Dear Lilian

Re: Assistance for wheelchair users by train staff

Thank you for your letter dated 8th January 2019.

You asked about the applicability of the Equality Act 2010 in relation to entitlements of disabled people to travel by rail. Sections 20 and 29(7) of the Act place a duty on service providers (including Network Rail, and train and station operators) to make reasonable adjustments for disabled service users. This can include adjustments to physical features of buildings, and to the way that vehicles are operated, for example by requiring staff to assist a disabled person in boarding or disembarking from a train. Transport providers must also ensure that their policies do not indirectly discriminate against disabled people. In addition, the Department for Transport and Network Rail are public bodies, and are subject to the duties set out under s149 of the Act (the public sector equality duty, or PSED).

You also asked if we have considered how assistance for disabled people has changed since our 2017 Report. While there has been no recent legislative change, we know that practical action is underway to address a number of the barriers disabled people face when using public transport. For example, we welcomed the publication of the Department for Transport’s Inclusive Transport Strategy last year, and we also welcome the recent consultation undertaken by the ORR on changes to the guidance they supply to operators on what their Disabled People’s Protection Policy (DPPP) should cover.

However, the impact of ongoing transport policies remains a concern, in particular the move to driver only operated (DOO) trains, as well as reductions in staffed stations. We believe that the shift to DOO trains, with the increased likelihood of there being no second member of staff on board to assist passengers, and a decrease in staffed stations could represent a diminution of protection for disabled people, and potentially be a breach of the Equality Act 2010.

We also have concerns about whether rail transport providers are properly meeting the duty to make reasonable adjustments. At the moment, train operators rely on the ‘Passenger Assist’ scheme to provide assistance to disabled travellers. However, this service requires
booking up to 24 hours in advance, so disabled passengers are not able to ‘turn up and go’, like non-disabled passengers. It is possible that relying on Passenger Assist alone is not enough for operators to meet the reasonable adjustments duty, but this would be for a court to determine.

In light of concerns such as these and following discussions with Baroness Grey-Thompson, the Office for Disability Issues, and other key stakeholders, access to transport has been identified as a potential priority for the Commission’s new Strategic Plan (due to be finalised in March 2019). If, as seems likely, that priority is taken forward, we will be looking at a range of activities to clarify, enhance and further the protections available for disabled people across all transport modes, including utilising our unique enforcement powers to drive change.

We would welcome the opportunity to meet with you to discuss our work in this area further. My colleague Rebecca.thomas@equalityhumanrights.com (telephone 020 7832 7853) would be happy to coordinate a meeting.

Yours sincerely

David Isaac
Chair