

# Hidden in Plain Sight

## Response to the Equality and Human Rights Commission's Consultation

February 2012

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### Introduction and background

Passenger Focus is an independent consumer body set up by government to protect the interests of Britain's rail passengers and England's bus passengers outside London, coach passengers on scheduled domestic services and tram passengers. While funding is provided by the Department for Transport, our operations and policy-making are independent of government. With strong emphasis on evidence-based campaigning and research, we use our knowledge to influence decisions on behalf of passengers. We work with the transport industry, passenger groups and national and local government to secure improvements.

As part of its decades-long rail-based work, Passenger Focus and its predecessor bodies, has been, and remains now, involved in a number of areas relating to accessibility: from assessing rail service companies' facilities and services to make rail more accessible for a wide range of people with reduced mobility; lobbying for improvements; membership of accessibility working groups at the Department for Transport; to undertaking specific research into the usability of the railways. We also undertake the twice-yearly National Passenger Survey, seeking some 55,000 rail passengers' views on train services and facilities. We have extended this work into buses, coaches and trams as part of our newer, wider remit and undertake the Bus Passenger Survey to establish those passengers' views.

As a result, Passenger Focus can respond with any authority only to certain parts of this consultation. The report largely concerns authorities dealing with people in a set locality, for example the duty of the police or councils' housing departments, who are likely to receive complaints to be mindful about liaison. It also suggests that at times incidents are not treated seriously enough. Public transport does not fit into the first category but it does fall into the second. We have, therefore, restricted our responses exclusively to the field of public transport in line with our remit: National Rail services throughout Great Britain and English bus, tram and coach services (except in London).

## ***Harassment and the wider context***

Disabled people may find it harder to report harassment but there may be reasons why other people also find it hard to report. So, whether it is a matter of a disabled passenger, a young or older passenger being bullied or subject to racist, sexist or homophobic harassment, it should be easy to report and the victim should be treated with respect. The bus and rail industries should identify whether disabled passengers would benefit from the introduction of new ways of reporting, e.g. can reporting be made easier and does a person's physical disability restrict his ability to report harassment under the current system?

Even if a passenger reports an incident he may not wish that the details be passed to the police; thought must be given to how the transport company should behave in such a situation. The victim may need some support - perhaps the company should ask the passenger if he would like this information passed to perhaps a parent, partner or social worker. A single, standard procedure and policy would simplify the process but it is not immediately clear that this can be achieved across so wide a range of operators in a number of different modes of transport.

## **Response to the consultation**

We have restricted our response exclusively to the field of public transport as this is the limit of our remit. It should be borne in mind that Passenger Focus is not a transport operator itself but a consumer body representing the interests of passengers (disabled and otherwise).

### ***The seven core recommendations: our comments***

- *There is real ownership of the issue in organisations critical to dealing with harassment. Leaders should show strong personal commitment and determination to deliver change.*

Passenger Focus cannot comment on behalf of the industry but assumes that it will be possible for all companies to agree to ensure that it and its recommendations are made widely known. We shall do so within our own organisation.

- *Definitive data is available which spells out the scale, severity and nature of disability harassment and enables better monitoring of the performance of those responsible for dealing with it.*

We agree that transport operators need to simplify the means by which passengers who have been harassed can report the incident; operators also need to clarify how this process is undertaken and exactly what constitutes a report. Given the rapidly increasing use of social media, it strikes us that this might be a possible route; it

certainly allows for immediacy. Train, tram or bus staff, where they are aware of an incident, should also record it – even if the victim declines to do so.

Many passengers can be deterred from reporting if the process is too complex. Such reporting should generate valuable data. It may prove counterproductive in one respect should this data show public transport in an unfavourable light and thus deter disabled or more vulnerable people from using it, thereby increasing their social isolation.

- *The Criminal Justice System is more accessible and responsive to victims and disabled people and provides effective support to them.*

Passenger Focus welcomes such a situation on behalf of passengers. However, it seems that a radical shift in procedures is required to achieve this. The needs of the final bullet point in this section come into play here also; recognition and prompt action to secure evidence is required, which calls for staff familiarity with procedures.

- *We have a better understanding of the motivations and circumstances of perpetrators and are able to more effectively design interventions.*

Ultimately, this is a useful goal but it is not immediately obvious how this is to be achieved in the sphere of public transport where the identity of perpetrators may never be known. The current increasing deployment of prosecution-quality CCTV aboard buses should prove a significant benefit in identifying and successfully tracing offenders. National Rail has increasingly relied on CCTV in recent years, both at stations and on newer builds of train. It is unlikely that CCTV can be provided at all locations throughout the public transport network, but its installation, where not already in situ, at known trouble spots would be of benefit. In due course it should serve to deter potential perpetrators.

- *The wider community has a more positive attitude towards disabled people and better understands the nature of the problem.*

This is indeed an enviable goal but one which transport operators alone cannot achieve. It will require society as a whole to embrace and this cannot be other than a very long-term project.

- *Promising approaches to preventing and responding to harassment and support systems for those who require them have been evaluated and disseminated.*

We would expect the operators' national bodies, as well as individual companies, to take effective action.

- *All front-line staff who may be required to recognise and respond to issues of disability-related harassment have received effective guidance and training.*

It is vital that all members of staff in such key areas are properly trained to recognise these incidents when they are reported so that suitable action is taken and the relevant data recorded. Great emphasis has been rightly placed on the availability of data. Prompt recording in turn also enables prompt follow-up action to be taken. (We mentioned this element also in response to the third bullet point – see above.)

The need to focus on staff training is vital. Effective industry-wide guidance for rail, light rail and bus is needed on:

- the level of training;
- an agreement of the content of that training; and
- which staff are so trained.

In the rail sphere, each train company is already obliged to provide an annual report to the Department for Transport setting out an overview of relevant staff training in accessibility matters. We comment further below on the potential significant delay to even basic training for many bus drivers. It seems that the bus industry has much work ahead to catch up with the rail industry in this respect.

Passenger Focus has lamentable evidence of some (admittedly rare but nevertheless worrying) incidents of harassment by staff themselves. Beyond training, management systems need to be sufficiently robust to prevent or, having happened, to detect and deal with such behaviour. Suitable internal reporting systems must be in place.

### ***Response to the specific recommendations for public transport***

All public-transport staff should be suitably trained and aware, but Customer Services and front-line staff will need more refresher courses than other staff to ensure that the first person to whom such a complaint of harassment is made recognises it as such and treats it appropriately. The question of an agreed policy arises here also: should the same or similar incident be reported three or more times, should that information automatically be shared outside the transport industry? Clarification, to staff and the public, is needed about how and when to report a specific incident to the police or other relevant authority.

In the case of heavy rail, each operator is required in its Disabled People's Protection Policy (DPPP) to commit to appropriate training of staff and to give broad details of how this achieved. Each rail operator's DPPP, is now produced in two distinct parts: a public-facing version (*Making Rail accessible: helping older and disabled passengers*) and an industry-facing document (*Making rail accessible: Guide to policies and practices*). These documents are available to members of the public on application, to download

from websites or from larger stations, free of charge. Special-format versions (e.g. CD audio or Braille) are also offered. The document is also required to list, amongst other matters, arrangements for managing accessibility requirements, their integration into business and project planning and how managers and staff are made aware of their responsibilities to disabled passengers.

We are aware of some examples of bus operators undertaking disability awareness training for drivers and other staff, although this is rather different from the arrangements in the rail industry and no equivalent of the safeguards offered by the railway's DPPP or national standards apply to bus travel.

- *Transport providers should identify ways to design out potential for conflict in new fleet and transport infrastructure design. For example, they should review their vehicles and waiting areas to ensure that conflicts between disabled passengers and those with pushchairs are minimised. They should also ensure that disabled access provisions are clearly identified and enforced and promptly resolve any disputes regarding these.*

The design of buses, trams and trains is strictly specified to ensure that the often competing needs of different groups of passengers are satisfied to the greatest possible degree. If signage complies with the regulations, the intended purpose of specifically marked areas within vehicles should be clear, as should those passengers who have first call upon such accommodation. It is important, however, that such signage is visible at all times and not obscured as soon as a seat is occupied, for instance. Perhaps, in the longer term, visibility and perception of signage could be reinforced by different-coloured moquette on the upholstery of priority seats. This second colour should be of sufficient contrast to enable visually-impaired passengers to discern the difference.

Enforcement of the regulations is another matter entirely. Some passengers simply do not see or read the notices. Others clearly disregard the notices and ignore staff requests to comply with them. On buses, for instance, the driver might be unaware of the circumstances of the incident or be unwilling to become involved in it. Some trains carry no on-board staff except the driver, who clearly cannot leave his cab to deal with the matter; if the conductor on a long-distance train has already passed through that carriage it may be some time before his return. On occasions, no on-board staff appear at all. Under such circumstances, immediate resolution of the problem cannot be achieved. It is unclear how this type of general situation might be alleviated. A similar situation arises at stations and bus stations where staff may or may not be available.

Transport for London is about to issue travel support cards, which passengers with learning or communication difficulties can use to indicate their need. An innovation on the railway, introduced by Southern two years ago and now being adopted by other train operators, is the Priority Seat Card - fuller details can be found at <http://www.southernrailway.com/your-journey/accessibility/priority-seat-card/>. Those disabled passengers who need a seat may apply (evidence of that need is required) for this

card, which bears their photograph and the request that they be allowed to sit in an already-occupied priority seat. The identification of priority seating has been much enhanced, both within the carriage and from the exterior, as part of this process. Prominent station posters further support the scheme.

We recommend that bus operators also consider a similar arrangement, especially as many bus operators already issue assistance cards to disabled passengers to use when communicating with the driver (e.g. that they have impaired hearing or vision, or are unsteady). We welcome such initiatives. Such a card should also be available for disabled bus users to show to other passengers, if this helps them to travel more easily by, for instance, emphasising the need for them to use priority seating.

Just as harassment can be hidden, so can many disabilities; the railway's Priority Seat Cards and on-train notices acknowledge this fact and seek to remedy that situation. Such cards alone are no panacea but do frequently serve to reduce the level of friction and potential harassment. These cards are especially welcome on those train services where it is not possible to reserve a seat.

- *Public transport operators should develop reciprocal reporting arrangements between providers so that people can report harassment experienced at stops, stations and on transport to whichever operator they encounter. They should also develop systems to allow repeat perpetrators to be refused entry to each other's vehicles (similar to those used by licensed premises).*

We agree that reciprocal reporting arrangements between operators would be a major step forward, but we question how this might be actually achieved in reality. A single overarching authority is needed to drive this forward – yet it appears that no single appropriate panmodal superstructure exists.

Similarly, the theory of excluding repeat perpetrators from using public transport has its attractions, yet it is wholly unexplained how this is to be successfully achieved:

- Apart from perhaps exceptional circumstances, it seems that bus drivers will neither recognise such individuals nor have any means at their disposal so to do;
- Station and on-train staff are in an almost identical situation to bus drivers;
- Many stations are unstaffed and thus have no means of denying passengers access to the system;
- Many trains have no on-board staff;
- The proliferation of automated gates at stations reduces the chance of recognition even more as the equipment recognises only a valid ticket, not the person tendering it.

Any such system is likely to be costly to establish and time-consuming to introduce and administer. Its operation is likely to exert an adverse impact on bus punctuality and ticket-gate throughput.

Rail service companies are obliged, as part of their franchise, to draw up a Complaints Handling Procedure manual, setting out response times, contact points etc. They are further required to publish these standards and contact points on prominent notices at stations and on trains, in addition to their website. This system works usually tolerably well and is largely identical across the rail industry.

Research undertaken by Passenger Focus on bus complaints in 2009<sup>1</sup>, however, indicated that some passengers found it difficult to complain and would value a wider range of mechanisms for submitting complaints. (This research did not distinguish disabled passengers trying to complain from others.) Information available to us suggests that the standard of publicity about the complaints process for bus passengers varies widely between individual bus operators and local authorities - although within this somewhat gloomy overall picture, some examples of excellent practice do shine out. We are not aware of any nationwide studies of passenger satisfaction with complaints handling surveys. As part of this work, our researchers spoke to 30 complainants of whom 14 described themselves as “dissatisfied” (of whom 8 were “very dissatisfied”) with the way in which their complaint was handled. Only 3 of the 30 were satisfied. Passengers found the quality of responses from the bus industry “patchy”, with apparent over-reliance on standard-paragraph letters which often failed to address the nub of their complaint. Many complaints went unanswered. We suggested that operators be given 15 months to improve the situation.

The results of our latest Bus Passenger Survey (undertaken in autumn 2011) show that while 12.5% of bus passengers could find details of how to complain, 23.4% to whom the details would have been useful, could not find them. A further 19.2% could not find them - but they were in the more fortunate position of not needing them.

This autumn 2011 research<sup>2</sup> revealed that between 20% and 29% of passengers surveyed reported some form of disability. We shall be undertaking further analysis of these data in due course.

Article 26 of the EU Regulation 181/201, effective from March 2013, requires “*carriers [to] set up or have in place a complaint handling mechanism for the rights and obligations set out in this Regulation*”. We trust that this will improve the situation for those passengers who do wish to get in touch with the operators.

Little consistency exists in the way complaints to local authorities are logged, recorded or referred to other organisations. This also appears true of bus operators. Given these rather unfortunate circumstances, whereby over two-fifths (42.6%) of passengers asked could not find how to make a standard complaint, let alone report a case of harassment, we question how soon the bus industry might be able to

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<sup>1</sup> Handling Complaints and Appeals from Bus Passengers, Passenger Focus, October 2009

<sup>2</sup> Bus Passenger Survey 2011, Passenger Focus. To be published early in March 2012.

provide a wholly new process such as that proposed here, especially when many frontline staff may have had no suitable – or, indeed, any – training.

For our part, Passenger Focus's appeals-handling team can flag any cases which reach us unresolved. Perhaps it would be most helpful if a summary of these were provided and shared with the industry. In addition, the data derived from the rail National Passenger Survey and from the Bus Passenger Survey can be cut in many different ways. Closer scrutiny of these sources may reveal significant details.

- *Regular disability equality training should be provided for frontline staff on handling disability-related harassment and clear guidance to staff on routes to take when reporting an incident. This should be included as part of core training, before staff work with the public.*

We have always emphasised the need for training, and refresher training, as paramount for front-line staff. We know that the industries understand this need. Their abilities to address this, sadly, do not always match their intention.

In the bus realm we are concerned that the driver-training element of EU regulation 181/2011 (not due to come into force until March 2013 in any case) can be deferred until 2018. Under such circumstances, it is unclear how well they will be able to deal with the even more demanding harassment-deterrent role as well as the reporting role and providing victim support.

- *Disabled people should be involved in public transport policy development and transport providers should work in partnership with criminal justice agencies to reduce risk on and around transport provision.*

We have always pressed the transport industry to ensure that individual disabled people's views are considered, for instance through users' forums and focus groups and that regular liaison is also undertaken frequently with the organisations representing disabled people at local, regional and national level, as appropriate. Disabled people and their representative organisations at all levels also need to work with transport providers, who in turn must also work in partnership with criminal justice agencies.

- *Data on high risk areas and subsequent actions to reduce risk should be collated. Based on this data they should provide adequate protection where known high risks exist, in the same way as other provision is made, for example, around football matches.*

One of the seven core recommendations is that *Definitive data is available which spells out the scale, severity and nature of disability harassment and enables better monitoring of the performance of those responsible for dealing with it.* Operators' data, if collected as intended, should enable closer tailoring of resources to those places and occasions of greatest

demand. This will be beneficial to passengers, operators and the police. Speedy and timely recording of evidence will be necessary to achieve this.

Despicable and illegal as any type of bullying or harassment is, it strikes us as unlikely in current circumstances that police forces will respond to the comparatively isolated incidents of casual harassment in the same way as they will for the large-scale disruption inherent in football matches.

### ***Specific comments on the public transport sections***

Deployment of bus ramps has improved but we would welcome the holding companies maintaining standards for monitoring faulty ramps, the timescale for repairs and for publishing their compliance with the company standards. We know of one bus operator who has undertaken to make alternative arrangements for wheelchair users if their bus is replaced by an inaccessible vehicle. We encourage other operators to do likewise.

We note complaints that some buses do not pull up to the kerb edge due to parked vehicles blocking access. To resolve this, local authorities have a role to play by ensuring that suitable parking restrictions are in place either side of bus stops and the situation should be policed. In other instances, bus drivers often fail to appreciate the very real difficulty which stepping up from or down onto the road means for many disabled people. Full training may well help reduce this problem as well as explain to drivers the need to ensure that passengers, especially disabled, older or infirm passengers, are seated before the bus starts up from the stop; these generate many complaints. Similarly, other complaints include buses starting up before passengers have been able to sit down. Older and disabled passengers are at particular risk – it takes them longer to reach seats and to sit down as a rule, they are the most likely to lose their footing and the most likely to suffer the severest outcome as a result of losing their footing, grasp or being jolted. Driver training is vital in areas such as these.

Confrontations over entitlement to occupy priority seating could be partially resolved by providing prominent and clear signage to prevent those who do not technically qualify to use it from occupying priority seats when disabled people, for whom such accommodation is intended, need them. Efforts to design out such confrontations are not always successful evidently, as the accessible accommodation needs to be nearest the door, which can delay other passengers boarding behind the disabled passenger needing the priority seat and, sometimes, their longer time to turn and sit. Many other passengers sit in the first empty seat which they see; if the signage is inadequate, such passengers may not even realise that they are occupying priority seating. Full training for drivers should help diffuse situations such as this and to avoid the unfortunate circumstance described in the report of the person with total sight loss told by the driver to stand to allow children to occupy the seats.

The language of the signage is often bland and too diffident to be of practical use when it is most needed. Rewording such as 'You must fold your pushchair at busy times or when told by the driver' or even 'The law requires you to fold...', rather than an anodyne 'Please fold...',

emphasises the need to comply. Prominent notices on bus shelters and bus stops, in timetables and other literature should be used to help reinforce the message. Perhaps it is not an isolated example, but we would draw attention to the two leaflets issued by Thamesdown Transport: *Buggies on Buses* and *Easy Access for Everyone*. Full details of these are available at <http://www.thamesdown-transport.co.uk/index.asp?m=208&c=1454>. (We note too that these leaflets acknowledge the danger to some passengers if they are still standing when the bus moves. They state that Thamesdown's drivers have been trained not to pull away from stops until passengers are seated and that passengers should not attempt to stand up to leave the bus until it has come to a complete stop). Older and disabled passengers will be reassured by this practise.

We understand the theory behind the question of 'Good Practice' that where harassment has occurred, the driver should stop the bus and summon the police, but this might exacerbate an already ugly situation and antagonise other passengers who will now be delayed as a result and possibly miss connecting buses or trains, the start of cinema performances and so on. As mentioned earlier, given current policing levels and other demands on the police, it seems to us that an incident such as this would rank low in urgency and would be unlikely to elicit an early response, thereby further delaying and aggravating an already tense situation.

### ***Responses on consistency between sectors***

To ensure consistency between sectors, the consultation document required responses to address the following areas. We feel that much of has been achieved elsewhere in this document, but for sake of completeness, we comment briefly here also.

- *How will adoption of the seven core recommendations inform and support your sector/organisation's actions to achieve real progress in tackling harassment? Are you able to commit to these? In your response also indicate how these will support your work with other agencies.*

*and*

- *How will adoption of the recommendations specific to your sector inform and support your actions to achieve real progress in tackling harassment?*

We shall answer these two questions in a single response.

Passenger Focus is not a transport operator so much of the content of the report does not apply directly to us. As mentioned above, we shall seek to indicate on referred complaints those which involve such harassment. In our work and discussions with the industry we shall also impress upon them the need to identify occurrences for preventative measures to be put in place.

- *Which of the recommendations do you consider to be the most practical and achievable, with the potential for the greatest impact on tackling disability-related harassment?*

More and better training for staff to recognise the potential for confrontation and to diffuse difficult situations is vital. However, this must also include management up to the highest level so that the same message is clear throughout the organisation and to passengers who travel on its vehicles; for instance, costs are involved in providing clear and suitable signage. Management must manage such arrangements as well as providing proper and fit-for-purpose reporting and collating systems.

- *If you do not agree with specific recommendations, please specify which, and indicate what alternative measures might achieve the same or similar goals.*

Passenger Focus can applaud the motivation behind these recommendations. We agree with most of them, but our concern lies in how the transport industry can actually achieve their implementation; on one hand, the current financial climate militates against considerable expenditure and on the other, it seems to us that many of the issues are of a societal nature which is beyond individual passengers' and the industry's control.

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