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12 October 2007

Dear Ian,

### **Existing non-compliances with RVAR**

Brian Freemantle and I met with you recently to outline the Department's proposals for targeting the rail industry's efforts at those features of rail vehicles that have the greatest negative impact on the ability of disabled passengers to use particular vehicles.

Whilst you are aware that officials have been giving attention to this issue for some time it was appropriate that it should be integrated into work the Department has undertaken to develop balanced proposals reconciling domestic accessibility legislation and commitments with forthcoming interoperability requirements (PRM TSI). Subject to Ministerial approval and public consultation in due course, these are likely to include provisions disapplying RVAR from heavy rail vehicles (thereby avoiding the creation of duplicate regulatory regimes) whilst placing a continuing obligation on the operators of vehicles currently regulated under RVAR to maintain and operate them to the standard to which they were built. All heavy rail vehicles will be required to comply with the PRM TSI by the End Date, which can be no later than 1 January 2020, unless they already comply with RVAR.

While new vehicles are expected to fully comply with RVAR (or the PRM TSI for heavy rail vehicles once this is in force), we recognise that some of the earlier RVAR regulated fleets, and most pre-RVAR vehicles, have areas where the degree of non-compliance with RVAR (or the TSI) is marginal and has little or no practical effect on the ability of disabled passengers to use that service. Whilst it would not be appropriate to allow additional tolerance across the board (RVAR already includes a degree of flexibility and small non-compliances in certain areas may have a disproportionate effect on accessibility for certain groups of disabled people), we are willing to look at each non-compliance on a case-by-case basis. This will enable us to target rectification efforts at those areas which most impact on accessibility in order to deliver the Government's policy of an accessible rail fleet by the End Date. We believe that disability stakeholders would support this pragmatic approach.

We have already started working together to record existing non-compliances on pre-RVAR fleets but these are already known for vehicles currently subject to RVAR due to the requirement for an exemption order to be in place prior to their coming into service.

Using the Department's list of extant exemptions as a basis, we have formed a view on those non-compliances which must be rectified in time for the End Date (preferably sooner), and those which need only be corrected if the opportunity arises as they deliver marginal improvements in accessibility. I have already written with regard to Classes 458 and 170/1 - please find below our conclusions regarding the remainder of Porterbrook's fleets with extant non-compliances.

Current non-compliances which will fall as RVAR is amended or PRM TSI is applied

ScotRail 170 393-396	14(b)	Force to deploy nappy-change table
Southern 377/4	14(b)	Force to deploy nappy-change table
Gatwick Express 460	15(3)	Number of wheelchair spaces

Regulations where compliance must be achieved by the End Date:

Gatwick Express 460	4(2)	Door warnings are not audible externally – solution applied to 458s
	5(1)(b)	Force required to operate vehicle end door control – solution applied to 458s
	5(1)(c)	Vehicle end door controls - no illumination – solution applied to 458s
	6(1)(d)	No illumination of step – solution applied to 334s
	8(3)	<i>No priority seats in baggage vehicle (only to be rectified if whole vehicle converted to seating)</i>
	13(7)	PIS is 32mm, not minimum of 35mm high – solution applied to 458s
	20(1)(d)	Accessible toilet – solution applied to 458s
	20(1)(e)	Accessible toilet – solution applied to 458s
ONE 170/2	5	Vehicle end door sensor
Central 170/5 & 170/6	5	Vehicle end door sensor
Chiltern 168 106-110	5	Vehicle end door sensor
c2c 357/0	5(3)(a)	Vehicle end door sensor
	5(4)	Vehicle end door sensor
	8(5)	<i>No tables at priority seats (only to be rectified if seats are replaced)</i>

Regulations which need only be rectified if the opportunity arises:

ONE 170/2	5(1)(a)	Close button is 1230 not 1200mm high
ScotRail 170 401-415	5(1)(a)	Close button is 1230 not 1200mm high
Central 170/5 & 170/6	5(1)(a)	Close button is 1230 not 1200mm high
Chiltern 168 106-110	5(1)(a)	Close button is 1230 not 1200mm high
c2c 357/0	5(1)(a)	Close button is 1230 not 1200mm high
Gatwick Express 460	5(1)(a)	Open button is 1230 not 1200mm high
	10(1)(b)	Manifestation on glass is 1465 not 1500mm
	11(1)(a)	Handrail in doorway begins at 735, not 700mm
	11(2)(c)	Insufficient clearance at very top and bottom of single handrail

There is a mechanism within the PRM TSI that will enable us to accept these minor non-compliances beyond the End Date without the need to create a piece of secondary legislation (such as an Exemption Order).

I hope this is useful and look forward to continuing to work with you to improve the accessibility of Porterbrook's fleets. I am copying this to Brian Freemantle and Franchise Managers here, George Davidson at Transport Scotland and DPTAC.

Yours sincerely,

**John Bengough**

Accessibility Technical Standards Manager