

Adjudication Report

Case Reference: R167121

1. The Parties

Consumer:	D. Paulley
Rail Service Provider (RSP):	Network Rail
Ombudsman appointed:	R. Tackley

2. The Incident and Complaint

Date of Incident:	16 August 2024
Date of First Complaint:	17 August 2024
Date of Deadlock:	N/A
Date of Ombudsman escalation:	18 October 2024

3. Case Summary

The Dispute

The Consumer booked Passenger Assistance for a journey on 16 August, from Coventry to Trowbridge via Birmingham New Street and Bristol Temple Meads. The Consumer reported that there was an assistance failure, after arriving late at 17:20 on the service from Coventry to Birmingham New Street. The Consumer explained that their connecting train to Bristol was scheduled for 17:12 but was running 25 minutes late, so they had expected to be assisted with the transfer.

The Consumer complained that assistance staff at Birmingham New Street incorrectly informed them that they had missed the onward train to Bristol. The Consumer stated that the staff member directed them to the Assisted Travel Lounge instead of helping them onto the connecting train service.

The Consumer stated that they told the member of staff providing assistance that the intended train was running late, but were advised that this person could not accompany them to the required platform due to other assistance bookings. The Consumer advised that they took themselves to the platform, but no assistance staff were visible, so they positioned themselves by the train door, to prevent the train's departure until staff arrived with a ramp.

On 18 October, the Consumer referred their claim to the Rail Ombudsman after being advised that their complaint was still being investigated by the RSP. The Consumer was not happy that they had not received a final response to their complaint from the RSP after waiting 40 working days.

The Claim and Ombudsman Scope

The Consumer is seeking an explanation of what happened on the day, specific assurance that the incident will not happen again and a sincere apology. The Consumer is also seeking £1,600.00 in compensation.

The claim is in scope for the Rail Ombudsman scheme under the category of Passenger Assistance and complaint handling.

The Response

In response to the Rail Ombudsman claim, the RSP stated the complaint was still being investigated by the local station team, but the Consumer had been provided with the Rail Ombudsman's contact details because it had taken longer than 40 working days from the point of the first complaint.

The RSP responded to the Consumer directly on 28 November 2024 and provided a copy of this to the Rail Ombudsman.

The RSP apologised in its response to the Consumer, accepting that it had failed to assist the Consumer with their connection. The RSP stated it is currently training all dispatch teams to deploy ramps and support customers more efficiently. The RSP stated that staff should always check for delays and noted a recent upgrade to staff iPads which had been identified as slow. The RSP also explained its plans to upgrade corporate Wi-Fi to assist staff in accessing timely information. In addition, the RSP explained they were implementing a dedicated Passenger Assistance Manager for the station.

The RSP offered to meet the Consumer in person when next travelling through Birmingham New Street, so that the Consumer could explain their personal experience and see the steps being taken to improve service provision.

Evidence

The outcome of all cases that the Rail Ombudsman investigates are dependent on the evidence and information provided by both parties, which I have reviewed.

In assessing the complaint, I have considered the National Rail Conditions of Travel ("NRCot"), the RSP's Accessible Travel Policy and Assisted Travel webpage, the Equality Act 2010 and the RSP's Complaint Handling Procedure.

The evidence provided by both parties is listed below:

Provided by the Consumer

- Application form.
- Complaint emails between the Consumer and the RSP.
- Train tickets – total cost £71.85:
 - Anytime Day Single 1st, 16:36 Coventry to Birmingham New Street, £5.50.
 - Anytime Single 1st, 17:12 Birmingham New Street to Bristol Temple Meads, £58.45.
 - Off Peak Day Single, 18:43, Bristol Temple Meads to Trowbridge, £7.90.

- Passenger Assistance booking from Coventry to Trowbridge made on 15 August for travel on 16 August. The assistance booking includes help transferring trains, use of ramp and help finding seat reservations for the itemised journey:
 - 16:36 Coventry to Birmingham New Street;
 - 17:12 Birmingham New Street to Bristol Temple Meads;
 - 18:43 from Bristol Temple Meads to Trowbridge;
 - Arrival at 19:23 in Trowbridge.
- GoPro Footage of the incident titled "off 1656 ex COV at BHM connecting 1712 for BTM 17.08.24" uploaded to youtube.com, described below.

[The video starts after arrival in Birmingham New Street - facing the platform from the train, looking through an open train door].

An RSP member of staff provides a ramp from the platform and assists the Consumer to get off the train. The Consumer tells the member of staff that they are changing to a train for Bristol Temple Meads. The member of staff tells the Consumer that as their train was delayed, they have missed the intended service. The Consumer says that the train to Bristol is also running late from platform 11. After disembarking, the Consumer looks at the departure boards and tells the member of staff that the train is listed to depart from platform 11 at 17:34. The RSP's member of staff directs the Consumer to the Assisted Travel Lounge and advises the Consumer that they cannot provide assistance to get to platform 11. The Consumer asks if they can make their own way to platform 11. The RSP's member of staff says that they cannot go with the Consumer but that they will tell platform 11 staff. The Consumer starts moving away from the member of staff.

[The video cuts to platform 11.]

A train is on the platform and people are boarding. After the person in front of the Consumer has boarded, the Consumer waits by the first-class train door for approximately 30 seconds. The Consumer is heard saying to train crew (not visible on video) that they are waiting for assistance and are told that this will be arranged. The Consumer waits by the train door for a further minute until assistance staff run over with a ramp and provide assistance to board the train. The Consumer thanks staff.

[The video ends].

Provided by the RSP

- Response form.
- Correspondence file between the Consumer and the RSP from 17 August to 18 October 2024.
- Final response to the Consumer from the RSP's Head of Stations, Security and Customer Relationship Management dated 28 November 2024.

Mediation

The Consumer received the RSP's final response to their complaint whilst the case was with the Rail Ombudsman. The Consumer expressed dissatisfaction that the RSP's final response was delayed but also commented that the explanation given was positive in that the RSP had admitted what happened and outlined steps toward future improvement. However, the Consumer asserted that the RSP had not explained why the incident occurred and why no compensation was offered.

The RSP shared the Consumer's comments with the station team but no further response was received.

The RSP made no offers of compensation. The parties were unable to agree a settlement, so the case required an adjudication decision.

The timescales for the Rail Ombudsman to consider the case were extended to allow the Rail Ombudsman to request advice for the purposes of quantifying any award within the context of its Maximum Award Limit. Legal advice was sought on this basis.

4. Decision

Complaint handling

The Consumer escalated their claim to the Rail Ombudsman upon receiving a deadlock email from the RSP advising that the incident was still being investigated.

The RSP is obligated to direct the Consumer to the Rail Ombudsman if a complaint cannot be resolved within 40 working days. The RSP did this, as required and the Consumer was updated on timescales before that. This is in line with the RSP's Complaint Handling Procedure and allowed the Consumer to escalate their complaint to the Rail Ombudsman at the earliest opportunity, which they did.

Unfortunately, the RSP's final response was delayed. The initial complaint was acknowledged on the day it was received (17 August) but the final response was not provided until 28 November. I recognise that the Consumer was provided with updates about this delay. Despite acknowledging fault, the response did not explain what caused the incident and did not provide a proactive compensation offer. The Consumer has stated that the lack of explanation has reduced their confidence in the investigation undertaken.

For the delayed handling of the complaint, I make no award, because the Consumer was provided with a complaint acknowledgement, and updates, in line with the RSP's complaint handling procedure.

Passenger Assistance incident

The RSP's final response to the Consumer accepted that assistance was not provided as it should have been at Birmingham New Street.

I have verified from independent rail records that the Consumer's delayed train from Coventry arrived (at platform 5) 24 minutes late at 17:20. This was 14 minutes before the departure of the delayed 17:12 to Bristol (from platform 11 at 17:20). I note that

Birmingham New Street has a recommended connection time of 12 minutes. I am satisfied that the Consumer had a reasonable expectation to be able to board the delayed departing train to Bristol.

The Consumer had prebooked Passenger Assistance for the full journey for which they were travelling with three different rail companies. Birmingham New Street is managed by the RSP. The full Passenger Assistance booking listed the following requirements for each train and connecting stations:

- *“Departure Assistance: Help finding seat; Use of ramp.*
- *Arrival Assistance: Help transferring trains; Use of ramp.*
- *On Train Assistances: Help finding seat.”*

At Birmingham New Street, the RSP was responsible for providing; Passenger Assistance via use of the ramp to alight the incoming service, assistance changing trains, and use of the ramp to board the departing service.

The failure to provide Passenger Assistance as per the booking is not disputed by the Parties. The information given to the Consumer on arrival at Birmingham New Street, was from the member of staff who was providing assistance to alight the train. This was illustrated in the GoPro video provided by the Consumer. The Consumer is first told (incorrectly) that they have missed the connection, and the Consumer highlights that the departure boards say differently. Then the Consumer is told that assistance cannot be provided to get to platform 11.

The Consumer states that when they arrived at platform 11 they could not see or find RSP assistance staff. The video stops as the Consumer is leaving platform 5 and restarts at platform 11 with passengers boarding the train. The Consumer is assisted onto the train after waiting by the train door and after speaking to a member of the train crew. The Consumer has stated, from the outset of their complaint to the RSP, that they found the situation stressful, and it made them angry, commenting that they were not sure if they were going to be forced to miss this train.

I am satisfied that the Consumer was provided with use of the ramp to alight and board the relevant services. However, the RSP did not comply with the terms of the Passenger Assistance booking as they failed to provide assistance with transferring trains.

In considering the appropriate level of compensation, I have consulted the legal advice received, alongside the [Rail Ombudsman Compensation Framework](#).

The advice states that the failure to meet the pre-booked assistance requirements constitutes a failure to provide ‘reasonable adjustments’ in accordance with the Equality Act 2010. The Rail Ombudsman does not have the same powers as a court and cannot make a declaration under the Equality Act 2010. However, the impact of the breach will be assessed in considering the level of compensation to award.

The RSP’s Accessible Travel Policy makes reference to the fact the Birmingham New Street has a long concourse. It is known to be a large and busy station. The station map shows the multiple platforms. Platform 11 is toward the end of the concourse. The video evidence provided by the Consumer does not show them changing platforms. However, based on the size of the station, I am satisfied that the next

platform was a distance away, requiring the use of lifts. Therefore, I am persuaded that the requirement to navigate the station without assistance would have had a negative impact.

I note that this was the first of two changes required on this train journey. I consider that this experience will also have impacted the Consumer until the journey was completed.

The video provides objective evidence of significant inconvenience caused to the Consumer. The Consumer maintains a calm manner throughout the video, but their anxiety is partly evidenced by their physical positioning by the train door after the majority of passengers have boarded. The video also supports that no assistance staff arrived until just before the train's departure, which I am sure would have impacted the uncertainty about whether boarding would be possible. After proactively speaking to a member of train crew (not visible on the video), assistance staff arrive with the ramp just before the train is due to depart.

It was acknowledged within the legal advice provided to the Rail Ombudsman that the RSP's final response included mitigating factors to consider when assessing the level of compensation. Firstly, the admission of fault, and the issue of an apology. Secondly, the commitment to staff training and operational upgrades, such as iPad updates and Wi-Fi improvements. Thirdly, the offer to the Consumer to provide direct feedback.

However, as previously noted, the final response was delayed and did not provide a full explanation of what went wrong.

Conclusion

The legal advice to the Rail Ombudsman suggests that compensation could be in the region of £1,000 and £1,500. I have considered this within the context of the evidence on file, and the Rail Ombudsman's Compensation Framework.

In summary, I find that the RSP failed to provide the assistance that was booked to change trains at Birmingham New Street. This did not delay the Consumer's journey, and the Consumer was provided with part of the assistance booking. However, I am satisfied that it impacted the Consumer's enjoyment of the journey through the inconvenience caused at Birmingham New Street and caused additional anxiety because the onus was placed on the Consumer to ensure they met their connection. This was partly mitigated by the handling of the complaint by the RSP. Although the RSP has apologised and committed to service improvements, there was no proactive compensation offer for the failure.

With reference to the Rail Ombudsman's Compensation Framework, whilst I consider this to be a one-off assistance failure, I must also take into account that the incident occurred in a public place, and caused inconvenience and distress to the Consumer, also noting, however, that the Consumer made their connection and there was no overall delay. I therefore have applied the criteria of "high trouble and low time".

I must also have regard to section 7.10 which states that a claim under the Equality Act 2010 which relates to injury to feelings alone could merit the maximum award in

certain circumstances, noting the requirement for the Ombudsman to consider whether the incident occurred within a public place and whether it had a particularly humiliating effect. Therefore, having regard to this and the legal advice sought, I award £1,200 for the failure to provide Passenger Assistance, having considered the factors outlined above.

To help prevent future recurrence, the Rail Ombudsman recommends that the RSP implements the proposed operational improvements and training as outlined within their response to the Consumer, without undue delay.

The Consumer's journey involved multiple rail providers. In order to ensure learning across the industry, the Rail Ombudsman recommends that the RSP and the rail industry considers this incident further within a Rail Ombudsman Member's Panel.

I therefore uphold the Consumer's claim in part.

5. The Award

For the reasons set out above I award £1,200 for the Passenger Assistance incident.

Acceptance of an award would be in full and final settlement of this claim and, if accepted, this adjudication decision is binding on the RSP. It is the Consumer's choice whether to accept or not. In order to accept, the Consumer needs to communicate this to the Rail Ombudsman within 20 working days of receiving the final decision. Please note that after 20 working days the decision will lapse, and the Consumer may not be entitled to any award.

The RSP has 20 working days to comply with this decision from the date of acceptance, unless another timescale has been agreed, in which case, that will apply. If the decision is accepted and there are any problems with the settlement payment, the Consumer may contact aftercare@railombudsman.org.

If the Consumer does not accept the award within 20 working days, the referral of the case to the Rail Ombudsman does not dissolve the Consumer of their rights to pursue the claim through an alternative channel if they wish.

6. Recommendations

The Consumer's journey involved multiple rail providers. In order to ensure learning across the industry, the Rail Ombudsman recommends that the RSP and the rail industry considers this incident further within a Rail Ombudsman Member's Panel.

The Rail Ombudsman recommends that the RSP implements the proposed operational changes in order to minimise the chance of future recurrence.