

## I. PLAIN ENGLISH SUMMARY

1. The Office of Rail and Road is consulting again on parts of its Accessible Travel Policy guidance for train operators. This guidance helps TOCs to put together their policies on how they make their journeys accessible for disabled people.
2. One issue being considered is whether when buses or coaches replace part of the rail route, known as “rail replacement services”, these buses or coaches have to comply with the Public Service Vehicles Accessibility Regulations 2000. These Regulations say that all buses with more than 22 seats, and all such coaches from January 2020, have to be accessible, safe and comfortable for disabled people including wheelchair users. Failure to comply is a criminal offence under the Equality Act (although the ORR does not enforce this criminal offence).
3. This advice looks at how far rail replacement services are covered by these Regulations. This is not a final view because the ORR is going to hear what consultees say before finally deciding what it thinks. At this stage, my conclusions are:
  - a. Buses and coaches do have to comply with these Regulations when they are providing a “local” or “scheduled” bus service;
  - b. It does not matter that it is the rail company (rather than the bus or coach operator) which is arranging and paying for these services. It also does not matter that passengers pay the train company for train travel, which covers the cost of a rail replacement bus or coach if one is needed. This type of service can still be a local or scheduled bus or coach service;
  - c. For a service to be local, the key point is that it will have at least one or more stops which are less than 15 miles apart. Long-distance services where all stops are 15 miles or more apart will not be local;

- d. Even if a service is not local, it could still be scheduled. Many rail replacement services will be scheduled because they have scheduled routes, times and stops – that is what scheduled means;
- e. Therefore, it is likely that most rail replacement services do need to be accessible to disabled people in order to comply with the law. The only ones that do not are non-local, un-scheduled services i.e. long-distance services which do not have specified stops, times or routes. There is also an exemption for services provided by vehicles which are 20 years old and which are only used for providing that service less than 20 days a year.
- f. The final issue is who would be guilty of the criminal offence if a rail replacement service did not comply with the law. This has not been tested in relation to rail replacement services, but my view is that it is not just the bus / coach companies who are at risk, but also potentially the train companies themselves because they can be said to be the ones causing the services to happen and it can be said to be within their power to ensure that only compliant vehicles are used.

**ZOE LEVENTHAL**

**Matrix**

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