

## On Track for 2020? The Future of Accessible Rail Travel

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Final Report, May 2015

This Report was commissioned by the Association of Train Operating Companies (now the Rail Delivery Group) to consider how accessible Britain's railway network will be to older and disabled people by 1<sup>st</sup> January 2020 (the date by which all rolling stock must meet legal accessibility requirements).

The following points are the result of an in-depth reading of the entire report, and an attempt to briefly depict the very strong argument made throughout that relate to the guarantee of a second staff member on trains. They are presented here in chronological order:

- **Chapter Six of the Report, entitled 'Travelling with Confidence' contains extensive recommendations about staffing, and repeatedly advises against allowing unstaffed trains to run to unstaffed stations, noting that 89% of stations will be without staff at some parts of the day. It also confirms ABC's argument that the debate around DOO must be split into metro and rural areas, where accessibility needs are vastly different. In this chapter, concerns around the effect of the McNulty report on accessibility are introduced:**

"There is...an indication that there will be an increase in initiatives to reduce staffing (Driver Only Operation (DOO)) which does have significant accessibility implications. The McNulty report in 2011: "Realising the potential of GB Rail" states the case as follows:

*"The default position for all services on GB Rail network should be DOO with a second member of train crew only being provided when there is a commercial, technical or other imperative."*

The bulk of services presently meeting the McNulty requirement are in areas where the stations are short distances apart, the services frequent and the stations staffed. The majority are in the London Suburban area."

- **The report contains nearly three pages of discussion of the McNulty report, and expresses anxiety over the effect the extension of DOO will have, especially on services beyond the London commuter belt.**
- **The report strongly argues that the 'other imperatives' featured in McNulty's cost-cutting strategy to remove staff from trains should include the ability of older people "to contribute to and participate in society and the economy".**

## The report states:

“The ‘*other imperatives*’ referred to in the McNulty report include the ability of older and disabled people “*to contribute to and participate in society and the economy*”. Given the growing number of older passengers and the clear evidence of their need for the presence of staff both for reassurance and for assistance, it is hard to see how these further economies meets this imperative.

It is difficult too, in legal terms, to see how trains with no staff to provide assistance running through unstaffed station cannot come under the heading of a “*provision, criterion or practice*” that discriminates. (Section 20 of the Equality Act 2010).

It is clearly not possible to obtain unbooked assisted travel to or from an unstaffed station unless there is some member of staff there to assist with the boarding or alighting.

Critically, it is Conductors who are in the front line in providing assisted boarding and alighting, including platform-train ramps where appropriate, at the majority of platforms which are not staffed. It is Conductors who are best placed to ensure that assistance is delivered effectively and in accordance with the law. A key risk area is availability of help in getting off the train.

During disruption and in the event of an emergency, Conductors can also deliver the railway’s duty of care to assisted passengers and other older and disabled people.”

- **Concern is repeatedly expressed about the prospect of running unstaffed trains to unstaffed stations, which means services “*will clearly be unable to provide the assistance that many older and disabled people need.*” It warns: “*this...will undermine the excellent reputation that many TOCs and Network Rail have built up in this area.*”**
- **The report recommends that “before decisions are taken about routes and services on which further economies of staffing are envisaged, a full assessment of the likely impact on disabled and older travellers needs to be undertaken together with consideration of how legal and contractual obligations to provide assistance can continue to be met.”**
- **According to anecdotal evidence from Network Rail, the split between booked and unbooked assistance at major stations is about 50/50. At most other stations around 75% of assistance is unbooked. Yet the ability of TOCs to provide ‘turn up and go’ travel varies significantly.**
- **A policy of adequate staffing on stations is vital to meet disabled people’s needs, especially when Station Facility Owners are in fact tenants, not owners, so have “few incentives” to improve personal security features at stations.**
- **A uniformed staff presence at stations is essential for personal security, especially considering the growing numbers of hate crimes against disabled people.**
- **Disabled people are at particular risk in emergency situations occurring on trains or stations.**

## **The report makes observations on Government Policy and Legal Precedent among other External Factors:**

- **The Department for Transport prefers an “outcome-based approach” to a “compliance based” approach to their legal obligations under the Equality Act.**
- **The report notes concern that planned investments on accessibility could become “casualties of a broader Government cost cutting strategy”:**
- **The report’s comments on legal precedent around equality of access match ABC’s own legal advice. These comments are reproduced in full below:**

*“There have been very few relevant cases brought against the rail industry (as a service provider) under the Equality Act 2010, or its predecessor the Disability Discrimination Act 1995. This means that there is very little case law, which could help the industry understand what is likely to be a ‘reasonable adjustment’ to prevent discrimination against disabled people. However, it is highly likely that at some point relevant case law will be made. It is impossible to predict the effect of future legal decisions.*

*However, it is likely that case law will in future have an impact on accessibility. The current legal challenge over the priority for wheelchair users to occupy the designated space on buses is a case in point.”*

**The report concludes with Summary Recommendations across a range of policy areas that could “help to ensure that the spirit as well as the letter of the law is delivered.” The Rail Delivery Group was to be responsible for taking these forward.**

### **The report’s ‘Summary Recommendations’ include:**

- A recommendation for the Rail Delivery Group to take a more proactive role in “[raising] standards and [improving] consistency in policies and practises.
- Advice for the Department for Transport to urgently consider how to incentivise TOCs to invest in accessibility beyond the duration of their franchise.
- Unambiguously worded advice about staffing: “There should always be on-board staff available to assist passengers at unstaffed stations.”
- Criticism of the ORR as regards the monitoring and enforcement of Disabled People’s Protection Policies, on which TOCs show a “lack of consistency”.