

Comisiwn Hawliau Anabledd

6 Cwrt Tŷ-Nant, Treforgan, Caerdydd CF15 8LW

Disability Rights Commission

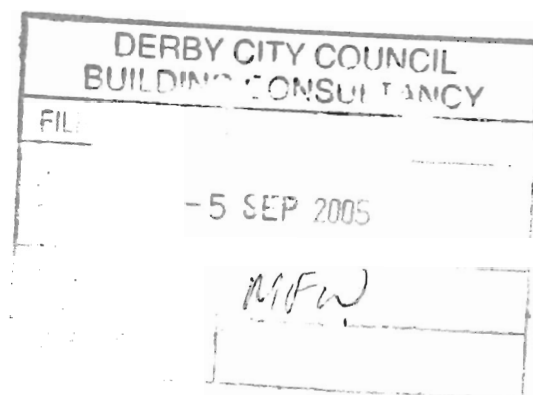
6 Tŷ-Nant Court, Morganstown, Cardiff CF15 8LW

Ffôn/Tel: 029 2058 3000
Ffacs/Fax: 029 2058 3001
Ffôndestun/Textphone: 029 2058 3002
www.drc-gb.org

2 September 2005

Your reference MW/PL

Mr Michael Watts
Access Officer
Derby City Council
Building Consultancy
Roman House
Friar Gate
Derby
DE1 1XB



Dear Mr Watts

Derby City Railway Station Footbridge Replacement

I am replying to your letter of 4 August requesting an update on any action we may be taking about the above station.

At the time of writing we have issued no proceedings with regard to access to any railway station in Great Britain. As you will be aware, the Strategic Rail Authority completed a consultation on its proposed access strategy and the utilisation of its Access for All Fund in June this year. Following the abolition of the SRA, the strategy and the fund have been transferred to the Department for Transport. We are currently waiting to hear from the Department for Transport how they propose to take this work forward.

I enclose a copy of the DRC's response to this consultation. As you will see we are concerned about the whole way in which the management of the railways has been constructed. It appears as though there has been an attempt to exempt both the Train Operators and Network Rail from duties under the DDA and put the sole responsibility on the SRA's (now transferred to DFT)



Dod â'r hawliau'n fyw
Making rights a reality

Access for All Fund. We continue to examine this carefully for a suitable opportunity to challenge this in the courts. However, we believe that the newly created Disability Equality Duty can be used to put pressure on the Department for Transport to amend this structure when it begins the process of issuing new franchises. When the Department finally publishes the completed strategy we will be taking up with them the issue of their responsibilities under the Disability Equality Duty if our concerns have not been satisfactory addressed.

The SRA's draft strategy included a list of stations where it was proposing to make access improvements. I was surprised to see that Derby was not included on it. Even on the basis of the criteria which the SRA was proposing to use to select these stations, it seemed to me that Derby would fall within the first phase for improvement work. Have you received any indication from either Network Rail or Midland Mainline that they expect funds to be made available to improve access at the station?

Yours sincerely

Will Bee

Will Bee
Director Wales

Outline DLC Response to the Strategic Rail Authority's Consultation Document "Railways for All"

1. Introduction and Background

The Disability Rights Commission (DRC) was created by the Disability Rights Commission Act (DRCA) 1999. Section II of the DRCA imposes the following duties on the Commission:

- To work towards the elimination of discrimination against disabled persons;
- To promote the equalisation of opportunities for disabled persons;
- To take such steps as is considered appropriate with a view to encouraging good practice in the treatment of disabled persons; and
- To keep under review the workings of the Disability Discrimination Act (DDA) 1995 and this Act.

The Commission has given itself the mission of **seeking** to achieve a society in which all disabled people can participate as equal citizens.

The DRC welcomes the publication of the Strategic Rail Authority's draft strategy on accessibility. We believe it marks a significant and important step forward in providing accessibility to the rail network for disabled people. The DRC does have continuing concerns that the current structural arrangements for the delivery management of rail services has left a position where none of the main bodies responsible for operating the service are responsible for compliance with the DDA duties to make reasonable physical adjustments to railway stations. We will be returning to this point later in our response to the consultation.

In this consultation response the DRC will raise a number of points largely in the order in which they arise in the consultation document. We do not feel we are in a position to respond to each and every question raised at the end of the chapters of the draft strategy. Moreover there are instances when we want to raise issues which are not covered by any of your suggested questions.

2. General Approach

The DRC welcomes the recognition, in the draft strategy, that to be truly successful and create a genuinely accessible railway network

cultural change is as important as changes to the physical infrastructure. We are also pleased to see the recognition that many of the improvements to be funded by the Access Fund will benefit non-disabled passengers as well as those who are disabled. Indeed this is one of the main reasons why we remain uneasy about the concept of using a segregated fund to pay for access improvements.

3. The Importance of Information

We are pleased to see the recognition given to the importance of high quality, reliable information about accessibility which enables disabled people to make choices about when and where to use the railway network. As the strategy notes, the internet provides an excellent opportunity to make information widely available and easy to update. The DRC suggests that the SRA should encourage the providers of this information to include a facility for disabled users of the service to give feedback.

Disabled people's opinions

We are aware that not all assessments of accessibility have been made by experienced trained access auditors. It may well be that they have overlooked a barrier which may exclude people with a particular impairment. It is valuable therefore to gather information from disabled people who use rail services and stations. For example a disabled person may give negative feedback about access because they failed to find the most accessible route around the station. This will still provide valuable information about how disabled people experience using the station and lead to questions about why the disabled person did not use the most accessible route.

Step free access

We have some reservations about the assumption that those stations classified step free are broadly accessible to people with a mobility impairment. We are aware of instances where there is no effective step free route from one platform to another or any form of accessible public transport enabling a disabled person to transfer from one platform to another. A disabled person might arrive at a station knowing that their intended final destination is only a relatively short distance from the station. When they come to make their return journey they may find that the route to the platform from which their train leaves is further than they are able

to walk or wheel themselves if they are unable to use the footbridge or underpass which non-disabled passengers would use to transfer from one platform to another.

We would like to suggest that consideration is given to developing a new classification of stations which provide step free access to all platforms but where the route to achieve transfer from one platform to the other involves leaving the environment of the station. Hopefully this would alert a disabled person considering using that station that they should investigate further any problems they may face in accessing all the platforms they may be required to use.

Promoting information

The DRC entirely endorses the observation in the consultation document that it is critical to find effective ways of promoting information about accessibility improvements to prospective disabled users of the station. We recognise that many disabled people will not have used the railway network for some years and are likely to be unaware of the extent to which the accessibility of both stations and rolling stock have improved recently. To coincide with the implementation of the new duties on transport providers under the DDA 2005, we are planning a campaign which will encourage disabled people to investigate whether improvements to the transport infrastructure and policies are making public transport systems accessible to them. We would welcome the opportunity to work with TOCs and Network Rail in this campaign.

We also suggest that train operating companies should develop links with disability organisations in their areas to promote greater awareness of improvements to the accessibility of railway stations. Considerations should also be given to building links with professionals who advise and work with disabled people to encourage them to disseminate news of access improvements. For example, the Disability Employment Advisors of Jobcentre Plus could assure their clients that public transport is an option for them in travelling to work. Mobility officers for blind and partially sighted people play a critical role in developing their external mobility skills and should also be encouraged and assisted to find out about the latest developments in access improvements in their area.

4. Provision of Assistance

The strategy rightly recognises the critical importance of ensuring that pre-booked assistance is delivered reliably and on time to support disabled travellers using the railway system. We are aware of anecdotal evidence that at least some disabled people have given up using the railway network because of the repeated failure to provide assistance which has been pre-booked. We think that it is particularly important that reliable systems are in place to ensure that when there is moderate disruption to train journeys (particularly if connections are missed as a result) disabled people can still be assured that the pre-booked assistance will remain in place.

We believe that the duties to be imposed on railway companies under the DDA 2005 will mean that serious or repeated failure to provide pre-booked assistance would give rise to a breach of the legislation and a potential action for compensation from the disabled person affected. We hope that this will serve to focus minds within the TOCs to bring about the major improvements in the reliability of this service which is required.

In this context the proposal to establish mechanisms to enable assistance to be booked at the same time as a ticket is purchased is a welcome development.

5. Strategic Priorities

The DRC broadly supports the categories of work which are proposed to be funded from the access for all fund and the preferred options for the use of the funds. In particular we support Option C for the selection of target stations to ensure that a proportion of the funds are spent outside London and the South East of England. We suspect that many of the journeys undertaken in the South East, which result in the very high level of passenger usage of stations, arise from rush hour commuting to work in a part of the country where the road system is severely congested. The level of over-crowding on rush hour trains however, is such that it creates a climate which is at best extremely uncomfortable and at worst totally inaccessible to many disabled people who might want to use those stations at that time of day.

Station selection criteria

In selecting stations generally, but specifically in those areas outside the South East of England, we would encourage the SRA to consider a range of factors beyond footfall, in the selection of stations. In areas where few stations are accessible, disabled people are likely to have developed 'coping strategies' to manage without using the rail system. Consequently, it may be necessary to identify stations which can particularly benefit disabled people in order to change their travel patterns and encourage use of trains. We suggest consideration could be given to factors such as:

- Numbers of disabled people within the catchment area of the station
- The scope for interchange with accessible bus services (outside London the availability of accessible buses is variable), and tram / light rail systems where they exist.
- Proximity to a major facility / attraction which may be particularly relevant to disabled people. This could range from a major hospital, to a new retail or leisure facility which is highly accessible for disabled people.
- Accessibility of the immediate environs of the station (there may be little benefit in improving a station in a very hilly town which presents numerous barriers to disabled people)

Tactile paving

We are surprised that the option of installing tactile paving on platforms is not included as a way of improving accessibility which could be funded from the Access Fund. Arguably this would be the only investment which would benefit disabled people with relatively little wider benefit for non-disabled passengers. We would urge the SRA to consider setting aside a proportion of these funds for this purpose particularly as the visually impaired people who would primarily benefit from its installation will, by and large, be able to use those stations which do not provide step free access. It would seem sensible and of most benefit to visually impaired people if the investment was linked to those stations which are to benefit from improved passenger announcement systems.

Because of the benefits of installing tactile paving we wish to express our disquiet at the proposed amendment in the revised Code of Practice which restricts the circumstances under which work to extend the length of a platform would automatically trigger the installation of tactile paving throughout the station. The

threshold of an extension exceeding 25% of the platform length seems to us surprisingly high. However, we might accept a much smaller proportion of say 10% as being reasonable.

6. The Principle of the Access Fund

Overall, the DRC has serious reservations about the whole concept of funding access improvements through a dedicated fund. The DRC does not support such an approach for 3 reasons:

1. The DDA and our Code of Practice make it clear that when establishing what it is reasonable for a service provider to undertake by way of a reasonable adjustment, the Courts should look at the resources available to the organisation as a whole. An organisation which simply sets aside a budget for access improvements will no doubt eventually face a challenge that this does not adequately discharge its DDA duties because they are not looking at their resources as a whole to judge what can be done.

2. As we have said previously few alterations benefit solely disabled people. Therefore it cannot be fairly argued that the sums set aside are to fulfill your reasonable adjustment duties when in reality they will assist many passengers to whom you do not have duties under the DDA. We think that this particularly applies to the investment in PA and CIS systems.

3. Investing via a dedicated fund is often inefficient and wasteful. Whenever capital works are being undertaken plans should be reviewed to take every opportunity to improve access. The alternative approach often means that work has to be undone in order to improve access. At the least, opportunities to create colour contrast are missed so that paint work has to be repainted, at the very worst, the costs involved in scaffolding and securing a working environment have to be repeated. Such an approach also prolongs periods of disruption to stations and promotes a perception of inefficiency.

We recognise that this approach is the consequence of the uniquely complex structure of the railway industry. However, the DRC will be asking for the Department of Transport to justify this structure in the context of its Disability Equality Duty under the DDA 2005. We believe that to create a structure of responsibility

for the maintenance and improvement of railway stations which exempt all the major providers from responsibility for the physical alteration to railway stations, under part 3 of the DDA, serves to undermine the effectiveness of the legislation and does nothing to promote the inclusion of disabled people.

We also believe that the strategy could do more to encourage other public bodies which have investment powers to fund improvements to the infrastructure of the railway system to contribute to access improvements. The proposal to create three bands of stations to be improved by this fund would appear to us to open the opportunity of offering incentives to other public funders to jointly invest in improvements to the infrastructure of the stations included in lists B and C. If the SRA were to commit to fund 75% of the cost of these improvements, and guarantee that they would become a priority for investment if a partner would contribute the missing 25%, this would give potential to significantly enhance the impact of this fund.

7. Revised Code of Practice

The DRC is not in position to comment in detail on the proposed amendments to the Code of Practice. We believe that DPTAC and other special access organisations are best placed to advise on the detailed issues contained in this Code of Practice. We would however wish to make two specific comments on the points highlighted in chapter 9 of the consultation document.

Firstly, we endorse the investigation of the potential for greater use of barrow crossings to improve step free access at stations on quieter lines.

Secondly, we would draw to the attention of the SRA and TOCs the requirements of the DDA to maintain reasonable adjustments (such as lifts) in full working order to avoid breaching the requirements of Part 3 of the act. Installing a lift as a reasonable adjustment to overcome a physical barrier can be negated if that equipment is regularly out of use due to inadequate maintenance and unreasonable delays in repairs.

8. Other Investment in Railway Improvements

The DRC is astonished that it appears possible that major investment in infrastructure to stations, such as those described in chapter 10 of the draft strategy, will not automatically include provision for full access for disabled people. It seems ludicrous that the complex funding and management structure of the railway network could allow for the inefficiency of requiring further building work to address access issues shortly after expenditure on other major refurbishment. Efficiency would dictate that access should be addressed during any refurbishment work carried out. It can only serve to damage the credibility of the operators of the rail network if major improvements are to be followed shortly afterwards by further disruption to the station while access improvements are made.

Were this to come about we would see this as a further potential breach of the Department for Transport's Disability Equality Duty.

9. The Importance of Attitude Change

We entirely endorse the importance attached to changes of attitude identified in Chapter 11 of the consultation document. We believe that good quality, extensive staff training is critical to achieving the cultural change recognised as underpinning the success of the whole strategy. We believe that training for staff around disability should not consist solely of training in an understanding of the technical barriers which disabled people can experience when accessing rail services, but should also include an understanding of the societal and attitudinal barriers which serve to discriminate against disabled people. We do acknowledge that this conceptual understanding needs to be pitched appropriately to the level of staff receiving training, but it should never be excluded from the training provided to all grades of staff working in the railways.

10 Concluding Remarks

Overall the DRC recognises and welcomes this strategy as a positive step forward to improving access to the railway network for disabled people. We welcome many aspects of the draft strategy, however as you will have seen from the comments above we have significant reservations about aspects of the strategy and urge the SRA to consider them carefully in drawing up its final strategy.