

# **THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL SYSTEM) (LONDON UNDERGROUND PICCADILLY LINE 73 TUBE STOCK) EXEMPTION ORDER 2019**

## **Explanatory Note**

### **What does the Order do?**

1. The Order exempts rail vehicles operated on the line known as the Piccadilly Line by London Underground Limited (LUL) from certain requirements under the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (“RVAR 2010”). The Order is made by the Secretary of State in exercise of powers conferred by sections 183(1), (2), 4(b) and 207(1) and (4) of the Equality Act 2010. The Secretary of State’s decision to exercise powers in section 183(4)(b) instead of powers in section 183(4)(a) of the Equality Act 2010 is because the Secretary of State thinks it is appropriate to include articles 4 to 6 in the Order which outlines conditions and time limits on the exemptions as set out below.
2. The exemptions come into force on 1st January 2020 and expire at 2am on 1st January 2027 at the latest.

### **What requirements does this exemption cover?**

3. This exemption covers the requirement to provide wheelchair spaces that comply with RVAR 2010, the requirement to provide a boarding device between the doorway and the platform at all platforms that do not have any level boarding, the requirement to provide a vertical handrail on both sides of all doors, the requirement for the height of the vertical handrail above the floor at all doors, and the requirement to make ‘next stop’ audible announcements when the train is stationary at a platform.

### **Why has the Order been made?**

4. Under RVAR 2010 these rail vehicles are required to have two wheelchair spaces. Whilst these trains were recently modified to make them more accessible and to create a large area next to some double doors that could be used by wheelchair users, it was not possible to create a compliant wheelchair space without significant cost and modifications to the train.
5. The rail vehicles are scheduled to be withdrawn from service before the end of 2026 at which time they will be replaced by rail vehicles that will have wheelchair spaces that fully comply with RVAR 2010.
6. Under RVAR 2010 LUL are required to provide boarding devices at all platforms that do not have any level boarding to allow wheelchair users to enter or leave the rail vehicle. However, there are certain stations that are inaccessible to wheelchair users due to the lack of any step free access from the street or from other lines. The Order exempts the rail vehicles from the requirement to provide boarding devices when they are stationary at specified platforms. A full list of the specified platforms appears in the tables below.
7. However, the rail vehicles would no longer be exempt from the requirement to provide boarding devices at a specified platform when step free access is provided from the specified platform.

**Platforms at which the exemption from Schedule 1, Part 1 (General Requirements), paragraph 1: Provision of a Boarding Device applies until step-free access is provided at that station.**

<b>Station</b>	<b>Platforms</b>	<b>Station</b>	<b>Platforms</b>
Alperton	1, 2	Manor House	1, 2
Arnos Grove	1, 2, 3, 4	Northfields	2, 3
Arsenal	1, 2	Piccadilly Circus	3, 4
Baron's Court	2, 3	Ravenscourt Park	2, 3
Bounds Green	1, 2	Rayners Lane	1, 2
Chiswick Park	1, 2	Ruislip Manor	1, 2
Covent Garden	1, 2	Russell Square	1, 2
Ealing Common	1, 2	South Ealing	2, 3
Eastcote	1, 2	South Harrow	1, 2
Gloucester Road	4, 5	South Kensington	3, 4
Hatton Cross	1, 2	Southgate	1, 2
Hillingdon	1, 2	Sudbury Town	1, 2
Holborn	3, 4	Turnham Green	2, 3
Holloway Road	1, 2	Turnpike Lane	1, 2
Hounslow Central	1, 2	Uxbridge	1, 2, 3, 4
Hyde Park Corner	1, 2	Wood Green	1, 2
Leicester Square	1, 2		

**Platforms at which the exemption from Schedule 1, Part 1 (General Requirements), paragraph 1: Provision of a Boarding Device applies until 2am on the date shown.**

<b>Station</b>	<b>Platforms</b>	<b>Expiry Date</b>
Cockfosters	1, 2, 3, 4	1st April 2020
Ickenham	1, 2	1st January 2021
Osterley	1, 2	1st September 2020
Sudbury Hill	1, 2	1st January 2021
Knightsbridge	1, 2	1st January 2022
Boston Manor	1, 2	1st April 2024

North Ealing	1, 2	1st April 2024
Park Royal	1, 2	1st April 2024
Ruislip	1, 2	1st April 2024

8. Under RVAR 2010 a vertical handrail should be provided on either side of a door to help those with reduced mobility to step into or out of the train. On the Piccadilly line, a vertical handrail is only provided on one side of the narrower single leaf doors found at the vehicles' ends. It is not possible to fit a handrail on the side of the door closest to the vehicles' ends without significant cost and modifications to the vehicle because of the structural supports and equipment in that area. Where a passenger is unable to use the existing handrail, due to a weakness on one side or similar, then the adjacent door on the next vehicle, where the handrail is on the opposite side, can be used instead.

9. When the vehicles were modified to create a large multi-function area next to the doors, the modification altered the dimensions of the vertical handrails at these areas so that the vertical handrails now extend down to 750mm above the floor rather than 700mm above the floor required by RVAR 2010. Whilst the handrail does not meet the RVAR 2010, the impact this is expected to have on passengers is minimal.

10. Under RVAR 2010, LUL are required to announce the name of the next stop whilst the vehicle is stationary with the doors open at a platform to allow passengers with visual impairment know the direction in which the vehicle is travelling. However, the public address systems on the vehicles are programmed to announce the name of the next stop whilst the train is running towards that station. The vehicles have been exempted from this requirement because the entire 73 Tube Stock fleet will be replaced by 2026, and the cost of modifying the public announcement systems in the interim to additionally announce the next stop whilst the vehicle is stationary is not outweighed by the benefit. Currently, the vehicles announce the next stop whilst the vehicle is stationary at the platform to allow the time available whilst the train is at the platform for the driver to announce or trigger automatic safety and travel information. This exemption does not apply at a station before a branch in the line, where the next stop could differ depending on the route of the vehicle – e.g. westbound from Acton Town.

**Why has the exemption been made without being laid before Parliament?**

11. Following amendment of section 183 of the Equality Act 2010 by the Deregulation Act 2015, exemptions can now be made by administrative orders, rather than by statutory instruments. The Order will, however, be notified to Parliament in the Annual Report which the Secretary of State is required to lay before Parliament by section 185 of the Equality Act.

**Who has been consulted and what did they say?**

12. We consulted the Disabled Persons Transport Advisory Committee (“DPTAC”), the Office of Rail and Road and London Transport Users Committee (“London TravelWatch”) on the exemption request. We also carried out a period of public consultation via our website.

13. DPTAC raised questions around the provision of information on the use of the multi-function area to wheelchair users and the use of signs in the area giving priority to wheelchair users.

14. LUL responded to say that their customer experience team would progress the provision of information and labelling in line with the RVAR deadline of 1<sup>st</sup> January 2020.

15. ORR did not raise any objection.

16. London TravelWatch did not raise any objection.

17. Guide Dogs responded to the public consultation that audible announcements are best given whilst the train is stationary when there is less ambient noise; that announcing the 'next stop' whilst the train is at the preceding stop gives more time for people to prepare to get off the train; that 'next stop' announcements should be given priority over travel information; and that whilst there are a number of alternative sources of information for sighted people (signage, platform indicators, route maps etc) people with sight loss rely on audible announcements to enable them to travel independently.

18. LUL responded that their understanding of the difficulties that users face whilst using the system is growing and they aim to make the system as accessible and inclusive as possible to all customers. LUL added that announcement systems are periodically updated, providing an opportunity for them to further tune the system. Whilst they try to ensure consistency in messaging where possible, they will be trialling and monitoring the effect of a different order of information following customer feedback.

19. Consultation responses can be found at Annex A.

### **Is there an impact assessment?**

20. LUL is a wholly-owned subsidiary of Transport Trading Limited, which is in turn a wholly-owned subsidiary of Transport for London. Transport for London is a public body. For deregulatory measures affecting public bodies, no impact assessment is required.

### **Contact**

21. Julia Christie at the Department of Transport: Tel: 07920 504300 or e-mail: [julia.christie@dft.gov.uk](mailto:julia.christie@dft.gov.uk), can answer any queries regarding the order.

## **Annex A – Stakeholder Consultation**

### **DPTAC**

*DPTAC issued a joint response to several RVAR exemption order applications.*

*Guide Dogs for the Blind issued a response to proposed exemptions on the Bakerloo Line.*

*Points raised in those responses that are also relevant to this order for the Piccadilly line have also been taken into account and responses to those points are set out below.*

Please find below DPTAC's comments for the RVAR exemption request for London Underground Limited (LUL).

### **General remarks**

Before our specific comments on this request, we would like to make some general remarks with regard to those rail vehicles that will not be compliant with the relevant TSI or RVAR regulations by the 1st January 2020, as required by those regulations.

It is extremely disappointing that the rail vehicles concerned will not be compliant by the due date, particularly given the length of time that train companies, rolling stock companies and other agencies have had to ensure that they meet the requirements of the PTM-TSI and RVAR regulations. This failure is brought into sharp focus by the majority of rolling stock, which will be compliant, as required, by the 1st January, 2020.

The situation with regard to the majority of dispensation and exemption requests received is exacerbated by the fact that such requests have been submitted little more than three months in advance of the compliance deadline, meaning that little or no remedial work is feasible before the deadline. In such a circumstance the only enforcement action open to the Department for Transport and Office of Rail and Road, as we understand it, is to require operators and owners to remove non-compliant rolling stock from service as from the 1st January. The removal of non-compliant stock could potentially have a serious impact on train services, with detrimental impacts on local economies and rail users, including disabled passengers not affected by the areas of non-compliance, and DPTAC has taken this factor into consideration when commenting on dispensation and exemption requests.

We should further add that the large number of requests submitted so close to the compliance deadline has left us with a very limited time to review and comment on each request, meaning that we have not had the opportunity to inspect vehicles at first hand, or, for the most part, to engage directly with fleet owners or operators.

Finally, we should note that DPTAC's views should not be taken to indicate approval or non-approval of requests received by the Department. DPTAC has no statutory role as an approval body; such authority being vested solely in the Secretary of State.

### **Specific Remarks**

1. Our specific comments on the request from LUL with regard to their vehicles used on the Piccadilly Line are as follows:

We note that this is a request to apply a 'targeted compliance' approach to the areas listed for the life of the vehicles and LUL are to replace these trains with fully compliant stock by the end of 2026. The documentation supplied by the operator makes clear that the rail vehicles concerned are non-compliant with RVAR in multiple areas, including, but not limited to: the absence of a compliant wheelchair space, handrails, and next stop announcements.

2. DPTAC understands the rationale proposed for the 'Pimlico principle' but would strongly reject the 'Pimlico principle' as it has no basis in regulation or law, and is perceived primarily as a self-serving standard, potentially conflating the issues of station access and vehicle access. Disabled people who can carry mobility aids down stairways, perhaps slowly and at their own pace or with support, will still require threshold ramps to board trains. Ramps at stations will also prove hugely beneficial during operational failures when trains terminate unexpectedly, when passengers may be taken ill, if individuals may need to use toilets and in emergency evacuation situations- though it is understood this final remark is outside the remit of RVAR- the importance of such a topic should not be underestimated. Aiming to reduce the discrepancies in the platform train interface benefits many passengers and this is something we would urge the Department to consider when making decisions on this topic.

RVAR clearly stipulates standards and the Pimlico principle would bring in considerations inappropriate in these circumstances.

3. The multiple areas of non-compliance of these vehicles create some barriers to disabled people, particularly those with mobility impairments and visual impairments. Despite this, and despite the extended period for which the fleet will be non-compliant the operator has not put forward any proposed mitigations or any operational mitigation plan to address the inaccessibility of its services during the extensive interim period when work is completed.

4. Should an exemption be granted, then it is essential that the operator fully communicates the areas of non-compliance to disabled people through signage in carriages, its website, online materials, and printed material (including posters) in a range of accessible formats. Staff need to be appropriately briefed to respond to questions from disabled customers and companions. A communication plan along route lines involving local disability groups could be appropriate to cascade relevant information.

5. Physical as well as communicative mitigations should be explored. For example, the operator should consider prioritising wheelchair spaces in accessible carriages through use of signage, rather than continuing to adopt multi use spaces. Next station information should be available prior to travel in multiple formats.

6. The exemption requests considered do seem to reflect an egregious failure to comply with RVAR, particularly given that LUL is a public body, that has a Public Sector Equality Duty obligation under the Equality Act. However, in line with our observations above in the 'General Remarks' section, we recognise the fundamental importance that the Underground has to the economy of London, and the impact that the withdrawal of services would have on disabled people not affected by the areas of non-compliance associated with these vehicles.

7. The timescales for exemptions extend up to six years. The Department must satisfy itself that this is justifiable. If appropriate, a reduction in timescale could be explored.

8. In all circumstances a strong, robust and monitored mitigation strategy must be applied with monitored compliance. We would suggest regular reporting to IDAG and London Travelwatch to ensure an appropriate dialogue can ensue. As such we would suggest that a pre-condition of any exemption issued by the Secretary of State should be that the operator provides a fully operational mitigation plan.

## **ORR**

Thank you for the opportunity to comment on this exemption application. ORR has no objection to this application on safety grounds, and we do not believe it will affect our ability to use our enforcement powers should it become necessary.

## **London Travel Watch**

Happy to agree to this exemption.

## **Guide Dogs**

### **1. Introduction**

Guide Dogs welcomes the opportunity to respond to the Department for Transport (DfT) consultation relating to the application from London Underground Limited (LU) for exemption from standards set out in Schedule 1, Part 1 (General Requirements) and Part 2 (Additional requirements) RVAR 2010 for trains operated on the Bakerloo Line, known as '73TS'.

### **2. Guide Dogs area of response within this consultation**

Our response is limited to the specific element of the Exemption Application relating to audio passenger announcements within trains *'Schedule 1, Part 1 (General Requirements), of the Rail Vehicles Accessibility Regulations (RVAR) 2010, paragraph 11(5):*

*11 (5) Whilst a rail vehicle is stationary at a station or stop any public address systems required to be fitted inside the vehicle, and on its exterior, must be used to announce the destination of the vehicle or, if it is following a circular route, the name or number of the route and, in the case of systems inside the vehicle only, to announce the next stop.'*

### **3. Technical, economic and operational reasons why exemption is sought**

We note the statement in section 5, page 16 of the Exemption Application

"London Underground is committed to providing sufficient timely, accurate and accessible customer information to enable our customers to be confident during their journey, make informed decisions and to minimise the impact of disruption".

Guide Dogs welcome this commitment by London Underground. We strongly believe that 'next station' audible passenger announcements delivered on trains are a vital information tool for blind and partially sighted people to enable independent

travel with confidence on London Underground services. Our view is based on feedback we receive from people with sight loss.

We are concerned that London Underground are requesting a permanent exemption that would

“allow the removal of ‘next station’ information inside the saloon whilst the train is stationary at a platform”.

We note the contents of the letter from Mike Brown – Commissioner of Transport for Transport for London (TfL) to Paul Maynard MP – Parliamentary Under Secretary of State for Transport, dated 7 August 2019, which was an appendix to the Exemption Request. Mike Brown makes no mention of London Underground’s intention to request the permanent exemption of the RVAR requirement to remove ‘next station’ passenger announcements, while the train is at stations. Perhaps this indicates that he is not aware of the likely impact of this on passengers with visual impairment.

We welcome Mr Brown’s assurance that TfL are “fully committed to improving London Underground’s fleet accessibility”. We recognise this commitment from our own experience of TfL’s proactive approach to working with Guide Dogs to ensure the accessibility needs of blind and partially sighted people are part of this commitment. Therefore, we feel the proposed removal of ‘next station’ announcements on trains, as specified in the Exemption Request, would be a backward step for London Underground in their goal to improving the accessibility of their fleet. Again, perhaps the proposal is born out of a lack of understanding of the implications of this move.

### **Stated rationale for the proposed change**

“It is believed that announcing the ‘destination’ information provides the same benefit to passengers whilst at a station. This is because the direction of travel can be ascertained from the destination, as routes are simple and maps available inside the train”.

### **Guide Dogs response**

We challenge the assumption made, within the Exemption Request, that the alternative ways of accessing travel information would provide the same benefit as the existing ‘next station’ announcements.

*“As a person who is vision impaired and with slight hearing loss, I find hearing the announcements whilst the train is travelling difficult to hear. When the train is stationary is the best time to announce the destination and the next stop of the service.”* (Visually impaired user of London Underground)

The ‘destination’ information announced on trains is of some benefit to blind and partially sighted people. However, we do not believe that firstly, an assumption should be made that passengers with sight loss are completely familiar with the London Underground network. Secondly, it is likely that blind and partially sighted people will be unable to access maps available inside the trains. They can be difficult to read for fully sighted passengers. They may as well not exist for those with sight loss.



*“Because the distance between stations can be quite short, the announcement gives you time to make sure you are ready to get off.” (Visually impaired person who uses London Underground)*

*“Although the announcements are at a reasonable volume it is sometimes hard to hear them on a noisy carriage at peak times or when going through a noisy bit of the journey. Also, some people with visual impairments have hearing loss as well so would benefit from the announcements of what the next stop is whilst the train is stationary” (Visually impaired user of London Underground)*

### **Stated rationale for the proposed change**

*“The dwell time is carefully balanced with run times in order to deliver the train service and delays whilst stationary can have knock on effects to service robustness and overcrowding.”*

### **Guide Dogs response**

We recognise the challenges faced by London Underground in delivering a train service to time. We do not feel that the existing requirement under RVAR, regarding ‘next station’ announcements on trains, while at stations, has a significant impact on effective service robustness and overcrowding.

### **Stated rationale for the proposed change**

*“London Underground strongly believes that better service to passengers can be provided by reducing the amount of regulated information given. This allows a driver to give additional information about service disruption, interchange with other transport modes or LU lines, step free access and where appropriate high-level local and tourist information”*

### **Guide Dogs response**

We do not believe that reducing the amount of regulated information given will benefit some passengers, including visually impaired passengers. We are strongly of the view that priority should be given to regulated information rather than tourist information.

### **Stated mitigating factor**

*“All regulated information will still be given inside the train between stations in audible and visual format once the new Passenger Information System is delivered as part of the train overhaul.”*

### **Guide Dogs response**

We are delighted that a new Passenger Information System is due to be upgraded as part of the train overhaul schedule. Audible announcements between stations are beneficial to blind and partially sighted passengers. The feedback we have from visually impaired people is that it can often be difficult to hear audible announcements between stations. This can be a result of many factors such as; faulty equipment, loud noise from outside the train or the visually impaired passenger may also have hearing loss. It is also important to note that many London Underground station stops are within close proximity to each other. Therefore ‘next station’ announcements between stations can often leave an inadequate period for a

passenger to prepare to alight at the next station. This is particularly the case on busy trains when extra time is needed to reach the doors.

*“As a person who is vision impaired and with slight hearing loss, I find hearing the announcements whilst the train is travelling difficult to hear. When the train is stationary is the best time to announce the destination and the next stop of the service. It is also useful for people waiting to get on the train to know they are heading in the right direction.”* (Visually impaired London Underground user)

### **Stated mitigating factor**

“Passengers on the platform are able to get information from a range of sources including audible station announcements, platform ‘next train’ display indicators, visual displays on the external side of the vehicle and fixed signage such as network maps. Supplementing this are Platform Help Points which enable passengers to communicate directly with station staff for further information.”

### **Guide Dogs response**

In the majority of circumstances, passengers with a visual impairment are unlikely to see display screens on platforms, visual displays on the external side of the vehicle and fixed signage such as maps. This has the serious potential in preventing someone with sight loss from travelling independently.

### **Stated mitigating factor**

*“Short run times between stations offers reassurance if a passenger is travelling in the wrong direction and frequent service allows for correction quickly and easily with the minimum disruption should this occur”.*

### **Guide Dogs response**

For a blind or partially sighted person, realising they are travelling in the wrong direction can be extremely disruptive and cause significant anxiety and distress. For example, having to alight at an unfamiliar station and having to navigate to a platform to board the correct train.

### **Stated mitigating factor**

“In applying for this exemption, LU will bring the Bakerloo line fleet into line with the more modern trains used on the network. The standardisation of messaging brings a consistency across London Underground and aids travellers with familiarity of the. In silent time during the dwell, the driver or digitised announcer system can make announcements, where applicable, without detracting from the purpose of the regulated information. We therefore believe that the information described as an alternative to ‘next station’ on train announcements is of the spirit of RVAR.”

### **Guide Dogs response**

We strongly believe that ‘next station’ on train announcements are vital to independent travel for blind and partially sighted people using London Underground. Indeed, rather than requesting an exemption from this requirement under RVAR, we

would urge London Underground to reinstate 'next station' announcements on all trains on the London underground network.

**4. Paragraph 26: Any proposals for later modification of rail vehicles to secure compliance with RVAR within a stated period**

We are concerned that London Underground are requesting a permanent exemption from standards set out in Schedule 1, Part 1 (General Requirements) and Part 2 (Additional requirements) RVAR 2010 for trains operated on the Bakerloo Line, known as '72TS'.

**5. Paragraph 27: The effect which non-compliance would have on a disabled person's ability to use rail vehicles of the description to which the application relates**

**Stated mitigating factor**

"There is a possibility that passengers may board the wrong train as full information is not broadcast whilst the train is stationary. There are supplementary information sources which can be consulted to ensure that the chance of this happening is minimised before boarding the train."

**Guide Dogs response**

We strongly agree with London Underground that,

"There is a possibility that passengers may board the wrong train as full information is not broadcast whilst the train is stationary."

As previously mentioned in this consultation response, we believe this is extremely likely to cause significant additional anxiety and distress to blind and partially sighted passengers. We feel that this point should not be underestimated. For a sighted passenger, this could be considered as a minor inconvenience, in the case of a visually impaired passenger, this has the potential to have a long-term impact on their confidence in travelling independently.

**6. Paragraph 28: Any measures which could be taken to enable disabled persons to use the rail vehicle if exemption sought is granted**

**Guide Dogs response**

We welcome London Underground's commitment to continue to periodically review all information which is broadcast to customers, at stations and on trains, to ensure that it is appropriate and meaningful. This format of information provision is a vital mobility aid to blind and partially sighted people.