

Rail Delivery Group



Public Service Vehicles Accessibility Regulations

Rail Replacement Vehicles – a pathway to regulatory compliance

March 2020

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Executive Summary

- a. **The rail industry is committed to improving accessibility for all customers**, tailored to their individual needs and offering each individual a comfortable, dignified journey, but also recognises that it does not always get it right and there is more to do. In this context, and the context of the dialogue the industry has had with individuals and organisations representing those with disabilities, it should be noted that there is a widespread view that, while compliance with the **Public Service Vehicles Accessibility Regulations (PSVAR) is an element of accessibility, complying with PSVAR is not sufficient to ensure accessibility for all**. The rail industry ultimately wants to go further to meet the needs of all its customers.
- b. This paper, and the proposal contained within, is underpinned by a **significant amount of activity since September 2019**, notably to engage with accessibility and coach stakeholders, limit usage of the granted exemption wherever possible and develop a pathway to compliance with PSVAR.
- c. When the Office of Rail and Road (ORR) revised its position on PSVAR applicability to rail replacement services (RRS), **the rail industry had a matter of months to achieve PSVAR compliance for RRS**. When introduced in 2000, the tour and private hire coach market was, and remains, exempt. However, service buses fell within scope and over the last 20 years these vehicles have become largely PSVAR-compliant.
- d. Where service buses can be used for RRS, for example on shorter journeys where infrastructure and journey type permits, the rail industry can run a PSVAR-compliant service. However, where the industry has to use coaches for RRS, they are procured from a pool that is overwhelmingly non-compliant. **This disproportionately impacts long distance operators who are more reliant on coaches and cannot feasibly or legally use service buses for RRS**.
- e. Since the beginning of 2020, so as to limit the use of the granted exemption, **train companies adopted a number of creative approaches to deliver a PSVAR-compliant RRS**. However, despite these efforts, the limited supply of PSVAR-compliant coaches meant the exemption was required to enable the industry to keep all passengers moving.
- f. Recognising that there is an inadequate supply of PSVAR-compliant coaches available for RRS at any one time, and that a further longer-term exemption is required, RDG has liaised with accessibility groups and RRS providers to explore how **accessible travel options and the spirit of PSVAR compliance can be achieved while the supply of PSVAR-compliant coaches increases**.
- g. Train operators would always procure **as many compliant vehicles as possible** before filling any gaps with non-compliant vehicles. **Disabled customers would always be provided with a suitable vehicle**. Operators would also look to remove segregation through utilising spare seats on alternative transport to include other customers (for example, if a taxi is used and other seats are available, those seats would be offered to other customers). This approach would enable services to run as they have done in previous years, providing tailored services for different customer groups.

- h. The rail industry is **committed to providing better information to inform and improve travel choices for those with accessibility requirements during planned disruption**. This includes clear information on the National Rail Enquires website and journey planner about the type of RRS provision on offer during disruption. Coupled with the retraining of frontline staff and call centre staff on issues of accessibility and rail replacement provision. Discussions with groups representing those with disabilities highlighted the importance of RRS information being clear, timely and accurate.
- i. In order to increase the pool of PSVAR-complaint coaches, it must be recognised that coach operators are **predominantly small businesses which provide services in many different markets**; some operating services for Home to School (H2S) and Tours. For the majority, RRS makes up a small percentage of their business, and there are no operators (that RDG are aware of) dedicated solely to the RRS market. It is therefore vital to note that any move to immediately require coaches to be PSVAR-compliant for RRS would likely result in those coach operators refocusing on their core businesses of tour operations (which are exempt from PSVAR) and/or H2S where a four-year staggered PSVAR exemption currently exists.
- j. For many coach operators, H2S is often the majority of their business and they focus on H2S during the working week and RRS at weekends and during holiday periods. **Therefore, it is paramount – and this is an approach supported by the Confederation of Passenger Transport (CPT) – that the further exemption needed for RRS is as a minimum in line with that for H2S**. With this alignment it is believed supply can be stimulated to allow for **coach RRS to become PSVAR-compliant for planned disruption subject to the supply of coaches increasing sufficiently**.
- k. The current timeframe of four years for coaches serving the H2S market to become compliant is **extremely ambitious and is likely to need government intervention, probably involving financial support**. The alternative would be to provide a longer time-period to achieve compliance in the H2S market. If this were to happen, the timeframe for RRS compliance would need to be extended to align with that for H2S. **It is important to note that if local authorities decided to provide free H2S travel for all children in the future, coaches serving this market would be exempt from having to comply with PSVAR**. In these circumstances, the supply of PSVAR coaches is unlikely to increase to the extent required for RRS compliance. Therefore, it is crucial that all coaches currently operating in the H2S market become compliant and the market conditions remain similar to the present day to ensure compliance can be achieved for planned disruption.
- l. Should the current exemption for RRS not be extended beyond 30 April 2020, this would have some serious consequences. Given the **current availability of compliant vehicles for RRS is insufficient to operate a fully PSVAR-compliant service even for planned disruption**, the industry would be left with a number of unpalatable options including potentially **having to issue ‘do not travel’ notices**.
- m. Unplanned disruption is far more difficult to resolve and requires more time, as procuring vehicles is significantly more challenging given the intensified time and geographical constraints. For there to be enough PSVAR-compliant coaches available at any time and at short notice, all coach companies would need increased incentive to replace their stock or retrofit existing stock. **This**

is most likely only achievable by removing the exemption for private hire coach tour operators as a whole sector – thus ensuring that all coaches become PSVAR-compliant.

- n. Therefore, to guarantee PSVAR compliance for unplanned disruption, **legislative provision requiring all coaches to be PSVAR-compliant is essential**. A sufficient time-period would be required for the whole coach market to become compliant. It is believed that, coupled to such legislative provision, an exemption for RRS used for unplanned disruption of at least eight years would be needed to secure sufficient supply, as RRS alone is not enough to provide enough demand to create a contingent pool of compliant coaches. This timescale is critically dependent on how quickly the supply of compliant coaches increases in response to the legislative change.
- o. The legal status of the RRS exemption must be clear and unarguable – or risks further challenge that disrupts the industry’s pathway to compliance. As a result, there is a strong preference for the exemption to be made **through the laying of a Statutory Instrument under Section 174 of the Equality Act 2010**, rather than an exemption under Section 178 of that same piece of legislation.
- p. It is hoped that the proposals contained within this document, **based on the extensive engagement undertaken both with groups and organisations representing those with accessibility needs and with the coach industry**, are seen as a considered and appropriate response to what is a complex situation. RDG would welcome the opportunity to discuss these proposals.

Endorsement of the industry’s approach to PSVAR compliance

As noted in the acknowledgments, RDG engaged with a wide range of disability professionals and stakeholders to test the path to PSVAR compliance contained within this document. The quotes below reflect the extensive engagement RDG has undertaken to ensure the rail industry’s approach to rail replacement is accessible, pragmatic and dignified.

Notable quotes from our discussions include:

Sarah Rennie, Accessibility and Inclusion Specialist:

“I fully support the process RDG have gone through in terms of engagement and agree with its assessment of the key access barriers/needs relating to PSVAR and compliance facing disabled and older passengers. It is an important distinction that PSVAR compliance does not mean accessibility”

Tim Nicholls, Head of Policy and Public Affairs, National Autistic Society:

“The National Autistic Society endorse the approach that RDG have taken by speaking to accessibility groups and agree that compliance does not equal accessibility. Customers will want choice and better information to enable them to make informed choices and it is important to agree a path to compliance”

Clive Woods, Policy and Campaigns Manager, Guide Dogs:

“Disruption to a train journey for a person with sight loss can often cause anxiety and could result in reluctance to travel by train in the future. We strongly believe that a robust and consistent process should be in place to ensure that passengers with a disability, including blind and partially sighted people, should have access to a high standard of information and the support needed to complete their journey in a way that meets their individual needs. This includes Disability Equality Training for front line staff including; bus/coach drivers, agency staff and taxi drivers”

Scope, The Disability Charity:

“This [paper] reflects the discussions we’ve had with RDG a number of times over the last few weeks. We still think 4 years is too long to move the H2S market to compliance, but we recognise that this is beyond RDG’s remit to change. We welcome the commitment to improving information for disabled passengers when rail replacement is in operation, and we are supportive of continuing to use taxis as a reasonable adjustment as appropriate – especially during the period before full PSVAR compliance is achievable.

We are still hugely disappointed that this situation has occurred given how long the lead in was to PSVAR compliance, but we also recognise that the lack of clarity and timeframe the rail industry has been left with to ensure compliance for RRS was untenable. The key issue for us is that disabled people continue to be let down because the different regulatory and licensing frameworks that exist across modes of transport create such huge gaps in consistency, which is then compounded by a lack of cross-modal oversight.”

The full details of RDG’s rail replacement measures whilst on the path to PSVAR compliance are contained within sections D and E.

A. Accessibility and rail

The rail industry is committed to improving accessibility for all customers, tailored to their individual needs.

1. The rail industry is committed to providing an accessible service for all its customers and has over a number of years been making significant improvements, reflecting the variety of different individual needs. However, there is a recognition that the industry does not always get it right, and it is committed to improvement for all its customers.
2. Since September 2019, RDG has been engaging intensively to develop a pathway to compliance with Public Service Vehicles Accessibility Regulations (PSVAR) for planned and unplanned disruption, which balances the needs of all customers with the requirements set out in the PSVAR.
3. Individual meetings were held, and RDG coordinated a roundtable in February 2020 for groups, organisations and individuals representing those with accessibility requirements. Feedback was sought on both Rail Replacement Services (RRS) in general, and the proposals made in section D and E of this document reflect the time spent examining long-term sustainable solutions to this issue.
4. It is important to note that while PSVAR is an important aspect of accessibility, PSVAR compliance is not directly equivalent to accessibility. RDG's discussions with groups representing those with disabilities has highlighted that, for example, while some wheelchairs are crash tested, many are not, which means they could be unsafe or unusable on certain PSVAR-compliant vehicles. Furthermore, PSVAR does not provide an accessible journey for customers with hidden disabilities, such as those with neurodiversity.
5. RDG held a further roundtable with representatives of the coach industry to better understand the nature of the current market, the likely development of the supply of PSVAR-compliant coaches, and to test what an achievable path to compliance could look like. This engagement has informed section F on the coach market and specifically that market in relation to RRS.
6. In recent years, there have been a number of initiatives related to accessibility that have delivered real benefits. These have included:
 - The development and launch in 2019 of the interactive *Access Map*. This enables passengers, including visually impaired people, to find out about station accessibility in one click, helping people feel more confident about travelling by train. Between March and July 2019, more than 24,000 people logged on. We expect over 100,000 journeys to be planned using the map this year, and an app version will go live in 2020.
 - Regular *Try a Train Days* intended to grow customer awareness and confidence among those with learning disabilities or those who have not travelled for a long time: operators work with schools and local authorities to identify those who would benefit most from this experience and attendees are taken on a dedicated train and supported through the whole experience of using a train, from buying a ticket through to arrival at a destination. The

initiative has taken place since 2010 and *Try a Train Days* are currently ongoing with a number of operators.

- Greater Anglia, West Midlands Railway, ScotRail, Transport for Wales and Govia Thameslink Railway offer free travel to Travel Trainers. Typically employed by local authorities, Travel Trainers provide support across all modes of transport to those with learning impairments to familiarise them with various travelling experiences.
- On behalf of its members, RDG is leading the industry in designing inclusive staff training, helping our staff communicate better to customers with a range of needs, as well as providing information on the Equality Act and other relevant legislation.
- Within two years, all frontline staff will have received in-depth equality training and from this year, all new starters will receive equality training as part of their induction.

7. These efforts to increase accessible travel options tailored to individual needs continue, with current and further forthcoming initiatives including:

- Delivery of 8,000 new rail carriages by the middle of 2020: this replacement of over half of the national fleet will see significantly improved access for customers with restricted mobility.
- Over 90% of rail carriages are now PRM-TSI compliant and 97% are expected to be by the end of the year.
- Improvements to *Passenger Assist* will be available later in 2020, focused on new communication tools and removing the biggest opportunities for a customer journey to go wrong.
- A reduction in the advance booking times for passenger assistance: customers are currently required to book 24 hours in advance but, by 2022, this will be reduced to two hours ahead of departure.
- Working in partnership with the Department for Transport's Inclusive Transport Strategy public campaign *It's Everyone's Journey*.
- A review of the eligibility criteria for the Disabled Persons Railcard to simplify the application process for those of our customers who may have hidden disabilities.

8. The industry will continue to push and drive these initiatives forward to ensure that all passengers, regardless of needs, can access the rail network. The following sections provide an overview of this commitment in the instance of PSVAR, whilst the box below reflects a number of positive endorsements that the industry's proposal to achieve PSVAR compliance has received.

B. The application of PSVAR to rail replacement services

The disparity in the application of PSVAR and the change in guidance from the Office of Rail and Road (ORR) has meant the supply of coaches available for RRS is insufficient.

9. Before outlining the rail industry's measures to achieve PSVAR compliance in the interim and long-term, this section provides an overview of why the issue of PSVAR compliance has arisen.
10. PSVAR applies to road vehicles, while rail vehicles are covered by PRM-TSI regulations, and therefore it is only the application of PSVAR to rail replacement services (RRS) that is at issue. When introduced in 2000, PSVAR covered single-deck buses, double-deck buses and single or double-deck coaches running scheduled services. As a consequence, the majority of service buses are PSVAR-compliant as these are overwhelmingly used on scheduled services – allowing a maximum of 17 years within the guidelines of the regulation for the bus owners to retrofit or replace vehicles.
11. However, tour and private hire coach operators were exempt from PSVAR as they do not run scheduled services, meaning only a small percentage of coaches are PSVAR-compliant. Where the industry has to use coaches for RRS (as explained in section G), they are procured from this pool where the stock is largely non-compliant. This disproportionately impacts long distance operators who are more reliant on coaches and cannot feasibly or legally use service buses for RRS.
12. Previous Accessible Travel Policy guidance from the Office of Rail and Road (ORR) had been that PSVAR did not apply to RRS, though train operators should make 'reasonable endeavours' to procure PSVAR-compliant vehicles. This was the approach the rail industry had adopted: procuring as many PSVAR-compliant vehicles for RRS as possible, while also using other accessible vehicles (such as taxis) where necessary.
13. However, on 30 September 2019, ORR published further independent legal advice which provisionally concluded that PSVAR could apply to RRS. That advice was published after careful consideration of various interrelated and complex pieces of legislation, and cases dating back many decades. It was not, in other words, wholly clear cut. Indeed, RDG's own legal advice suggested that there are arguments either way on the applicability of PSVAR to RRS.
14. As a result of this revised legal advice by the ORR, the rail industry was given a matter of months to achieve PSVAR compliance for RRS. This short timescale does not reflect the significant fact that the coach market, from which RRS vehicles are procured from, has been exempt and therefore not incentivised or given the time (17 years in the case of service buses) to become PSVAR-compliant.
15. Coaches are generally used to provide RRS on long-distance and regional services for reasons of comfort, safety, speed and the increased availability of luggage space. Therefore, the PSVAR exemptions applying to a large part of the coach market have a material effect, as they have significantly reduced the number of compliant coaches available. Where buses can be used for RRS on shorter distance routes, however, services are compliant today.

16. Recognising the challenges, in particular the time constraints, the rail industry has engaged widely with groups, organisations and individuals representing those with disabilities, and the coach industry to develop a pathway to enable the industry to comply with both the letter and the spirit of the regulations (see sections D and E) – whilst ensuring as limited use of the granted exemption as possible, as outlined in the next section.

C. Initiatives to limit use of the exemption

As already committed to with the Minister, the rail industry has adopted a number of creative approaches to limit the use of the current exemption as far as possible and provide a compliant service to all customers.

17. Where service buses can be used for RRS, for example on shorter journeys where infrastructure and journey type permits, the rail industry can run a PSVAR-compliant service. However, where the industry has to use coaches for RRS, they are procured from a pool that is overwhelmingly non-compliant. This disproportionately impacts long distance operators who are more reliant on coaches and cannot feasibly or legally use service buses for RRS (the issue of legality is explored in section G).
18. In order to limit the use of exemption as far as possible, train companies and rail replacement providers have explored and adopted a number of creative approaches to run a PSVAR-compliant service. These have included:
 - In order to increase the supply of PSVAR-compliant coaches elsewhere, West Midlands Trains and Abellio Rail Replacement worked with Network Rail to split the Hereford to Worcester blockade – historically a single route – into two routes, making it possible to use PSVAR-compliant service buses across two shorter journeys without overly degrading the service because so few passengers travel the route end-to-end.
 - FirstGroup and Abellio have worked together in Scotland with FirstGroup moving ten PSVAR-compliant coaches from across the country to support the blockade in Aberdeen. In the central belt, FirstGroup brought service vehicles from seven different depots to supply planned work around Glasgow.
 - Go-Ahead brought vehicles from as far away as Newcastle for a blockade in King’s Lynn due to poor local supply, incurring additional costs for mileage and hotel accommodation – indeed, all providers have sought to use vehicles from further afield in order to meet demand, though this is in the context of a GB-wide shortage of PSVAR-compliant vehicles available for RRS. However, this does have adverse environmental implications.
 - Due to the limited supply of coaches, First TransPennine Express have switched vehicles from their usual coach specification for the Leeds to Dewsbury/Huddersfield routes to use service buses.
 - Abellio Rail Replacement have undertaken a market assessment to attempt to identify the current owners of all existing PSVAR-compliant ex-National Express vehicles to ensure those owners are on their supplier panel.
19. However, despite these efforts, the limited supply of PSVAR-compliant coaches available to the RRS market meant that the exemption was required to enable the industry to keep all passengers moving. Examples included:
 - Due to demand resulting from a multi-TOC blockade, the Aberdeen to Dundee route ran with Abellio securing 22 of the 52 coaches required each day while LNER secured two of 25 coaches – the remainder were run using the PSVAR exemption.

- On Stansted Express, Abellio have staggered the use of limited PSVAR-compliant coaches to ensure every departure has a PSVAR-compliant vehicle, with other vehicles departing under the exemption at the same time to provide additional capacity on busy airport services.
 - With a limited supply of PSVAR-compliant coaches in rural locations, First Great Western Railway and South Western Railway have used the exemption where it is not practical to use buses as a result of the distances involved.
20. Noting the efforts above, for planned disruption in February 2020, coach RRS achieved 60% compliance nationally (777 of 1,904 vehicles were not compliant), while for unplanned disruption, there was a much lower 30% compliance (2,225 of 3,179 vehicles were not compliant). Levels of compliance are different for different operators. Compliance in many urban areas for planned disruption will be closer to 100% as service buses can be used – RDG can provide this more detailed breakdown.
21. It should be noted the figures above are considered a low demand period for RRS. In February, there are very few large possessions while the demand for coaches by the leisure coach market is low. As such, these figures could be considered a best-case scenario to achieve PSVAR compliance under current supply levels.
22. The national figure for compliance for unplanned disruption is low as rail operators source vehicles at very short notice (within an hour and locally) to keep passengers moving and prevent safety issues arising, such as overcrowding. Section F provides a more detailed breakdown of how many PSVAR-compliant coaches currently exist and how many are needed to run planned RRS at peak times.
23. Recognising the challenges highlighted above, RDG's discussions with accessibility groups have focused on what immediate and pragmatic steps can be taken to provide accessible rail replacement travel options while the coach industry increases its supply of PSVAR-compliant coaches. In dialogue with disabled passengers, the options in the next two sections outline how the spirit of PSVAR can be achieved whilst offering a tailored and dignified journey.

D. Measures for immediate implementation

The industry has developed a number of measures for immediate implementation to deliver accessible travel options.

24. The supply of PSVAR-compliant coaches available for RRS at any one time is inadequate and a further exemption for planned disruption, aligned to the Home to School (H2S) exemption (explained in section H), is required to avoid 'do not travel' notices being issued to all customers. A longer exemption is required for unplanned disruption (explained in section J).
25. RDG has liaised with groups and organisations representing those with disabilities and RRS providers to explore how accessible travel options and the spirit of PSVAR compliance can be achieved while the supply of PSVAR-compliant coaches increases. These options are not mutually exclusive and different approaches will work in different areas depending on the type of service, geography and passenger volume.
26. This framework seeks to ensure an accessible RRS travel option can be offered while meeting the needs of all disabled passengers (again noting that PSVAR compliance in and of itself is insufficient to ensure an accessible railway for all). As such, the measures below provide a clear path to ensure an accessible and inclusive service for passengers can be achieved in the interim. This approach would enable services to run as they have done in previous years, providing tailored services for different customer groups.

Prioritising the procurement of available PSVAR-compliant vehicles

27. The industry will increase its lead times for procuring PSVAR-compliant vehicles for RRS used during planned disruption. Where a PSVAR-compliant coach is not available due to limited supply, RRS providers and train operators will explore if a PSVAR-compliant bus can be used to split up the service. Where this is not possible, due to practical limitations such as the service type (e.g. airport services) or infrastructure (e.g. unsuitable rural roads), the industry will explore the options outlined in paragraphs 31-33.
28. Additionally, for the periods of highest demand (such as Christmas, Easter and bank holiday weekends), where there is significant overlap between different train operators' RRS requirements, the industry – through RDG – will convene working groups to assess what measures can be taken to maximise the efficient use of PSVAR-compliant vehicles. This could include, for example, taking a more coordinated approach to securing PSVAR-compliant coaches, moving the supply of PSVAR-compliant coaches around the country, and arranging for the cross-acceptance of tickets for disabled passengers to remain on rail services where possible. Even overtime as more PSVAR-compliant vehicles become available, it should be recognised that big blockades will continue to require a significant number of vehicles – TOCs, RRS providers and Network Rail will continue to engage to see how large blockades and duplication of coach demand can be better managed to avoid non-compliance.
29. It will sometimes not be possible to use a PSVAR-compliant coach due to either the constraints of the pickup and drop off points (notably the need for space and level ground on which to deploy

a ramp) or the distance from those points to the station. Where this is the case, and to ensure those customers with disabilities (primarily mobility impairments) can continue their journeys, the industry would use an accessible taxi or other small vehicle.

30. Further to these measures, and in instances where it is still not possible to provide a PSVAR-compliant vehicle, the industry will commit to the following actions to provide an accessible travel option.

Including at least one PSVAR-compliant vehicle on all multi-vehicle departures

31. On some busier routes, train operators currently run multiple RRS vehicles for each timetabled departure. Where this applies, the industry will prioritise the supply of available vehicles so that a PSVAR-compliant vehicle is included in each multi-vehicle departure. This will help to create accessible journey options across the timetable. Clearly, this solution is ideally suited to larger volume blockades on long-distance or regional routes where the volume of RRS vehicles required is particularly high.
32. For example, when RRS vehicles are being used between Stansted Airport and Liverpool Street, there are five vehicles per departure. The journey distance and need for luggage space make buses an impractical option (see case study in section G). In this case, the industry – where supply allows – would attempt to secure sufficient PSVAR-compliant vehicles to cover all vehicles in each departure. However, it would consider it as a minimum requirement to ensure at least one of the five departing vehicles was PSVAR-compliant. On the most significant line closures, it is envisaged that this would need to be combined with further accessible standby provision as detailed below.

Accessible standby provision

33. It is already common practice during planned disruption to provide additional vehicles (such as taxis or minibuses). This is done to provide additional capacity where passenger numbers are high or to cover mechanical faults. The industry is proposing that, where non-compliant coaches are being used, a sufficient supply of PSVAR-compliant coaches could be secured to be on standby to swap in if this is necessary (in other words, when a compliant vehicle is needed as a disabled customer is travelling) or, on lower volume services, this could be an accessible taxi. In order to minimise the issue of segregation (a concern raised by accessibility groups), train operators and RRS providers would seek to secure minibuses to ensure that companions can travel together where an accessible service is required.

E. Better information provision

The rail industry is committed to providing better information to inform and improve travel choices for those with accessibility requirements during planned disruption.

34. Underpinning all the interim travel options is a further commitment by the rail industry to improve passenger information during disruption. Discussions with accessibility groups and submissions to the ORR's consultation highlighted the importance of RRS information being clear, timely and accurate to reduce stress, anxiety and to empower disabled passengers.
35. Work will be undertaken to provide better information on the National Rail Enquiries website regarding the accessibility of RRS provision to inform travel choices. From the end of April, when a customer plans a journey on the National Rail Enquiries website and that journey is affected by planned disruption that involves RRS provision, there will be a bulletin attached giving details of the disruption, contact details for *Passenger Assist* and indicating whether the RRS vehicle will be a bus, a coach or a mix as soon as this information is available. This functionality will be made available in real time through open data feeds.
36. Recognising that a PSVAR-compliant coach does not cater for the needs of all disabled passengers, a passenger can assess whether the booked replacement vehicle is right to meet their needs. If not, all the necessary signposting will be made available on the National Rail Enquiries website, so passengers are empowered to request a different vehicle where needed. This section of the website will give details of the policies by operators and contact details for customers needing assistance.
37. In addition, train operators will commit to retraining frontline staff and all call centre staff on the issue of accessibility and rail replacement provision specifically, especially regarding the provision of taxis. These materials will be finalised in April before wider communication. Therefore, in times of disruption, particularly if unplanned, staff will have the tools to ensure that the needs of disabled passengers are met as quickly as possible.
38. In summary, the last two sections highlight the immediate steps the rail industry can take to ensure that disabled passengers are offered an accessible rail replacement journey – guided by their needs and delivered in a timely and dignified manner. These measures will be enacted during an interim period while the coach industry increases its supply of PSVAR-compliant coaches.
39. Before presenting the mechanisms by which the coach industry can be incentivised to increase its stock of PSVAR-compliant coaches (see sections H, I and J), an outline of the market from which the rail industry procures coaches is presented in the following sections (F and G).

F. Background on the coach market for rail replacement services

The coaches used for RRS are largely procured from tour and private hire operators who are not required to be compliant with PSVAR.

40. In order to achieve compliance for RRS, an awareness of the coach market and its dynamics is important. This section provides an overview of the coach market that the rail industry uses to procure RRS vehicles.
41. Coach operators are predominantly small businesses (with small fleets ranging from single to low double digits) who provide services in many different markets, notably tour operations and Home to School (H2S). In the majority of instances, RRS makes up a small percentage of a coach operators' business (ranging approximately from 1-15% of revenues but typically at the lower end of this figure). There are no coach operators (that RDG are aware of) which are dedicated only to the RRS market given they are typically required only for some weekends throughout the year and the requirements are geographically spread.
42. Working with the Confederation of Passenger Transport (CPT) and RRS providers, RDG has undertaken an assessment of the coach market. This analysis indicates that there are approximately 30-35,000 coaches in Britain, of which approximately 2,200 were originally registered as being PSVAR-compliant. Approximately 10,000 coaches are used in the H2S market, of which around 6,000 will need to become PSVAR-compliant, the majority of the rest are used for tour and private hire operations which are exempt from PSVAR requirements.
43. However, a significant proportion of the 2,200 coaches that were registered as PSVAR-compliant are unavailable for RRS, as they are being used in other markets, for example under exclusive contracts (such as by National Express or Megabus) or by tour operators. Furthermore, many others (over 600) that were originally registered as compliant have subsequently been regressively retrofitted and made non-compliant. Principally, this has been through the removal of a vehicle's wheelchair lift to improve vehicle reliability (through not having to maintain equipment) and expand seat space, which could be considered a rational commercial choice by a coach operator given that their vehicles are not required to be PSVAR-compliant.
44. In addition, the geographical spread of available coaches is currently concentrated in areas where demand was needed pre-PSVAR – for example in urban areas. This can mean transporting vehicles long and unsustainable distances to serve RRS needs.
45. As such, allowing for maintenance, contract commitments and geographical constraints RDG estimate that a maximum of 200-250 PSVAR-compliant coaches are actually available for RRS at any one time.
46. RDG with CPT and RRS providers has mapped out the availability of PSVAR coaches. An overview of the current position regarding PSVAR-compliant coaches available for RRS during planned disruption is in the table below:

Location	Pre-PSVAR fleet	Post-PSVAR fleet	Available for RRS ¹	Peak RRS demand ²
Scotland	988 coaches (149 suppliers)	61 coaches (35 suppliers)	30	120
North	1000 (147)	102 (31)	50	227
Midlands	976 (158)	46 (30)	23	310
Anglia	855 (91)	69 (43)	34	100
South East	460 (60)	35 (12)	16	70
London	n/a	70 (6)	35	n/a
South West	1200 (99)	60 (22)	32	135
Wales	463 (74)	51 (14)	25	n/a
Total	5,942	494	245	962

47. When reading this table, the following considerations should be borne in mind:

- Pre-PSVAR fleet: this reflects the number of coaches that RRS providers had access to (e.g. preferred suppliers) prior to the application of PSVAR. Note that this total is more than 12 times the number of PSVAR-compliant coaches theoretically available.
- Post-PSVAR fleet: this reflects the very best possible scenario based on the number of PSVAR-compliant vehicles suppliers have access to. It is also worth noting that this shows the available market – especially outside London – is largely dominated by small companies with one or two compliant coaches.
- Available for RRS: this reflects the fact that PSVAR coaches are available to other markets. For many suppliers, RRS represents a small percentage of their business. Using figures provided by RDG members, CPT, RRS providers, the Driver and Vehicle Standards Agency and historic data, it is estimated that the total supply of PSVAR-compliant vehicles for RRS averages 200-250 coaches at any given time.
- Peak RRS demand: RDG has examined a high demand scenario for RRS vehicles, focusing specifically on the improvement works originally scheduled for Easter 2020. This reflects a period when many blockades occur on the rail network and the coach industry traditionally experiences increased demand which continues throughout the summer (notably in the leisure coach market).

48. In addition, assuming that the total number of compliant vehicles available for RRS matched the total demand for those vehicles in peak periods, the wide geographical distribution of those vehicles would in reality mean that supply needed to be significantly in excess of demand for all RRS to be delivered using compliant vehicles.

49. Even in February 2020, a low demand period for RRS and coach operators, and after significant endeavours by operators to limit the use of the PSVAR exemption, it should again be noted that planned RRS achieved 60% compliance nationally, while unplanned RRS achieved 30% compliance.

50. A further issue arises with any overrunning engineering works. This is because supply is often allocated over a longer period than a day so suppliers can plan driver rest breaks for the day

¹ Excludes those vehicles subject to exclusive contracts.

² Based on RRS requirements for planned Easter 2020 improvement works (pre-COVID-19 crisis).

after large operations. When organising work overruns, further coaches are required at short notice. While this predates the issue of PSVAR, it is exacerbated further by a limited supply of compliant coaches.

51. Many suppliers provide for scheduled coach services such as National Express. Due to the application of PSVAR this year, it is anticipated going into the summer months that there will be more demand for these vehicles as a result and therefore a further reduction in the number of compliant coaches available for RRS.
52. Should the current exemption for RRS not be extended beyond 30 April 2020, this would have serious consequences. Given the current availability of compliant coaches for RRS is insufficient to operate a fully PSVAR-compliant service even for planned disruption, the industry would be left with a number of unpalatable options:
 - Using PSVAR-compliant buses instead of coaches even on long-distance and regional routes by splitting up routes (assuming supply matches demand), with a significantly degraded service for all customers in terms of reduced comfort and increased journey times;
 - Operating a significantly reduced capacity for RRS, using only available compliant vehicles – whether coaches or buses – with far less certainty of service and a consequent impact on available information for all customers, including those with accessibility requirements;
 - Issuing ‘do not travel’ notices, while acknowledging the impact this will have on all customers; or
 - Risking potential serious safety implications during unplanned disruption if it is not possible to move significant passenger volumes quickly and immediately.
53. Given the timing of the current end date of the exemption, and the planning lead times involved, this problem is potentially acute in relation to the two May Bank Holiday weekends (8-10 and 23-25 May). However, the reality is that, until the coach market has adapted, a fully compliant service for planned and unplanned disruption is unachievable.

G. The choice of coach or bus

The choice between coaches or buses for RRS depends on the nature of the service, but almost all buses are compliant while only a small proportion of coaches are.

54. As highlighted in previous sections, service buses are largely compliant because these predominantly run on scheduled services and are therefore required to be compliant under the PSVAR. Since 2000, operators using single-deck buses (over 7.5 tonnes) were given 16 years to become compliant and double-deck buses 17 years – providing ample time for operators to renew assets.
55. Coaches were also required to become compliant by January 2020 if used for scheduled services – however, very few are used on such services. This in effect granted tour and private hire coach operators an exemption from PSVAR.
56. Train operators procure either coaches or buses for RRS based on the nature of the service. Coaches are used on long-distance and regional services due to the increased comfort, the availability of toilets and greater storage space for luggage. Buses are used on short distance commuter routes, especially around London and the South East.
57. Importantly, tachographs are used to measure speed, distance and working hours (including driving) to ensure compliance to regulations. In most cases, tachographs are used on coaches and not buses. A vehicle without a tachograph is restricted to 40mph, whereas a coach can run at up to 60mph. In addition, where a route (end to end journey including all stops) is over 50km in length, a tachograph is required.
58. Fitting tachographs to buses solely for RRS is not practical and would require service operators to re-roster their drivers' hours (from EU driving hours to domestic) over the rest of a working week to accommodate RRS. In practice, this means that it is unrealistic to use many service buses instead of coaches on longer distance RRS routes. It would also result in an inferior service being provided to customers overall, as it would lead to longer journey times, reduced comfort and reduced luggage space.
59. Furthermore, there are also many infrastructure constraints that limit the adoption of PSVAR-compliant coaches – such as inadequate deployment locations for wheelchair ramps at train stations or bus stops.

Case Study: Stansted Express

The distance between Stansted Airport and Liverpool Street is just over 50km, and therefore a vehicle with a tachograph must be used. Given this, and that significant luggage space is also required, coaches are used. The RRS journey time is around 1h25 compared to 55 minutes by train. Were the route to be split, for example by only running as far as Tottenham Hale, buses could be used instead of coaches as a tachograph would no longer be a legal requirement. However, this would involve (a) all passengers disembarking at Tottenham –

where there is insufficient capacity for the number of vehicles – to make the remaining part of their journey by London Underground; (b) increased journey times for all passengers, as they would have to travel on the M11 in a bus limited to 40mph; and (c) there would be far greater limitations on luggage space.

60. As previously highlighted, the rail industry will endeavour to procure PSVAR vehicles first, including attempting to split up services where possible, using service buses that are largely compliant. However, due to issues of legality, infrastructure or comfort coaches will still be necessary. That is why RDG liaised with groups and organisations representing those with accessibility needs and RRS providers to deliver accessible travel options and the spirit of PSVAR compliance while the supply of PSVAR-compliant coaches increases. The mechanism for stimulating the supply of PSVAR-compliant coaches is explored in the following sections.

H. *Aligning rail replacement service (RRS) deadline with Home to School (H2S) to achieve PSVAR compliance for planned disruption*

The coach industry supplying H2S services will only be incentivised to increase the supply of PSVAR-compliant vehicles for RRS during planned disruption if there is a clear deadline aligned to the H2S exemption deadline.

61. The majority of coaches secured for RRS during planned disruption at weekends are often the same coaches that are used for H2S services during the week. If the coaches used for H2S are not PSVAR-compliant, RRS cannot become fully compliant for either planned or unplanned disruption. Therefore, it is paramount – and is an approach supported by the Confederation of Passenger Transport (CPT) – that the further exemption needed for RRS is as a minimum aligned with the exemption for H2S.
62. Continued shorter extensions of the current exemption for RRS will not provide the longer-term clarity coach operators need before committing investment in new or second-hand vehicles or retrofitting their existing vehicles and, without that investment, compliance for RRS will simply not be achievable. A shorter extension will instead provide an incentive to defer such investment until longer-term clarity is available.
63. Recognising that H2S makes up approximately 60-80% of many operators' businesses, alignment in the approach taken for H2S and RRS is essential to ensure that a shorter RRS compliance deadline does not incentivise operators to remove their coaches from the RRS market.
64. With an aligned end to the exemptions for both RRS and H2S, it is believed this can stimulate supply to allow for coach RRS to become PSVAR-compliant for planned disruption. However, the current staggered timeframe of four years for coaches serving the H2S market to become compliant is extremely ambitious and is likely to need government intervention, probably involving financial support. There are around 6,000 coaches used in the H2S market that are affected by the end of the exemption and so replacement and retrofitting costs will be significant. There is also a significant challenge in terms of the capacity of the supply chain to deliver the necessary new and retrofitted vehicles (as demonstrated in the next section) which will complement second-hand vehicles coming on to the market.
65. The alternative would be to provide a longer time-period to achieve compliance in the H2S market. If this were to happen, the timeframe for RRS compliance would need to be extended to align with that for H2S.
66. It is important to note that if local authorities decided to provide free H2S travel for all children in the future, coaches serving this market would be exempt from having to comply with PSVAR. In these circumstances the supply of PSVAR coaches is unlikely to increase to the extent required for RRS compliance. Further, H2S market share can vary between region and TOC within regions and for this reason all coaches currently serving the H2S market would need to be PSVAR-compliant for RRS to be compliant across the country for planned disruption.

I. Sources of supply of PSVAR coaches

There are capacity constraints in the sources of supply of PSVAR-compliant coaches which would need to be eased for RRS and H2S coaches to become compliant over a relatively short period (currently four years for H2S).

67. While the rail industry has sought to maximise the use of existing PSVAR-compliant coaches, as demonstrated in previous sections, the overall supply must increase in order to develop an appropriate long-term solution.
68. The supply of compliant coaches can be met through a number of sources. However, it should be recognised that the supply chain's capacity to provide PSVAR-compliant coaches is limited and will be somewhat challenging for the H2S market – a market that RRS is inextricably linked to. The key sources are:
- Buying new coaches: A new PSVAR-compliant coach costs an estimated £250,000, with a delivery timeline of approximately three-six months. Currently, manufacturing capacity allows for around 1,000 new vehicles to be produced annually for the UK market. However, it should be noted that the vast majority of these coaches will not be available to the RRS market – not only are the majority not compliant (as they are being supplied to markets where compliance is not required) but many that are compliant are being built for exclusive use (such as for National Express). In addition, the upfront costs for small-to-medium coach operators purchasing new coaches are unfeasible in many instances. Nonetheless, it is anticipated that an aligned deadline for compliance for both RRS and H2S will begin to ensure that the majority of new coaches coming onto the market are PSVAR-compliant, while also providing a supply of second-hand coaches for coach operators to purchase.
 - Second-hand market: Operators who provide RRS are heavily dependent on the second-hand market for vehicles. The largest amount of second hand PSVAR-compliant vehicles entering the market often come from National Express or Megabus cascading vehicles at the end of their first asset lifespan (which is usually after five-eight years from new). In previous years an average of 90 vehicles came onto the market per year from this source. It is unknown whether the number of units or cost in the second-hand market will change considering the PSVAR requirement for scheduled coach services. Nonetheless, a clear aligned deadline for RRS and H2S compliance with PSVAR should provide an additional incentive for these second-hand coaches to enter the RRS and H2S market and not be retrofitted to become non-compliant. This clear deadline is essential to influence these markets.
 - Retrofitting coaches: Retrofitting a coach to make it PSVAR-compliant costs approximately £30-50,000 and takes approximately six-12 weeks. It is estimated that the supply chain currently has capacity to retrofit 100 coaches annually. Retrofitting must be done as part of a phased approach to maintain a good level of available coaches, as many operators have only a small number of vehicles to continue generating revenue when out of service. Over the four years of the existing H2S exemption, therefore, it is estimated that an additional 400 compliant vehicles could become available (though again, not all may be

available to the RRS market) and will complement the introduction of new vehicles onto the market. However, it should be noted that not all existing coaches can be retrofitted and manufactures might not certify the integrity of the retrofit in some instances, as it might not be structurally possible.

69. An additional cost facing coach operators is the implementation of clean air zones. Coach operators will need to ensure their vehicles meet Euro 6 emissions standards, and most new coaches are built to this standard. However, the cost of installing conversion kits to existing vehicles is estimated at between £15,000-£20,000.
70. Where operators do not comply with emissions regulations they will be subject to financial penalties. Therefore, a deadline aligned to H2S will need to provide those operators who have just made significant financial contributions to make a non-PSVAR-compliant coach Euro 6 compliant, enough time to source finance to make their vehicle PSVAR-compliant.
71. As demonstrated above, the supply chain currently has limited capacity and coach operators have finite finance, which means coach operators and manufacturers are likely to need government support if the current H2S four-year deadline is to be met. Funds could be made available to support coach operators with retrofitting or procuring new PSVAR-compliant coaches.

J. *Unplanned disruption*

Unplanned disruption is far more difficult to resolve and requires more time, due to the fact that vehicles are needed at short notice across hundreds of potential locations.

72. It is crucial to recognise that planned and unplanned disruption have very different implications in the context of PSVAR compliance. In unplanned disruption, procuring vehicles is significantly more challenging given the intensified time and geographical constraints. For there to be enough PSVAR-compliant coaches available at any time and at short notice, all coach companies would need increased incentive to replace their stock or retrofit existing stock. This could only realistically be done by removing the exemption for private hire coach tour operators as a whole sector.
73. When disruption is unplanned it requires a quick response to developing operational situations, where hundreds, potentially thousands of people need to travel to their destinations. A requirement for all vehicles procured in such situations (often within an hour) to be PSVAR-compliant would significantly reduce availability and have serious consequences for passengers seeking to reach their destinations, as well as potentially increasing safety and security risk from crowding at affected stations – and the consequential impact on staff managing this situation.
74. For this reason, compliance needs to be considered separately for planned and unplanned disruption. For unplanned disruption, the industry believes a longer exemption is needed and must be supported by the removal of existing exemptions across the whole private hire coach sector.
75. Therefore, for unplanned disruption, legislative provision ultimately requiring every coach in the country to be PSVAR-compliant is essential. A sufficient time-period would be required for the whole coach market to become compliant given that the typical life of an asset is around 25 years. The original timescale for PSVAR allowed 20 years for the market to respond (e.g. scheduled coach services). It is believed that, coupled to such legislative provision, an exemption for RRS used for unplanned disruption of at least eight years would be needed to secure sufficient supply to create a contingent pool of compliant coaches. This timescale is critically dependent on how quickly the supply of compliant coaches increases in response to the legislative change.

K. Legal status of an exemption

The legal status of an exemption must be clear and unarguable – or risks further challenge that disrupts the industry’s pathway to compliance.

76. If ministers were minded to grant the exemptions for periods based on the timelines outlined above, it is important that this has sufficiently robust legal foundations. Otherwise, there is a risk that what will already be a difficult and time-consuming programme to deliver gets thrown off course by legal challenge of some form or other.
77. As a result, there is a strong preference for the exemption to be made through the laying of a Statutory Instrument under Section 174 of the Equality Act 2010, rather than an exemption under Section 178 of that same piece of legislation.
78. It is understood that an exemption for planned disruption aligned with exemptions in the Home to School (H2S) market, and an exemption for unplanned disruption (of a minimum of eight years) enabled by the lifting of PSVAR exemptions for all coaches can be achieved through a single statutory instrument. RDG can provide additional guidance and support on this matter.

Conclusion

There is a pathway to achieve PSVAR compliance for both planned and unplanned disruption.

79. It is hoped that the proposals contained within this document, **based on the extensive engagement undertaken both with groups and organisations representing those with accessibility needs and with the coach industry**, are seen as a considered and appropriate response to what is a complex situation.
80. The rail industry is **committed to improving accessibility for all customers**, tailored to their individual needs and offering each individual a comfortable, dignified journey, but also recognises that it does not always get it right and there is more to do.
81. This issue of PSVAR compliance emerged **as a result of a change in the legal advice from the ORR in September 2019**, to the effect that PSVAR did apply to RRS – previous guidance had been that the industry should make ‘reasonable endeavours’ towards compliance for RRS vehicles.
82. This advice came in the context of a **coach industry that is largely exempt from PSVAR and from which RRS vehicles are procured from** – which means there are insufficient numbers of PSVAR-compliant vehicles to deliver full RRS provision even at times of relatively low demand.
83. The industry has **continued to work creatively to avoid using the exemption granted**. However, without a further exemption beyond 30 April 2020, there are potentially serious consequences in terms of **reduced RRS availability; reduced comfort and convenience** for all passengers having to use RRS; and may possibly result in **‘do not travel’ notices** being issued.
84. During any further exemption, the industry will continue to make every possible effort to comply with the letter and spirit of PSVAR and **offer those of our customers with additional requirements accessible travel arrangements**. We will make every effort to use PSVAR coaches wherever possible and use creative solutions like standby vehicles. This will be supported by **improvements to information provision** for all customers.
85. **Planned and unplanned disruption need to be considered separately**, as the lead times for procuring vehicles to keep customers moving are very different – several weeks as opposed to a few hours.
86. For planned disruption, **a time-limited extension, aligned to the exemption for H2S** (currently four years) given that many coach operators serve both these markets – though with a greater proportion of their business being H2S – is necessary for compliance to be achieved.
87. However, the current timeframe of four years for coaches serving the H2S market to become compliant is **extremely ambitious and is likely to need government intervention**, involving some form of financial support for coach operators and dependent upon all H2S coaches becoming PSVAR-compliant.

88. To achieve full compliance for unplanned disruption, **legislation must be enacted to require all coaches to be PSVAR-compliant**, supported by a longer extension aligned to the deadline for compliance in any such legislation – a minimum of at least eight years.
89. Progress towards compliance **could potentially be undermined unless the legal grounds for an exemption are unarguable**, and therefore the industry is requesting that this should be in the form of a **Statutory Instrument under S174 of the Equality Act 2010**.
90. Government may ultimately choose to step further into the coach market and **utilise policy tools that are considered appropriate to secure compliance** for H2S in the timescales outlined above.
91. While the pathway presented in this paper are not easy to achieve, **the rail industry remains committed** to working with wider stakeholders and government to achieve compliance. RDG would welcome the opportunity to discuss these proposals.