

# Consultation on Proposed Changes to the Handling of Exemptions from Rail Vehicle Accessibility Regulations

– Summary of Consultation Responses  
Department for Transport

June 2013

## **Consultation dates**

28 March 2013 to 26 April 2013.

## **Scope**

England, Scotland and Wales.

## **Issue**

In March 2013 the Department for Transport (DfT) launched a consultation<sup>1</sup> regarding proposals to amend the Equality Act 2010 so that exemptions from Rail Vehicle Accessibility Regulations (RVAR) may be made administratively rather than by Statutory Instrument (SI) in future.

By moving to an administrative system, applicants for an exemption would know the result far sooner than under the present system, reducing uncertainty.

The aim of the consultation was to outline the proposals in more detail and seek comments. The consultation closed on 26 April 2013.

This document summarises the responses received for each consultation question and provides a short summary of key issues raised by respondents.

We would like to thank all consultees for their responses. All responses were carefully considered.

This summary is of the responses that were received at the time of the consultation. The questions have been taken directly from the consultation document.

## **Background**

Trams, underground and metro fleets (but not trains) and heritage & tourist rail vehicles are currently subject to Rail Vehicle Accessibility Regulations (RVAR). RVAR requires them, when built or refurbished, to provide certain items, such as colour contrast, priority seats and public information systems, which improve access for disabled and older people, pregnant women and parents with small children (collectively referred to as PRMs – Persons of Reduced Mobility).

All rail vehicles, including trains, must be accessible by no later than 1 January 2020. However, where it can be shown that for physical, operational or (sometimes) cost reasons it would not be reasonable for a vehicle to fully meet the requirements of RVAR, then Ministers can grant an exemption from those requirements (either wholly or in part).

The Government would like to change the way that exemptions from RVAR are granted.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/182424/consultation-document-rvar-exemption-changes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182424/consultation-document-rvar-exemption-changes.pdf)

Rather than granting exemptions by Statutory Instrument (SI - that is, through a law that is subject to a Parliamentary scrutiny and control process) as now, in future we wish to grant exemptions administratively. This would mean that the process is more like that which already applies when heavy rail (trains), stations and coaches & buses are unable to comply with their own accessibility standards.

There would be no reduction in the strength of argument that would be required before an exemption is granted and, as now, the Department will consult the Disabled Persons Transport Advisory Committee (DPTAC) and other such representative bodies as it considers appropriate.

Additionally, Ministers have indicated that they wish to retain final approval of any exemptions and would continue to provide Parliament with an annual report on the exercise of exemption powers, so providing transparency and accountability.

By moving to an administrative system, applicants for an exemption would know the result far sooner than now – perhaps in 3 months rather than 6 – 12. This would reduce uncertainty for operators and allow them to introduce vehicles sooner than they might currently feel able to due to the inherent risks and doubts which surround the current system.

Official, legal, Ministerial and Parliamentary time would also be saved – indeed, it is improved efficiency in public administration that would form the main tangible benefit to be gained by the proposed change.

## **DPTAC**

DPTAC was established under section 125 of the Transport Act 1985 to advise the Government on the public passenger transport needs of disabled people. The Equality Act 2010 requires the Secretary of State to consult DPTAC before granting an RVAR exemption.

DPTAC is included in the list of bodies in Schedule 1 to the Public Bodies Act 2011. Bodies in the list may be abolished by order made under section 1 of that Act.

A consultation on the abolition of DPTAC closed on 24 September 2012, but no decision on its future had been taken at the time of this consultation. Many respondents expressed concern about the provision of balanced, pan-disability advice to Ministers on the merits of exemption applications if it were abolished.

On 12 June 2013, Ministers announced that DPTAC would be retained. The full announcement can be found here: <https://www.gov.uk/government/speeches/future-of-the-disabled-persons-transport-advisory-committee>

Therefore, comments regarding DPTAC are not repeated below.

## **Responses received**

The Consultation Paper was emailed direct to 54 organisations and placed on the Department's website. The consultation received responses from 17 stakeholders.

The responses were broken down as follows:

<b>Individual</b>	<b>1</b>
<b>Transport Authorities</b>	<b>5</b>
<b>Organisations for, or representing, disabled people</b>	<b>5</b>
<b>Railway Industry</b>	<b>3</b>
<b>Business</b>	<b>2</b>
<b>Transport user group</b>	<b>1</b>
<b>TOTAL</b>	<b>17</b>

Where responses did not correspond directly to the questions posed, but took a more general approach, these comments have been considered under the most appropriate question or were taken into consideration separately. The report does not attempt to summarise all the comments made by respondents. However, all comments were considered whether or not they are referred to in this report.

**Summary of responses**

Question 1:

Should the Equality Act 2010 be amended so that exemptions from RVAR are granted administratively, rather than by Statutory Instrument?

Of those who expressed a preference, a large majority of respondees strongly supported the proposed amendment to the Equality Act 2010 so that exemptions from RVAR are granted administratively, rather than by Statutory Instrument.

Stakeholders felt that the proposed amendment will impose less of a burden on the industry from the point of view of both cost and process, while still ensuring a robust evidence base and case is made for any future exemptions.

Several stakeholders qualified their support on the proviso that the strength of argument needed before an exemption would be granted would not be weakened and conducted on a consistent basis.

One objection to the proposal was received on the basis that too many exemptions have been granted to date and that in order to ensure that all public transport is as accessible as possible to disabled people, no further exemptions should be granted. That stakeholder also queried the use of a four week, rather than 12 week consultation period – though this is no longer mandatory. Consultation principles were set out in paragraphs 1.11 to 1.13 of the Consultation Document.

The issue of appropriate staffing knowledge and availability at the Department as a result of recent resource pressures was raised as a concern.

One respondent hoped to see guidance on exemption applications being made available. Material on this can be found towards the end of the Department's Guidance on RVAR, here:

<http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/adobepdf/259428/pdfrailaccessregs1998> and at <https://www.gov.uk/government/publications/rvar-exemption-orders-decision-tree>

#### Question 2:

Should the Equality Act 2010 be amended so that the information required in each application for exemption is no longer prescribed in regulations?

Most stakeholders were similarly supportive of proposals to amend the Equality Act 2010 so that the information required in each application for exemption is no longer prescribed in regulations.

Stakeholder consensus stated that the proposal will streamline the current process allowing for a more flexible and common sense approach where necessary.

Support was again caveatted on the basis that the proposal will not reduce the amount of information required before an exemption is granted and that Government continues to proactively engage representative disability organisations across all impairment groups.

One objection was received, made on the same grounds as given for objecting to the proposal set out in question 1, namely that too many exemptions have been granted to date and that no further exemptions should be granted in order to ensure that all public transport is as accessible as possible to disabled people.

Further comments received stressed the importance of the retention of the end date for all rail vehicles, including trains, to be accessible by no later than 1 January 2020, unless an exemption is issued.

#### **Outcome**

The consultation received responses from 17 stakeholders. 15 – including DPTAC - were in favour of proposals; one respondent sought further reassurances before commenting, and one stakeholder objected.

We recognise that several organisations qualified their support on the proviso that the strength of argument needed before an exemption would be granted would not be weakened. This is a very important point for Ministers, which is why they have decided to retain final approval of exemptions.

Further, in order to retain transparency we will continue to publish applications as well as details of any exemptions that are granted on the Department for Transport website. Also, the statutory requirement to produce an Annual Report on the use of exemption powers will remain unchanged.

On a point of clarification regarding the second question, it is not the Department's intention to change the information that must be supplied with an application for exemption. The list of information was last updated in 2010, based on experience, and

has proved to be very helpful in enabling applicants to “get it right first time”, and avoid officials having to seeking clarification or missing information.

Instead, it is the Department’s desire to list that information on its website, rather than having it set out in a regulation, which is rather an old fashioned and inflexible way of setting it out for stakeholders. Should we come to believe, in the future, that the list of information is no longer appropriate, we would consult stakeholders – particularly DPTAC – on a revised list that would continue to enable them to give informed views on the merits of an application.

Overall, the responses do not give us reason to suggest that this proposal be changed or withdrawn.

In the Queen’s Speech of 8 May, the Government announced its intention to introduce a Deregulation Bill to Parliament. It is our intention to take forward these proposals as part of that Bill, which was published for pre-legislative scrutiny on 1 July. See Schedule 8 Part 6 here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/210035/130701\\_CM\\_8642\\_Draft\\_Deregulation\\_Bill.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210035/130701_CM_8642_Draft_Deregulation_Bill.pdf)

We would like to thank stakeholders for taking the time to consider these proposals and providing responses which have acted to further improve clarity.

### **Organisations who responded**

Alstom  
Blackpool Transport  
Confederation of Passenger Transport - Fixed Track Section  
Diverse Cymru  
Disabled Persons Transport Advisory Committee (DPTAC)  
Gatwick Airport  
Individual  
Joint Committee on Mobility for Disabled People  
Leonard Cheshire Disability  
Nexus  
Office of Rail Regulation (ORR)  
Passenger Focus  
Scottish Accessible Transport Alliance  
Strathclyde Partnership for Transport  
Transport Scotland  
TravelWatch NorthWest  
UKTram