

## **CAA TO EXAMINE THE OPERATION OF PROTECTION FOR DISABLED PERSONS AND PERSONS WITH REDUCED**

The CAA is seeking views on how effectively the EC Regulation concerning the rights of disabled persons and persons with reduced mobility (PRMs) when travelling by air is being implemented in the UK. This work is being carried out in close co-operation with the Equalities and Human Rights Commission (EHRC), the Consumer Council for Northern Ireland (CCNI) and the Department for Transport (DfT).

The CAA has prepared sets of questions to help guide, but not limit, responses. The questions can be found by using the following links: [questions on PRM Regulation for airport operators](#), [questions on PRM Regulation for airlines, tour operators and travel agents](#), [questions on PRM Regulation for consumer groups](#). The CAA would welcome responses by 31 July 2009. It would expect to make all responses available on its website unless otherwise advised. Any material that is confidential should be clearly marked and included in a separate annex. Responses should be sent to [airportregulation@caa.co.uk](mailto:airportregulation@caa.co.uk).

Below is text of CAA questions on PRM Regs for Consumer Groups

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### **CONSUMER GROUPS**

#### **Impact of the PRMs Regulations on You and Those You Represent:**

[1 Do you think the Regulation has improved access to air travel for disabled passengers and passengers with reduced mobility?](#)

Complaints from our members on the subject of air travel have been notably fewer in number since the introduction of the legislation. Although this may be attributed to the success of the EU regulations, it may equally be a result of the economic climate as fewer people are taking foreign holidays.

Although the regulations may have improved access to air travel for PRM's, they are not perfect and a number of issues remain, most notably those of independent access to air travel, the manner in which spinal cord injured (SCI) people are transferred from their wheelchairs to airplane seats and precisely what may be defined as "medical" or "mobility" equipment for the purposes of the legislation.

[2 Has the introduction of the Regulation affected your organisation? If so, how?](#)

SIA as an organisation has not been affected by the regulations, although as noted in question 1 we are now fielding less complaints on the issue.

### 3 How aware do you feel are the travelling public of their rights and responsibilities under the Regulation? Do you have any evidence of misuse of the regulation by passengers?

Our members do not appear to have a great deal of knowledge of their specific rights and responsibilities under the regulation. They do however have a keen knowledge of what their rights should be, and when they feel these have been infringed they will contact us to clarify their legal position. We have no evidence of misuse of the regulations by passengers thus far. Due to the increased need of SCI people for pre-arranged assistance over some other PRM's, we believe that it is less likely our members will travel without giving the requisite notice. Of course, this is not to say that such a scenario will not occur.

### 4 What advice do you provide to passengers on the assistance that they might expect or require?

When the EC regulations were first introduced, an article was published in our bi-monthly magazine *'forward'* to alert people to this important change in their rights.

SIA has since produced an information pack explaining the rights of disabled people under the EC regulations. This is available for free from our head office or downloadable from our web site.

Our Advocacy Service and Advice Line also deal with queries from members of the public and better help them to explain their rights under this legislation.

#### **Experience of PRM Implementation:**

##### *Pre-notification*

5 Accepting that services all reasonable efforts should be made to provide a service to all PRMs, there have been circumstances where, due to the high numbers of non-pre notified passengers, the service cannot be provided to meet all requests. In those circumstances, do you think that where passengers' needs have been pre-notified to the airport their assistance needs should be prioritised over those whose needs have not?

A passenger who has pre-notified the airport with their assistance requirements must receive the assistance exactly as they have requested and in a timely manner. If this means that this must be at the detriment of a passenger who has not pre-notified the airport of his needs then so be it.

Due to the nature of the assistance many of our members require – namely handling on and off their seats and the stowage of wheelchairs – it is very likely that they will have taken all necessary precautions to ensure that this is pre-arranged within plenty of time of their flight and exactly to their specifications. Regular SCI travelers know that this assistance is often not supplied as requested and so would be unlikely to risk travelling without pre-arranging assistance. Due to the additional need that SCI people have over

some more able PRM's it is vital that their assistance is delivered as requested and not compromised by assistance to another PRM who has not pre-booked.

Whilst every action should be taken to try and board a disabled passenger who has arrived on site without notification, this must not impact those who have taken the correct steps in arranging their travel.

#### *Assistance Provisions*

6 Are you aware of any specific concerns that disabled persons or PRMs have had when travelling by air?

SIA receive numerous complaints about assistance provision when boarding aeroplanes. The most common of these complaints are:

**Injuries sustained whilst being transferred** – even a small scrape or bruise may lead a spinal cord injured person to develop a pressure sore, a condition which may lead to months of bed rest, surgery, long term medical issues or even death. That these problems are easily avoidable is of great concern to our members.

**Significant delays to being transferred on or off planes** – some of our members report waiting times of up to an hour whilst they wait to be disembarked from their flight.

**Undignified transfers** – the PRM is only transferred once the plane has been fully boarded by other passengers, which many would consider a humiliating process.

**Significant differences in provision between outward and inward journeys** – there still does not appear to be consensus on provision for disabled people across the EU.

**Assistance not provided as requested or may be non-existent** – this is particularly frustrating given the amount of notification SCI people give of their assistance requirements.

7 What is your view of the facilities provided at the airport for PRMs and the types of equipment available to assist passengers in boarding the aircraft?

SIA is aware of a purpose built hoist – the Eagle 2 – which is currently deployed in Australia, New Zealand and Canada. Two of these hoists are also available in Terminal 5 at Heathrow Airport, though it appears that they are under used as the manufacturers believe the contractor staff are insufficiently trained in their use.

These hoists could overcome both the issue of undignified transfer and that of injury sustained through mishandling. As such, we would like to see their usage extended across all UK airports as standard.

**8 Are there sufficient guidelines for passengers on the types of equipment they can take with them, both in the cabin and in the hold?**

The EC regulations refer to “medical equipment” and “mobility equipment”, but neither term is clarified, leaving some degree of interpretation by airlines. For example, we are aware of members being refused the carriage of hoists unless they pay an excess baggage fee. We would argue that these hoists should be interpreted as mobility equipment as they are essential for less able SCI people to be moved from their chair to a bed and vice versa.

The guidelines are insufficient for passengers, but also insufficient for airlines. The EC regulations should offer more clarification of these terms and examples of what is included under them. However, they should also avoid being too prescriptive to ensure that less commonly used equipment may still be accommodated under this provision.

*Management Issues*

**9 What is your view of the training packages provided to airport and airline staff?**

**Have any companies in the aviation industry asked for your advice on training?**

We are not aware of the specific training packages provided to staff, although the complaints we receive from our members lead us to believe that they are not adequately meeting the needs of disabled people. If it is the case that the Eagle 2 hoists available at Terminal 5 Heathrow are not being used due to a lack of training, then this is a regrettable situation given the huge benefits these could have for disabled passengers.

We have not been approached by any companies in the aviation industry to advise them on training.

**10 What is your experience of industry complaints handling? Are you satisfied with the way in which customer complaints are handled?**

Our members will refer complaints to SIA when they feel that they have not been adequately dealt with by the relevant airline or airport. However, we have not had a great deal of experience of this over the last 12 months and are not well placed to comment on the way in which complaints are now handled by the industry.

## 11 Has your organisation received complaints about air travel? What are the key reasons for complaint?

Between July 2008 and July 2009, 18% of all queries referred to SIA's Advocacy Service concerned air travel. The issues can be divided into the following categories.

### **Refused independent travel**

- Refusal for disabled people to fly independently without an assistant

### **Assistance**

- Assistance not provided as requested or may be non-existent
- Improper man handling from wheelchair to plane seat resulting in injury
- Significant differences in provision between outward and inward journeys
- The indignity of being boarded last onto the plane
- Airline staff asking inappropriate questions about toileting needs etc

### **Equipment**

- Refusal to allow on-board carriage for people requiring medical equipment their flight. This equipment ranges from ventilators to pressure relieving cushions.
- Airlines charging extra or refusing to carry essential bulky equipment in the hold, including mobility equipment such as hoists
- Mobility equipment damaged or lost in transit

### **Seat booking**

- Pre-booked seats, such as aisle seat, unavailable on arrival at airport
- Refused front seats with extra leg room
- Parted from personal assistant on flight

### **Ambulant disabled people**

- Ambulant disabled people find it hard to get assistance as their disability is not as obvious as wheelchair users
- They are not treated sympathetically when requesting more leg room

## 12 Have any companies in the aviation industry asked for your advice on the provision of services to disabled persons and PRMs?

SIA has not been asked our views on service provision by any aviation companies. We have approached one handler, OCS, in reference to the Eagle 2 hoist (question 7, above) but have been systematically ignored.

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**Government/Enforcement/Future Actions:**

**13 Is there sufficient guidance on passenger rights and is it adequately publicised?**

Members who contact the SIA Advice Line or Advocacy Service on this issue do not seem aware of their rights under this legislation, or indeed to even be aware of the existence of the regulations. As a result SIA has produced a document summarising people's rights under these legislation. We also make callers aware of a similar document produced by the EHRC.

We would expect our members to use SIA as a first port of call when trying to get such information, and have yet to be told that the guidance we provide is inadequate. Of course, complex individual cases may require a more hands on approach than the dissemination of this literature.

**14 Have you had any experience in dealing with the CAA, EHRC or DfT in relation to these issues? (Please comment on this experience, clearly indicating which body you are referring to).**

The legal department of the EHRC has been very useful in explaining the vagaries of the legislation which impacts whether or not a disabled person can travel unaccompanied on aircraft, namely the EC regs, the DfT code of practice, EU-ops and the CAA's FODCOM 200849. Although the legislation does not bring clarity to this issue, they have been most useful in explaining why this is and the grey area that has arisen as a result.

Our colleagues at the Joint Committee on Mobility for Disabled people (JCMD) have sought guidance from the DfT on the issue of disabled people traveling unaccompanied but as yet have not received any response to their queries.

We have dealt with the CAA on an issue related to the EC regulations, asking them to clarify whether pressure relieving cushions – vital medical equipment for SCI people- can be used on airplane seats. This was in response to queries from some of our members who had not been allowed to use them, therefore putting themselves at risk of pressure sores. The CAA went on to amend a FODCOM 200918 to state that such equipment would not be considered a health and safety issue if the seatbelt could still be securely fastened. This has bought welcome clarity to an area of concern for SCI people traveling by air.

## 15 What could these bodies or other stakeholders do to improve the workings of the current Regulation?

These bodies could improve the workings of the EU regulations by bringing clarity to the grey areas that have arisen since their introduction last year.

On the issue of flying for individual disabled people, the CAA could revise FODCOM 200849 which does not satisfactorily define an “able bodied person capable of assisting with an emergency evacuation”. Some airlines take this to mean an assistant that must accompany a disabled person on a flight, but some take it as a ratio between able bodied and disabled passengers.

If the DfT were to revisit section 3.14 of their document “Access to Air Travel for Disabled Persons and Persons with Reduced Mobility – Code of Practice”, this would also assist on this issue. We are concerned about the definition of someone who can “leave their seat and reach an emergency exit unaided” which we reject as posing a safety risk either to other passengers or crew members. It may well pose a risk to the safety of the disabled person, but that is understood and accepted by them when taking their flight, as it is when travelling by other modes of public transport, eg train, bus/coach, and ferry.

The purpose of EC Regulation 1107/2006 was to give greater rights and opportunities in relation to air travel by disabled people but the definition as in the paragraph above does the exact opposite to what has been a fully accepted provision in the UK for more than 40 years. This is a most retrograde decision and its implementation by UK carriers is now causing acute distress and difficulties to disabled people who have hitherto travelled unaccompanied and are now being prevented from doing so.

Clarity could also be brought to the issue of what is classed “mobility” and “medical” equipment, as per our answer to question 8, above. We have received evidence of airlines refusing to recognise equipment such as hoists as mobility equipment, despite the fact that these are essential for transferring some SCI people from their chair to a bed or vice versa.

## 16 The European Commission is planning to review the implementation of the Regulation in 2010. In what ways do you think could the Regulation be improved?

The regulation must ensure that clarity is brought to the grey areas which currently exist in air travel provision for disabled people – namely those of solo travel for disabled people and what equipment an airline is obliged to carry. These issues have been outlined under question 15, above.

The EU initiative has been a largely beneficial move, but we are only now beginning to gauge the disastrous consequences of the ill thought out new guidance on independent travel in the DfT’s Code of Practice (section 3.14) which has set back the rights of disabled people by decades. We understand that the Joint Committee on Mobility for Disabled People (JMCD) have written to the Minister, Lord Adonis, on this issue but have yet to receive a response.