedded arrangements to deliver effectively in the interests of disabled passengers, along with the means to identify how well it is performing. For example, we will want to understand:
  - (a) the arrangements in place (and the robustness of these) for:

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<sup>5</sup> This policy document covers matters such as: the operator's strategy regarding accessibility; the management arrangements for the provision of services to disabled people; how the operator communicates its DPPP; and the monitoring and evaluation of the DPPP.

- (i) delivering assistance, promoting awareness of the assistance available and facilitating travel by those with disabilities (including those with less visible disabilities);
  - (ii) monitoring and evaluating performance in respect of the above (for which we will want to understand the operator's own benchmarks for what it considers to be a successful performance), and the processes in place for acting on this to drive continuous improvement;
  - (iii) capturing and responding to feedback from customers and making improvements as a result of this; and
  - (iv) how the organisation is structured to deliver these arrangements;
- (b) the extent to which the operator has the right organisational values and behaviours towards disability. This includes the extent to which its senior management team is engaged with and provides leadership and support to the frontline staff that deliver assistance, and ensures that the right processes and systems are in place.
16. To provide transparency over our own consistency in reviewing and approving DPPP's we will produce decision letters and publish these on our website along with approved DPPP's. We will also publish indicative timescales for how long we expect to take to approve new or amended DPPP's to help operators to plan (also note paragraph 30 on timescales for implementation below).

### **Passenger-facing DPPP's**

17. There is currently an annual practice of operators submitting their DPPP's for review and re-approval. Through reviewing a number of DPPP's that have been submitted to us since October 2013 we have noted scope for improvement in the clarity of the description of assistance available and also that some of the commitments are not fully consistent with the level expected by the 2009 guidance. We are also aware from stakeholder feedback that:
- (a) greater consistency amongst operators in respect of their public-facing DPPP documents may help promote greater understanding of the assistance that is available; and
  - (b) elements of the guidance may be discouraging operators from feeling that they can provide more customer focused DPPP information.
18. We intend to write to stakeholders about these issues. In particular, it is important that passenger-facing DPPP's are as clear as possible and we can see merit in achieving greater consistency across the industry. We will seek views on options for achieving this, including for example whether a standard DPPP document should be produced, or a template set of obligations can be developed and included within each operator's DPPP.
19. Should some form of standardisation be introduced we would envisage existing operators then amending their documents at the next appropriate opportunity for republishing. If DPPP's remain entirely bespoke, we would want to satisfy ourselves that all DPPP's are

sufficiently clear and set out the minimum level of obligations envisaged by DfT's 2009 guidance, and would write to operators about the process for achieving this.

### **Process of submitting DPPPs to ORR for annual review**

20. Our longer term intention, once we are satisfied that all DPPPs express the minimum level of obligations clearly and the policy documents fully describe internal arrangements, is to end the practice of operators submitting their DPPPs to us for review and re-approval each year where no material changes have been made. We will consider what help we can give to operators on what may or may not be considered 'material' and what this means in terms of process at the point this change is implemented.
21. In the interim and until further notice following the outcome of our consultation on the passenger-facing documents, where DPPPs are submitted to us for re-approval, we will flag any particular concerns to the relevant operator.

### **Consultation process and arrangements for obtaining re-approval of DPPPs**

22. Where operators seek approval of any material changes to their DPPP, we will expect them to provide a description and reasons for any changes and an explanation of the impact these changes are expected to have on passengers (and the basis of this assessment).
23. The 2009 guidance requires that Passenger Focus, London TravelWatch (where relevant) and the disabled persons transport advisory committee (DPTAC) be consulted on new or materially amended DPPPs. Until now, DfT has carried out this consultation. Once our regulatory approach is fully implemented in April 2015, we will expect the operator to do this, providing us with details of the outcome of its consultation and any subsequent changes to its proposed DPPPs. We will discuss this further with the above three organisations before implementation and then make a minor change to the guidance to reflect this process change.

### **Monitoring and reporting**

24. In place of carrying out reviews of each operator as part of an annual DPPP re-approval process, our monitoring approach will be built around operators providing ongoing assurance that their internal arrangements are delivering good outcomes for their customers.
25. As mentioned earlier, to support this we intend to establish a core data set that each operator will report against, to provide a consistent means of measuring key elements of performance. We will develop this collaboratively and in consultation with operators and passenger representatives to ensure that it contains meaningful and appropriate measures. We envisage that the core data set will mostly draw on information that operators should already be collecting to assess their own performance. It will focus on outcomes and as part of this we expect that it will include some measure of passenger satisfaction. We also envisage that it will include information on complaints about passenger assistance, which would then be recorded separately from general complaints.
26. We will then report periodically on how operators are performing. This will be informed by a range of evidence, including the core data set, feedback from representative bodies and

any relevant research that we or others have commissioned. In producing these reports, we will recognise those operators that are performing well and highlight good practice and innovative approaches amongst operators. These reports will also help to raise the profile and awareness of the DPPPs and the assistance available. We will also highlight any recent improvements in station accessibility to support efforts by operators to improve awareness of opportunities for making independent journeys.

27. We recognise that it is not always appropriate to make like-for-like comparisons between operators given the varying circumstances of different operators and the nature of the routes and stations that they serve. For this reason it will be important for us to capture more of the context around the data to ensure this is presented fairly. Nonetheless, our expectation will be that operators should deliver continuous improvement against their own performance over time. Where we have concerns that this is not being achieved in the interests of customers, we would then discuss this with the operator concerned and potentially carry out closer monitoring. This could, for example, include carrying out an audit of an operator's internal procedures.
28. We understand that, on their own initiative, some operators are already considering publishing information on their own DPPP performance. We welcome this initiative and the creation of the core data set should not discourage operators from doing this. Indeed, when approving and monitoring DPPPs we will take account of meaningful transparency as an indication of cultural maturity.

## Implementation

29. We will implement our regulatory approach in two stages:
30. The **first stage** (from now to March 2015) is as follows:
  - (a) **Development of the core data set:** alongside this statement we are issuing a letter to stakeholders setting out the process for developing the DPPP core data set. This includes some initial thoughts on what this might look like, invites comments and proposes a working group to take this forward. Responses are sought by 29 August. We aim to finalise the core data set in time for this to be established by 1 April 2015.
  - (b) **Seeking views on greater consistency and clarity in DPPP documents:** as discussed above, following publication of this statement we will write to stakeholders on the options for achieving greater consistency in the public-facing DPPP documents and invite comments on how the guidance may inhibit more customer-focused information being provided. If there are clear benefits from greater consistency, we will begin working on this in early autumn. Alternatively, we will carry out a review of all DPPP passenger-facing documents to ensure they are sufficiently clear.
  - (c) **Review of internal arrangements by operators:** we are asking operators to satisfy themselves that they have effective arrangements in place to monitor and evaluate their performance against their DPPPs (consistent with paragraphs 14 and 15 of this statement) and that this is reflected in their policy documents. Our aim is for all policy

documents to have been reviewed with any changes approved in advance of April 2015. To make this as straightforward as possible:

- (i) for those operators with DPPP's currently with us for re-approval we will respond to them shortly with the aim of ensuring that these are consistent with the approach we are taking through this regulatory statement (for both passenger-facing and policy documents of the DPPP). Our intention is that any changes are approved by October 2014. We will work closely with operators to assist them in this process. Operators that have not reached their annual review period as of the date of this statement should continue to rely on their existing DPPP's, which will be reviewed as set out in (ii) below; and
- (ii) following the approval of the DPPP documents referred to in (i) above, we will then ask other operators to review their policy documents. To facilitate this, we will flag any common issues arising from our review of the first batch of documents. We expect that these policy documents are then approved by no later than 1 April 2015.

- (d) **Promoting greater accessibility of DPPP's and DPPP performance on our website:** we will review our website with the aim of providing greater transparency of information relating to DPPP's. In time this will include performance information from operators' core data sets, the DPPP documents, and other information such as our decision letters on approval applications.

31. The **second stage**, which we expect to begin on 1 April 2015, will mark full implementation with the core data set established. Operators will then report against this as well as continuing to publish any other relevant information. We will carry out a review of performance later in that business year and aim to publish a report by the end of March 2016. We will then continue to report periodically following this. From this point we will also expect operators to carry out the consultation required under their DPPP's (see paragraph 23 above).

## Facilitating industry initiatives

32. We have set out above that we will seek views on whether greater consistency in passenger-facing documents would be appropriate. More generally, we recognise that there is a balance to be struck between encouraging greater consistency in the approach taken by operators and not inhibiting operators from innovating or being able to take into account the specific needs of their customers. We stand ready to facilitate and support common approaches developed by the industry where these will benefit passengers, including by amending the guidance where necessary.

## Regulatory impact

33. In terms of regulatory impact, we are not imposing any major new requirements beyond those already in place in the licence and guidance. Rather, we are seeking assurance on the effectiveness of operators in delivering their existing obligations. We will be asking



operators to report using the core data set; however, we envisage that this will be based on data that operators should be collecting already as part of their own monitoring and evaluation arrangements, so this should not create an undue burden. In any case, the licence condition makes clear that licensees are under no obligation to undertake any action that entails excessive cost.

34. We will also be reducing the administrative burden of the current arrangements by ending the practice of operators resubmitting non-material changes to us on an annual basis (from April 2015). We will look for additional ways to reduce any regulatory burdens arising from our monitoring, provided that we can take assurance that DPPPs will continue to be implemented in line with our objective.

## Enforcement

35. We want all operators to deliver their DPPP obligations to a high standard consistent our policy objective, relying on reputational incentives as far as possible. We are not setting specific targets and we will draw on a range of data when assessing an operator's performance and compliance with their licence condition.
36. Where there is evidence to suggest that an operator is not achieving good outcomes for passengers in respect of its DPPP obligations, we will discuss this constructively with the operator concerned. We may then carry out more regular monitoring of that operator. This might include requiring additional information, carrying out an audit, or using our existing power within the licence to require an operator to conduct a review of its DPPP and report its findings, potentially leading to changes to existing DPPPs or practice. Ultimately, if an operator does not comply with its licence obligation, we would follow our enforcement policy<sup>6</sup>.
37. We recognise that a number of operators have concerns around the potential for them to be subject to enforcement action by different authorities in relation to the same matter ('double jeopardy'), or be subject potentially to other obligations by different authorities (e.g. franchises). In such cases, if enforcement by ORR were a possibility, we would expect to discuss the issue with the other authority to avoid a situation where an operator faces conflicting obligations.
38. We also recognise the concern that a franchise authority, for example, may grant an operator a derogation in respect of a particular commitment, with ORR then taking enforcement action for non-compliance under the DPPP licence condition. Should an operator find itself in the position that it is given such a derogation, it should make us aware of this at the time, so that we can discuss any issues with both them and the franchising authority.

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<sup>6</sup> Economic enforcement policy and penalties statement, July 2012, available at: [http://orr.gov.uk/data/assets/pdf\\_file/0018/4716/economic-enforcement-statement.pdf](http://orr.gov.uk/data/assets/pdf_file/0018/4716/economic-enforcement-statement.pdf).

## Linkages to our wider role

39. Whilst DPPP's and our regulation of them have an important role to play in improving access to rail services, they will not in themselves solve all challenges relating to accessibility. Investment is crucial.
40. Through our 2013 periodic review, a significant amount of funding has been made available by the Westminster and Scottish Governments for the industry to continue to improve accessibility at stations<sup>7</sup>. Separate to our DPPP responsibilities we have an oversight role in ensuring that this funding is spent efficiently so that value is achieved for passengers.
41. More broadly, within ORR, we will adopt an integrated approach to ensure that the interests of disabled people are taken into account across all our functions. This includes our wider role on investment projects. For example, we will encourage the industry to engage with disabled passengers and their representatives at the planning stage when stations are being built or developed. Amongst other things this will help to ensure that impediments to accessibility are not inadvertently included in station design.
42. We will also take the opportunity when operators' licences are next revised to replace the dated "Disabled People's Protection Policy" terminology with something that is more consistent with "Making Rail Accessible" branding of the existing guidance.

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<sup>7</sup> See paragraph 24.7(f) of our Final determination of Network Rail's outputs and funding for 2014-19, available at: <http://orr.gov.uk/what-and-how-we-regulate/regulation-of-network-rail/how-we-regulate-network-rail/periodic-review-2013/pr13-publications/final-determination>.

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