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25 September 2007

Dear Ian,

### **Class 170/1 - 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 170/1 vehicles as the intermediate cars are already subject to RVAR, while we carried out an audit of the end vehicles in anticipation of their becoming subject to RVAR as a result of the DDA 2005. Using information from that audit as a basis, we have formed a view (below) of 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.

Regulations where compliance must be achieved by the End Date:

Class 170/1 end vehicles	5(3)	Vehicle end door sensor
	5(4)	Vehicle end door sensor
	6(1)(d)	No illumination of step
	7(b)	Contrast on floor
	8(1)	No priority seats
	11(1)(a)	Handrail in doorway shorter than required
	14(c)	Toilet seat (contrast)
	16(1)(c)	Inadequate support in one wheelchair space
	20(1)(f)	Handrail in toilet
	23(7)	Ramp

Regulations which need only be rectified if the opportunity arises:

Class 170/1 end vehicles	5(1)(a)	Close button is 1230 not 1200mm high
	20(1)(c)	Toilet seat is 470 not 475mm high
	20(1)(h)	Lower alarm in toilet is 485 not 450mm high

You agreed that this was a pragmatic solution that would deliver improved access for disabled passengers (and others) whilst avoiding expenditure that gave little benefit, and would work with franchisee(s) to deliver it. I understand that this fleet is likely to undergo refurbishment in the near future – it would seem sensible to make use of this period of unavailability to address those issues listed in the top table at the same time.

The two exemptions that apply to the 170/1 intermediate vehicles (provision of wheelchair spaces and front end displays) were administrative as they are operated with non-regulated vehicles that included those features.

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 Graeme Frizzell here, and DPTAC.

Yours sincerely,

**John Bengough**  
Accessibility Technical Standards Manager