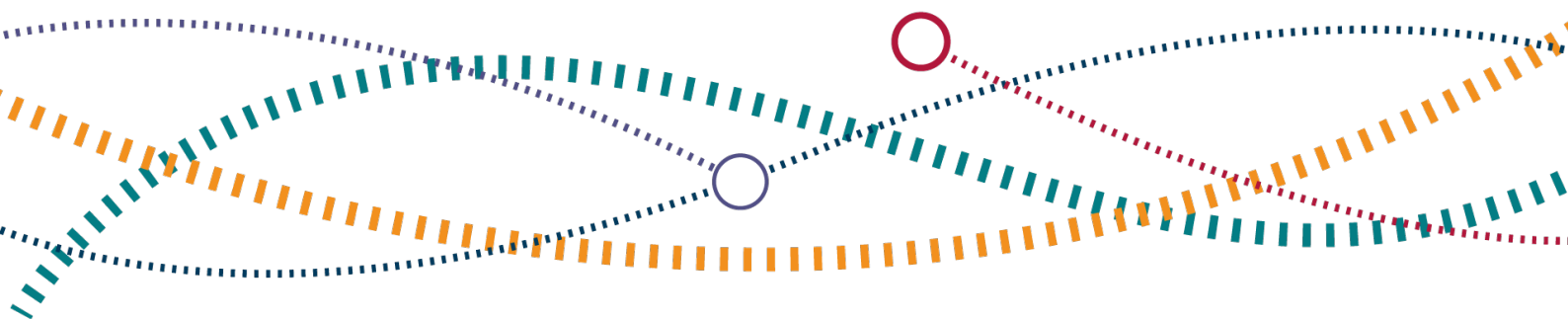




Consultation on a draft Complaints Code of Practice

Proposals to replace guidance to licence holders on complaints handling procedures with a new Complaints Code of Practice and amended licence condition

04 August 2021



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1. Executive summary

Introduction

- 1.1 Good complaints handling is an essential part of the service that train and station operators provide to their passengers. When things go wrong, it is important that there are effective means for passengers to submit complaints, and for operators to put things right.
- 1.2 Effective management of complaints is a means by which licence holders deliver protection for consumers and gain insight into how their business is working from the perspective of those who use their services. An easily accessible complaints system empowers consumers to seek answers or redress when things go wrong.
- 1.3 Between April 2019 and March 2020 over half a million passenger rail service complaints were made to franchised and non-franchised train operators in Great Britain. The vast majority of these complaints (94.7%) were resolved within 20 working days. The information provided by these complaints, as well as passenger feedback more generally, enables licence holders to identify root causes of dissatisfaction and take action to improve the customer experience.
- 1.4 Under their current licences, train and station operators must establish and comply with a complaints handling procedure (CHP) that is approved by the Office of Rail and Road (ORR).¹ In 2015 we published [our guidance](#) on complaints handling procedures for licence holders, setting out what we will look for when carrying out our approvals role and when monitoring for continuing compliance.
- 1.5 In our [Annual Rail Consumer Report](#) last year we stated our intent to undertake a review of our current complaints handling guidance. We want to ensure that our guidance remains fit for purpose, continues to reflect good practice in complaints handling, and has kept pace with passengers' needs and expectations.
- 1.6 To support our review, we commissioned research from Queen Margaret University to consider whether our current guidance continues to reflect good practice, as well as to review approaches to the regulation of complaints handling in other sectors. We also commissioned Critical Research, who manage our survey on satisfaction with train companies' complaints handling, to investigate the key drivers of passenger satisfaction.

¹ We use the term train and station operators as a plain English way of referring to licence holders with a complaints handling obligation in their licence. Unless otherwise stated, the provisions of the Complaints Code of Practice on which we are consulting will apply to all licence holders who have a complaints handling obligation in their licence.

- 1.7 In this document, we set out our proposals to bring our complaints handling requirements up to date and in line with current practice, and set a clear common baseline across all train and station operators which we would expect them to seek to exceed. It provides licence holders with a clear blueprint for developing and maintaining effective complaints handling procedures for their passengers.

Our proposals

- 1.8 We are proposing a new **Complaints Code of Practice (CoP or “the Code”)** to replace our current guidance. This new Code of Practice sets out a common baseline, and clear requirements, on licence holders, along with our view on the principles that underpin good complaints handling in order to support licence holders in developing effective procedures for their passengers. It also places greater emphasis on good complaints handling culture and how this can be promoted, particularly by senior managers. Our Code also sets clear requirements around how licence holders must promote their complaints handling procedures to passengers, and how complaints must be handled, recorded and reported.
- 1.9 Specifically our proposals include **strengthened and expanded requirements** regarding the information **licence holders’ websites** must display about the complaints handling process to promote awareness amongst passengers.
- 1.10 We propose a **new definition** of a complaint, to bring it into line with good practice elsewhere and to set clearer expectations for operators and passengers on when a response will be required. We set out proposals in relation to the **handling and recording of complaints including on social media**, and the treatment in future of **physical complaints forms**. We also set out the **information** that must be recorded as a minimum in order to support good record-keeping.
- 1.11 In relation to receiving, investigating and responding to complaints, we set out **new requirements** on information operators must include when **acknowledging complaints** to encourage good practice and a level playing field across industry. We also set out what a **good complaints handling response** should consider.
- 1.12 The Code contains **new, strengthened requirements** on how passengers must be made aware of their right to appeal via Alternative Dispute Resolution (ADR) if dissatisfied with the outcome of their complaint – and **new requirements** on the information that must be provided when signposting passengers there.
- 1.13 We set out requirements and expectations on licence holders in relation to **training, resourcing, and quality assurance** – including a new requirement to ensure that they allocate and maintain adequate resources to receive, handle and process complaints in a timely manner.

- 1.14 We are also seeking views via this consultation on a number of other changes. These include the time that passengers must wait before they have the right to access the Rail Ombudsman, and a new suite of metrics to promote transparent reporting of complaints handling performance to cover the key areas of **timeliness, quality, and continuous improvement**.
- 1.15 We also set out an intent to introduce new requirements that will mean **train and station operators publish more of their own complaints data**, in order to incentivise greater ownership over their complaints handling activities and performance.
- 1.16 We are also seeking views on proposals for an **amended licence condition** to require licence holders' CHPs to comply with the new Code. In so doing, we propose to simplify the current licence condition including removing the requirement on licence holders to seek approval of their CHP from ORR, in order to incentivise greater ownership amongst train and station operators over their complaints procedures.
- 1.17 We are now seeking comments on these proposals.

Background

- 1.18 Under the current licence condition, licence holders' CHPs, along with any material changes to them, must be approved by ORR. Transport Focus and London TravelWatch must also be consulted as part of this process. In practice this works by ORR reviewing each new licence holder's draft CHP against our published guidance, along with any material changes to licence holders' existing CHPs, and seeking input from Transport Focus and/or London TravelWatch, as appropriate.
- 1.19 Our current guidance on complaints handling procedures for licence holders was published in 2015 and sets out what ORR will look for when exercising this approval role, and when monitoring for continuing compliance.
- 1.20 Much has changed since then, including the introduction of the Rail Ombudsman in 2018. Passenger expectations concerning the means and speed by which complaints are handled are likely to have evolved over time. It is important that our complaints handling guidance keeps up to date with the latest developments.
- 1.21 There will be further changes to the complaints handling landscape to come. In May this year, the Department for Transport (DfT) published [Great British Railways: The Williams-Shapps Plan for Rail](#). The white paper contains a number of announcements which mean that ORR's role in relation to complaints handling may change in the future.

- 1.22 Specifically, the white paper announced the government's intent for ORR to take over the sponsorship of the Rail Ombudsman from the Rail Delivery Group (RDG). Transport Focus will have a role in monitoring complaint volumes and themes to support its work as passenger champion. The creation of a new organisation, Great British Railways, who will contract with private train companies to operate trains, and the introduction of new passenger service contracts, will mean new structures and relationships across the rail industry.
- 1.23 These changes will take some time to deliver – and ORR stands ready to support them. However, the importance of there being simple, effective and accessible processes for passengers to raise complaints will remain. Therefore, we believe that it is important to bring our current complaints handling guidance up to date, and to set the framework for good complaints handling across the rail sector. We believe that a clear framework for good complaints handling will have an important role to play in the future structure of Britain's railways, just as it does now.
- 1.24 In producing our proposals we have been informed by a number of studies which we are publishing alongside this consultation.
- 1.25 The first is a review of good practice in complaints handling procedures and guidance, carried out on our behalf by Queen Margaret University Consumer Dispute Resolution Centre (QMU). The purpose of this research was to consider whether aspects of our current guidance continue to reflect good practice, as well as providing an overview of approaches to the regulation of complaints handling in other sectors. The research included anonymised interviews with representatives from some sectoral regulators, ombudsman schemes, and a sample of train operators to gather their feedback on our current guidance, and their input on future changes. We are grateful to all those who engaged with QMU on its work.
- 1.26 The second study draws on advanced statistical analysis of our passenger satisfaction with complaints handling survey. The survey has been running since 2015 and allows passengers to provide feedback on their experience of train operating companies' complaints handling processes. We commissioned Critical Research, who manage the survey on our behalf, to conduct a deep dive of the survey results in order to investigate the key drivers of passenger satisfaction with complaints handling, and their potential order of importance to passengers.
- 1.27 The outputs from both of the above studies have helped to inform our proposals.
- 1.28 Our proposals have also been informed by wider engagement with train and station operators, Transport Focus, the Rail Alternative Dispute Resolution (ADR) Scheme Council, the Rail Ombudsman, and the Rail Safety and Standards Board (RSSB), as well as ORR's Consumer Expert Panel, and the Railway Industry

Health and Safety Advisory Committee (RIHSAC). We are grateful to all those who have given their time and expertise to inform our proposals.

Scope of this document and how to respond

1.29 The remainder of this document is structured as follows:

- Chapter 2 – we set out the case for the new Complaints Code of Practice and seek stakeholders' feedback on a number of questions
- Chapter 3 – we provide an overview of each of the Code's provisions in turn, along with aspects on which we are seeking stakeholders' feedback
- Chapter 4 – we provide an overview of the changes we are proposing to the complaints handling licence condition and seek stakeholders' feedback
- Annex A – we set out our Draft Complaints Code of Practice
- Annex B – we set out our proposals for an amended complaints handling licence condition
- Annex C – we provide a list of collated consultation questions
- Annex D – we set out our draft regulatory and equality impact assessments

Responding to this consultation

1.30 Responses to this consultation are invited by **5pm on Thursday 30 September 2021**, and should be sent by email to: **chp@orr.gov.uk** or by post to: **ORR consultation: Complaints Code of Practice**, Office of Rail and Road, 25 Cabot Square, London, E14 4QZ. In addition to the consultation questions we have set out in this document, we also invite any general feedback on our proposals and draft impact assessments.

1.31 We ask that, wherever possible, you submit your response to us via email.

1.32 ORR has actively considered the needs of blind and partially sighted people in accessing this document in PDF format. The text is available in full on the ORR website, and may be freely downloaded. Individuals and organisations can use free Adobe Reader accessibility features or screen readers to read the contents of this document.

1.33 If you need this document in a different format such as large print, easy read, audio recording or braille, please contact our Customer Correspondence Team via:

- email: webteam@orr.gov.uk
- telephone: 020 7282 2000
- postal address: **ORR consultation: Complaints Code of Practice**, Office of Rail and Road 25 Cabot Square London E14 4QZ.

1.34 We will consider your request and will endeavour to get back to you with the accessible format within 20 working days.

1.35 We plan to publish all responses to this consultation on our website. Should you wish for any information that you provide to be treated as confidential, please be aware that this may be subject to publication, or release to other parties or to disclosure, in accordance with the access to information regimes. These regimes are primarily the Freedom of Information Act 2000 (FOIA), the General Data Protection Regulation (GDPR,) the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004.

1.36 Under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, if you are seeking confidentiality for information you are providing, please explain why. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR.

1.37 If you are seeking to make a response in confidence, we would also be grateful if you would annex any confidential information, or provide a non-confidential summary, so that we can publish the non-confidential aspects of your response.

Next steps

1.38 Following consideration of the responses we will publish our decision and, if appropriate, proceed with the statutory licence modification process.

2. The Complaints Code of Practice

- 2.1 In this chapter, we set out our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply, and seek stakeholders' feedback on aspects of the Code, and on our proposal to change the definition of a complaint to make the expectation of a response clearer.
- 2.2 Our engagement with industry suggests that our current complaints handling guidance, whilst useful, has not been a 'living document'. Feedback from the operators that use it suggests that it could be more challenging and aspirational, with a clearer, more streamlined vision of "what good looks like". We also heard a strong appetite for there to be a greater focus on driving learning from complaints – and supporting the internal cultural change needed to deliver this. In short, we believe there is an opportunity to refresh our guidance with a new approach.
- 2.3 ORR took over the responsibility for the approval of licence holders' CHPs from DfT in 2013. We published our [current guidance](#) in 2015, following a lengthy period of consultation with stakeholders.
- 2.4 Our policy approach on complaints handling is *to promote continuous improvements in passengers' experience of rail, through licence holders acting on feedback through complaints*. This continues to be our objective and we have developed our proposals against it. Our proposals also support ORR's strategic objective of better rail customer service.
- 2.5 We set out an intent to undertake a review of our current guidance in our [Annual Rail Consumer Report](#) in 2020. In the six years since we published our guidance, much has changed. The introduction of the Rail Ombudsman in 2018 means that our guidance needs to be updated in order to reflect the current appeals process. Data protection legislation has changed. Passenger expectations concerning the means and speed by which complaints are handled are likely to have evolved.
- 2.6 However, our review is about more than housekeeping. Train operators have more advanced Customer Relationship Management (CRM) systems at their disposal. There is a greater emphasis on the customer experience. Our survey of passenger satisfaction with complaints handling means that we now have a much richer source of insight on which to draw in order to better understand the key drivers of satisfaction. The Covid-19 pandemic has also impacted on industry, with reduced passenger demand meaning a reduction in overall complaints volumes compared to the pre-Covid period. Whilst volumes may pick up again as restrictions are

eased, it is an opportune moment to look at new approaches and ways of doing things differently.

QMU research

- 2.7 As part of the research we commissioned to support our review, we asked QMU to review the approaches to the regulation of complaints handling in other regulated sectors in order to help us identify relevant learnings, including in relation to our guidance and approvals role. The research report has been published alongside this consultation.
- 2.8 QMU found that in practice, all the regulators they reviewed use a broadly principles-based approach to the regulation of complaints handling, combined with more detailed rules where required. However, they found ORR to be unique across the five regulators reviewed in approving individual providers' CHPs. In other sectors, providers are expected to ensure that they are meeting the required standards, with the potential for regulatory action if they do not.
- 2.9 QMU also interviewed representatives from an anonymised sample of train operators about their experience of the current guidance. Although no strong feelings were expressed that the approvals process should change, there was an appetite for change in relation to the content of our current guidance. Interviewees were interested in improving the guidance to look at new ways of doing things, reflect the changing expectations of consumers, and also, for any new guidance to reinforce the importance of driving an internal culture that supports good complaints handling.
- 2.10 A range of views were expressed by the train operator interviewees about the potential model for a successor document to our guidance. Some thought that having a model CHP or a best practice guide would be useful. Another interviewee favoured a standards document for industry reflecting best practice, akin to an industry charter. Others referred to the need for a leaner, more straightforward document, and for any successor document to go beyond just setting minimum standards for compliance, but also to set out more clearly "what good looks like".
- 2.11 QMU's own researchers noted that although many key issues underpinning good complaints handling, such as accessibility, fairness, and prompt resolution, are contained within our current guidance, they are somewhat lost within the narrative, and that the guidance could therefore benefit from a clear set of overarching principles upfront that underpin complaints handling practice.

Critical Research

- 2.12 We also commissioned Critical Research, who manage our passenger satisfaction with complaints handling survey, to conduct a deep dive of the survey results using advanced statistical methods in order to investigate the key drivers of satisfaction and their potential order of importance to passengers.
- 2.13 This research revealed that, firstly, the quality of the complaints handling process, including the outputs from it, and, secondly, timeliness (both speed of response and being kept informed), are the two most important drivers of satisfaction. We set out in further detail later on in this document how this finding has influenced our proposals.

Our proposals

Complaints Code of practice

- 2.14 We have considered the feedback from QMU's review of approaches to the regulation of complaints handling in other sectors, and from train and station operators in developing our proposals. We agree that there is scope to do things differently.
- 2.15 Therefore we are proposing to replace our current guidance with a new **Complaints Code of Practice** that, in future, licence holders' CHPs must comply with. Instead of ORR approving individual operators' complaints handling procedures, the onus will be on operators to ensure their CHPs satisfy the requirements of our code, with ORR having ultimate recourse to take compliance action where necessary. This approach is consistent with that taken in our recent work on delay compensation, and reflects well established regulatory models in other sectors. It will necessitate a change to the existing complaints handling licence condition which we discuss later in this document.
- 2.16 The Code will apply to **all** licence holders who have a complaints handling obligation in their licence and sets out what a CHP "**must**" contain or what licence holders "**must**" or "**shall**" do, as a minimum. In doing so we set out the baseline standards with which licence holders must comply, and which we would expect them to seek to exceed. Where licence holders' practices currently go further than the proposed Code, we expect these practices to continue.
- 2.17 We believe that the Code responds to the need for there to be sufficient standardisation and consistency in complaints handling across industry, so as to create a level playing field, whilst also allowing for sufficient flexibility so that the Code can adapt to new developments, and does not act as a barrier to innovation for train and station operators.

Complaints definition

- 2.18 Our current definition of a complaint is: *“Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy.”*
- 2.19 We asked QMU to compare our definition of a complaint with those used in other sectors. Whilst QMU found that the definitions are very similar across sectors, with most making reference to “any expression of dissatisfaction”, some sectors specify that a complaint is any expression of dissatisfaction where a response or resolution is explicitly or implicitly expected. This approach is also used in other literature we reviewed, such as this recent [British Standards Institution specification](#) (BS 8543:2015) on complaints handling in organisations.
- 2.20 We consider that it may be useful to make the expectation that a response be provided more explicit in our own definition of a complaint, in order to help more clearly distinguish complaints from those expressions of dissatisfaction where a person may be giving vent to their feelings. We believe that this revised definition should provide clarity to operators and passengers, and represents a proportionate approach, reducing the burden on operators where a response is not expected.
- 2.21 We are therefore seeking views on a revised complaints definition, as follows (the bold text denotes where the future definition differs from our current one):
- *“Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy **where a response or resolution is explicitly or implicitly expected**”*

Key principles

- 2.22 In response to QMU’s feedback, the Code contains a set of key **principles** that in our view underpin a good complaints handling procedure. These are there to support licence holders when establishing their CHP, and in developing and maintaining effective procedures for their passengers. In response to feedback from QMU’s research with train operators, we have also given greater prominence to the importance of **organisational culture**, drawing on the good practice principles produced in other sectors, to set out how a positive complaints handling culture can be promoted – particularly by senior managers.
- 2.23 Elsewhere in the Code, as in the principles above, we also set out what a good CHP “should” contain or achieve. In doing so, we have attempted to respond to feedback from train operators for any successor document to our guidance to

provide a view of “what good looks like”. Overall, we expect stakeholders to find a simpler, clearer, more streamlined document than before.

Ownership of complaints

- 2.24 The Code retains many important elements of our current guidance, including clear guidance regarding the ownership of complaints. These and other aspects of the Code may need to be revisited as the future arrangements governing Britain’s railways take shape; however, our intent is for the Code to be more of a ‘living document’, which can adapt to change.
- 2.25 We set out some key questions for stakeholders’ feedback on our new Code below. The next chapter sets out further information on each of the provisions within the new Code, and specific changes on which we are seeking input.

Consultation questions: the Complaints Code of Practice

- Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders’ CHPs must comply?
- Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?
- Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

- 2.26 We have also tried to respond to feedback from industry on specific aspects of our current CHP guidance where they would like to see further detail or clarification.
- 2.27 One of the areas where train operators asked for greater detail to be included was in relation to assisted travel – where complaints handling and the process for redress claims might intersect.
- 2.28 Operators whose licence requires them to have an Accessible Travel Policy (ATP) have obligations under ORR’s ATP guidance to provide details on the availability of redress when assistance has not been delivered as booked. We consider it would be good practice for licence holders to include in their CHP where passengers can find out further information about these arrangements, in order to provide transparency for complainants, and help promote awareness of these entitlements.
- 2.29 Claims for redress about booked assistance failure **must** be dealt with in line with ORR’s ATP guidance. **This will remain unchanged going forwards.**

- 2.30 Under our current reference guide for core data compliance reporting, we also say that a claim for redress about booked assistance failure is also an expression of dissatisfaction, and therefore should also be logged as a complaint. This was introduced because we understood that some train operators were already recording redress claims as complaints, and therefore our core data guidance was intended to introduce consistency towards data recording across industry.
- 2.31 We have given further consideration to our guidance on this point and have reached the view that a redress claim for booked assistance failure need only be logged as a complaint if in making the claim the claimant expresses dissatisfaction as per our new complaints definition. We expect to clarify this via our future core data reference guide.
- 2.32 In response to feedback from industry we have also added some further detail to our Code about the industry Claims Allocation and Handling Agreement (CAHA). Although CAHA is outside of the scope of our Code, we have added some clarification to state that licence holders may choose to use their complaints handling procedure to provide information on how members of the public can submit such claims.

3. Provisions of the Code

3.1 In this chapter, we provide an overview of each of the Code's provisions in turn, along with aspects on which we are seeking stakeholders' feedback. The full details of each provision are set out in our draft Complaints Code of Practice at Annex A.

Provision 1: Information for passengers

3.2 Provision 1 of the Code: Information for passengers, is designed to set out what licence holders must do to promote awareness of their complaints process and how to complain. It sets out where information about the complaints process must be displayed, and how material should be presented. In doing so, it carries over many of the expectations set out within our current complaints handling guidance and in the present licence condition, and strengthens others.

3.3 Licence holders must ensure information about how to complain and to whom is prominently displayed at stations, on websites, and on social media. We recognise that the level of detail provided via each medium may be different due to issues of space. For example, whilst information on a station poster will say how to complain and to whom, the website may give further information such as timescales and escalation. The Code also makes it clear that licence holders' complaints procedures **must** make clear how a complaint can be made, to whom it should be sent, and what the essential information is that a complainant needs to provide. We believe that these are important minimum standards.

3.4 We have also added two new provisions to the Code regarding the provision of information. Firstly, we state that the complaints procedure **must** set out the licence holder's own target timescales for responding to complaints. Target timescales for responding to complaints are already set out in many licence holders' CHPs, and this inclusion in our new Code reinforces the principles of openness and accountability that underpin a good complaints handling procedure.

3.5 Secondly, we recommend that licence holders should make their working languages known to passengers via their CHP, along with any provision that they are able to make to respond to complainants in languages other than English. This is a new addition to our Code, and is intended to support the principles of transparency and openness, and reflect good practice. A similar expectation exists on those operators who are subject to [Regulation \(EC\) No 1371/2007 \(as amended\)](#) on rail passengers' rights and obligations (PRO).

- 3.6 None of the above overrides existing legal obligations on licence holders who provide services in Wales concerning the provision of information on complaints in both English and Welsh languages.

Consultation questions: Provision 1: Information for passengers

- Q4. Are the provisions on information requirements clear and proportionate?

Provision 2: Receiving complaints

- 3.7 Provision 2 of the Code: Receiving complaints, sets out how passengers can access the complaints process. Ease of access features consistently in the principles of good complaints handling that we reviewed as part of this project. Furthermore, the results from Critical Research’s deep dive of ORR’s complaints handling survey indicate that the ease of making a complaint is more than just a “hygiene factor”; train operating companies can improve this aspect of their process and also expect to see corresponding improvements in their complaints handling satisfaction ratings.
- 3.8 Provision 2 streamlines many aspects of our existing complaints handling guidance concerning access routes for complainants, and strengthens provisions where needed. The principle changes we are making are set out below, along with new proposals on social media on which we are seeking stakeholders’ feedback.

Websites

- 3.9 Under our current guidance, we expect licence holders’ complaints pages to be accessible within two clicks of their landing/homepage as a minimum, with clear details about how to contact the licence holder.
- 3.10 An audit of a sample of licence holders’ websites and complaints pages found that most, though not all, achieved this standard currently – though some complaints pages were more intuitive to find than others. We found that ease of access is not simply about number of clicks. It is also about how easily discoverable information about the complaints process is. In one particularly clear example, the word “complaints” was clearly visible on the homepage, and navigated straight to a dedicated complaints page. The use of the word “complaints” is also important in helping to be clear about the form of feedback passengers can provide. And although nearly all licence holders had a copy of their CHP available on their website, some were much easier to locate than others. In one case, we were unable to find any information online about the complaints handling procedure at all.

- 3.11 We have therefore **strengthened** and **expanded** the requirements in relation to licence holder websites in the interests of replicating good practice across industry and supporting a level playing field for complainants in terms of ease of accessing the complaints process.
- 3.12 Under our new Code, information on how to make a complaint must be easily accessible on the licence holder’s website via a **direct link** to a complaints page, to be displayed on the licence holder’s homepage, and which clearly contains the word “complaint” or “complaints.” Our Code also sets out new, clearer requirements on the key information that the complaints page must provide. We have also closed an existing gap in our current guidance by making it clear that licence holders must include a link to their CHP on their complaints page.
- 3.13 We say that licence holders should also provide a link from their complaints page to any Frequently Asked Questions (FAQs) page(s) that they host, as FAQs can be a useful reference point for complainants. This is something that our current guidance already encourages licence holders to do.
- 3.14 In setting out these requirements, we recognise that some operators may be concerned that adding a further link to their already busy homepages will be an additional burden. We note that a good practice guide produced by RDG in relation to signposting the Rail Ombudsman included a signposted reference within one click of the member homepage as an example of best practice. We see no reason that key information about the broader complaints process should be any different.

Other access routes

Call centres or customer relations teams

- 3.15 Under our current guidance, licence holders should already ensure that they publish and adhere to minimum opening hours for their customer service departments, during which passengers should be able to speak to a member of staff by telephone. Our new Code strengthens this requirement, by making it clear that licence holders **must** publish the hours within which customers can make a complaint by telephone.
- 3.16 Under our ATP guidance we already require operators to include contact details for their text relay service for all their call services. We have not duplicated this requirement within our Complaints Code of Practice. However, we expect licence holders to be aware of their obligations in this regard, which we expect to cover the publicising of contact numbers for customer call centres or customer relations teams that handle complaints.

3.17 We recognise that some flexibility will be required in relation to when licence holders choose to accept complaints by telephone, and that this may depend on a number of factors, including the size and scope of their operations. However, when call centres are not open, licence holders should continue to ensure that callers are met with a recorded message which clearly sets out opening times.

Complaint forms

3.18 We recognise that many operators are seeking to maximise their use of digital channels and seek new, innovative ways of receiving complaints. Under our current guidance, we say that complaint forms **should** be made available on the request of a passenger, for example, on trains which carry guards or conductors. However, our most recent data indicates that complaints via letter (which we expect would include any complaints via physical complaints forms) comprised 3.5% of complaints received in 2020-21. This contact method has been in decline in recent years. We also recognise that cost considerations may also come into play where a requirement to carry paper forms exists.

3.19 Therefore, we are minded to remove a specific expectation for complaints forms to be made available on the request of passengers from our future Code. It remains essential that the complaints process remains accessible to all and were this to be removed, we would expect operators to continue to accept written complaints, for example via post or letter – and to provide clear contact details for doing so. We also recognise that some operators may wish to provide paper complaints forms on trains and or at stations – and would be free to continue to do so.

Equality and diversity

3.20 All licence holders should ensure they are aware of their obligations under the Equality Act 2010 and any other relevant legislation. Under our Code, they must make appropriate and proportionate provision for customers who need assistance in accessing and using the complaints process. They must also make a copy of their CHP available in alternative formats, on request, within a reasonable timeframe.

Consultation questions: Provision 2: Receiving complaints

- Q5. Do you have any comments on our proposals regarding websites and other access routes?

Social media platforms

3.21 Where the circumstances of a complaint on social media lend themselves to an investigation, licence holders are currently expected to assist the complainant in making a formal complaint via the appropriate channels. However, we do not

currently require licence holders to record the number of complaints received on social media, or to respond to complaints using social media channels.

- 3.22 QMU found that in some sectors, social media is not specified as a complaints channel in its own right, with complaints access routes referring solely to email, letter and phone. Some, such as the Scottish Public Services Ombudsman, allow organisations to determine whether or not to accept or respond to complaints on social media, whilst in the water sector in England and Wales companies should manage contacts to suit the customer's preferred contact channel, and may offer a route for customers to complain via social media. In other sectors, such as financial services, complaints can be made by "any reasonable means", implying a greater degree of flexibility for complaints to be received via social media.
- 3.23 QMU's interviews with a sample of train operators found a range of views on potential changes to our approach to social media. There was a recognition that many of the contacts currently received via social media are an "expression of dissatisfaction" and could therefore be viewed as complaints. Others thought that the distinction between complaints raised on social media and other complaints was appropriate. Some felt that it may no longer be appropriate to deal with complaints differently according to the channel used and that because complaints via social media do not need to be reported, an important source of customer feedback is not being captured.
- 3.24 We believe that any revisions to our current guidance should maximise opportunities for train and station operators to learn from complaints, and enable the collection of complaints data, where that data can be valuable.
- 3.25 We also believe that a pragmatic approach is required which balances the legitimate interests of passengers, who may increasingly regard social media like any other form of communication and may wish to be responded to via their preferred mode of contact, with the legitimate needs of train and station operators to be able to adequately resource their complaints handling and reporting functions.
- 3.26 Whilst some train operators had strong reservations about recording complaints on social media, there was also recognition that without a requirement to record these, an important source of customer feedback may be being lost. We also note that technology may have advanced since 2015 and could be an enabler in terms of what is feasible now and in the future.

Our proposals – complaints raised on social media

- 3.27 In QMU’s interviews with train operators about social media, some suggested that the position may have changed since our guidance was published. QMU noted that train companies were thinking long term about how social media is being used in the rail industry. It may no longer be appropriate to deal with complaints differently according to the channel used. One respondent noted that the most important question should be “what is best for the customer?” If a customer has chosen to make contact via social media, they may wish to be responded to that way, rather than redirected to complain via another channel.
- 3.28 We agree that this is an important principle. We also recognise that many train operators are already servicing many passenger contacts on social media. Therefore, we propose that in the future, complainants **should** be provided with the option of having their complaint dealt with via social media, where that is their preferred mode of contact, and where it is practical and feasible to do so. Where this is not practical or feasible, the licence holder should, where possible and practical to do so, offer to raise the complaint on the complainant’s behalf, and transfer it to the appropriate team.
- 3.29 In reality, and as reflected in QMU’s findings, it may be that only simple or straightforward complaints lend themselves to this kind of interaction, and we agree that flexibility would be required in circumstances where it is no longer pragmatic to deal with a complaint through this channel.
- 3.30 We also recognise that it will not be feasible or practical to service all complaints on social media, and that in those circumstances, signposting complainants to further information about the complaints process may be the most sensible option.

Our proposals – complaints recorded via social media

- 3.31 We believe that, in principle, complaints raised and processed on social media should be recorded within licence holders’ complaints data where it is practical and feasible to do so. However, we recognise the concerns raised by some train operators that a requirement to report on complaints received via social media could lead to a large increase in reported complaints, which could impact on resourcing. We discuss some of the challenges raised below, as well as some of the practical ways in which responding to and recording complaints could be achieved.

“On the spot” resolution

- 3.32 Under our current guidance we encourage licence holders to give discretion to customer-facing staff to resolve certain types of complaint “on the spot”, without

reference to senior management. Sensitive and swift on-the-spot handling of difficult situations may help to avoid a large number of written complaints, but at the same time deliver satisfaction to the passenger.

- 3.33 In practice, some complaints on social media could be resolved very quickly, i.e. almost opened and closed in one transaction, and could be considered similar to face-to-face on-the-spot resolutions, which we do not currently expect to be recorded within licence holders' complaints data. However, there may be a difference between on-the-spot face-to-face complaints resolution, where staff are on the ground with a customer, and the sort of on-the-spot resolution transacted on social media which means recording of this data could be more easily achieved.
- 3.34 Feedback from one train company interviewee to QMU suggested a greater potential to record these sorts of issues automatically, whilst another pointed to their existing ability to integrate social media channels with their CRM system. Such factors are likely to determine the administrative and resourcing impacts of requiring complaints data recording and reporting for social media channels. We seek further views on this below.

Resource impacts

- 3.35 As noted above, there was concern amongst some train operators that recording and reporting on complaints received via social media could impact on resourcing. One train company said that they can receive as many as 20,000 tweets in one day. Social media channels are sometimes serviced by different teams within train operators that are separate from the customer relations teams who handle complaints. This might also impact on licence holders' current ability to service complaints via social media channels.
- 3.36 During a period of disruption, it was noted that the vast majority of communications received on a social media platforms might be considered to be expressions of dissatisfaction, and a requirement to record all complaints on social media may end up capturing feedback which would never be escalated to a complaint. However, our proposal for revising the complaints definition to one where a response is expected should mitigate against this.
- 3.37 We recognise that in some scenarios, such as periods of disruption where there may be very high volumes of social media contacts, it may be neither feasible nor practical to record or respond to all complaints raised on social media. In such a scenario, it may be more likely that licence holders use social media channels to issue a general apology to passengers, along with information updates, rather than responding to individual expressions of dissatisfaction. We believe this is a

practical and proportionate approach. However, in those circumstances we would expect licence holders to use social media channels to signpost users to further information about the complaints process for those who wish to lodge a complaint.

3.38 We set out a number of questions on which we are seeking stakeholders' feedback below. We will use the feedback received to inform our proposals and any timescales for the implementation of any new requirements that we may introduce in relation to complaints handling and recording on social media.

Consultation questions: social media

- Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?
- Q7. To industry:
 - What social media channels do you currently operate (e.g. Twitter, webchat, other?)
 - Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?
 - What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on “on-the-spot” resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Provision 3: Recording complaints

3.39 Provision 3 of the Code sets out how complaints must be recorded, and requirements around the information that must be included. This is designed to ensure that licence holders are clear on the minimum information that must be recorded within their customer complaints database or CRM system in order to support good record-keeping.

3.40 Recording when and how the complaint was received, from whom, the subject of the complaint, and whether it is open or resolved are basic requirements that should be part of any complaints recording process, along with the volume of

complaints signposted to ADR. Operators remain free to record any additional information beyond this that they deem necessary for their complaints handling.

- 3.41 Where complaints are handled by an outsourced provider on its behalf, we have also made it clearer in our Code that the licence holder **must** ensure that they have appropriate access to the outsourced provider's systems for the purposes of monitoring the quality of complaints handling.
- 3.42 We have removed the reference to the Data Protection Act 1998. As well as being superseded by the General Data Protection Regulation (latterly the UK GDPR), we do not consider it necessary to repeat those obligations in the Code.

Consultation questions: Provision 3: Recording complaints

- Q8. Is the list of requirements on recording complaints clear and proportionate? Are there any elements that have been overlooked?

Provision 4: Responding to and investigating complaints

- 3.43 Provision 4 of the Code sets out requirements on licence holders in relation to responding to and investigating complaints. **We have made a number of additions to our existing guidance concerning the acknowledgement of complaints**, in order to support transparency and consistency for complainants.
- 3.44 Specifically, when acknowledging a complaint, our Code will require licence holders to include a link to their complaints handling procedure, or inform the complainant where a copy can be obtained, as appropriate. This reflects practice identified in other sectors. We also require licence holders to advise the complainant of the timescales for a response – either when the complaint is acknowledged or as soon as practical thereafter. This should include advising the complainant of the anticipated resolution time for their complaint where this might differ from any published targets. This is in recognition of the fact that complaint volumes may fluctuate according to passenger demand, and therefore on occasions the licence holder's actual resolution times may differ from their own published targets.
- 3.45 We have also **simplified and streamlined** in the Code aspects of our current guidance that deal with situations in which licence holders may receive a sudden or unexpectedly large increase in the volume of complaints, and where they are likely to experience a widespread failure to adhere to the required timescales for signposting complainants to ADR. These include setting our clear requirements about the information that must be provided to ORR and the relevant ADR

scheme, and how complainants must be kept updated on the progress of their complaint.

- 3.46 Drawing on model complaint handling procedures in other sectors, we have also set out good practice considerations for licence holders on receiving a complaint. These include clarifying at the outset what outcome the complainant wants from their complaint where it is unclear. This is intended to support and incentivise early resolution, and getting the response right first time.
- 3.47 We have also drawn on wider research that has taken place within industry, led by the RSSB, to identify and assess current practice in identifying and managing safety-related contacts from members of the public. RSSB is developing high-level guidance based on the findings from the project that organisations can use to review their current processes and practices for handling safety-related contacts from members of the public.
- 3.48 Our Code is intended to align with the principles and good practice identified by RSSB by stating that licence holders should, on receiving a complaint, consider the nature of the complaint, and whether it requires immediate prioritisation and/or escalation – and specifically, whether it involves a safety-related issue that requires immediate action. This supports our understanding of train operating company practice, as reflected in QMU’s interviews with a sample of operators, whereby safety complaints are already prioritised and treated urgently and are usually allocated to specialist teams.

Consultation questions: Provision 4: Responding to and investigating complaints

- Q9. Do you have a view on the proposed requirements in relation to responding to and investigating complaints – including the requirement to inform ORR when licence holders are likely to experience a widespread failure to adhere to the required timescales for signposting complainants to ADR? Should this requirement extend to a failure to adhere to licence holders’ own internal targets for responding to complaints?

Provision 5: Resolving complaints

- 3.49 Provision 5 of the Code sets out the requirements on licence holders in relation to the resolution of complaints. In doing so, our Code retains important aspects of our current guidance in relation to effective response and resolution. In the future, as now, licence holders **must** ensure that all complaints are resolved, by which we mean there are no outstanding actions required on the part of the licence holder.

- 3.50 Drawing on model complaints handling procedures in other sectors, **we have also set out what good looks like when it comes to complaint responses**. This provides clarity on what passengers can expect to see when the train company is attempting to resolve their complaint.
- 3.51 As now, licence holders remain free to make their own judgements on what is appropriate to the circumstances of the complaint and the complainant, for example, in the tone and the level of formality adopted. It is possible that, for example, a response could be appropriately dealt with by telephone (even if the original contact was in writing). The new provisions within our Code are simply intended to provide some good practice considerations for when responding to complaints, whatever the channel chosen.
- 3.52 Provision 5 also requires licence holders to set out in their complaints handling procedures arrangements for escalating complaints – when a passenger has asked for their complaint to be escalated or when the licence holder determines that it is appropriate – and the relationship between the escalation process and the complainant’s right of appeal to ADR (as set out further in Provision 6 below).
- 3.53 We have made it clear that licence holders must have internal procedures for deciding whether a complaint should be terminated on the basis that it is vexatious or frivolous. To reflect the role of ADR as the “single front door” for unresolved complaints, the complainant must be advised of the contact details of the relevant ADR scheme.
- 3.54 We also set out what information the complaints handling procedure must include regarding redress and compensation, alongside those relating to delay or cancellation as required under the National Rail Conditions of Travel (NRCOT) or franchise/contract obligations, and other relevant legislation.

Consultation questions: Provision 5: Resolving complaints

- Q10. Are the requirements on resolving complaints clear and proportionate?

Provision 6: ADR

- 3.55 It is a condition of their licence for train and station operators to be a member of the relevant ADR scheme. The [Rail Ombudsman](#) is the ADR scheme for the rail industry. This review is an opportunity to bring our guidance up to date to reflect the current appeals process, and to support clear and consistent signposting to ADR where complaints cannot be resolved to the complainant’s satisfaction by licence holders.

- 3.56 In summer 2020, we published the results of an [independent review](#) by RedQuadrant of the Rail Ombudsman, one year into its operation. The findings noted that several stakeholders felt that there were still some improvements to be made in signposting arrangements for the Rail Ombudsman. This is supported by the results from the Rail Ombudsman's own 2019 annual [consumer experience survey](#) which found that 35% of respondents felt that the Rail Ombudsman was well signposted by their train operating company, a figure unchanged in the Rail Ombudsman's [2020 survey](#). These results suggest that there is more to do to support good signposting to ADR across the rail industry.
- 3.57 ORR considers it has a role to play in supporting and reinforcing good signposting in order to ensure that passengers are aware of ADR and their right to appeal the outcome of their complaint in cases where they are dissatisfied with the service provider's response.
- 3.58 Therefore, our Code sets out **new requirements in relation to the information licence holders must provide in their CHPs and on their websites about their membership of the relevant ADR scheme** and the role of the scheme in helping complainants. This information is currently included in licence holders' CHPs as a matter of course, but this requirement closes an important gap in our current guidance.
- 3.59 We are aware that some train operators inform complainants about the Rail Ombudsman in their acknowledgement of complaints. This is consistent with RedQuadrant's review which noted that it is good practice to inform people about the ombudsman when they first make a complaint. We agree and as such have included a requirement to include basic information about the ombudsman and its role in written acknowledgements of complaints.
- 3.60 We make a distinction above between promoting awareness of ADR – which is important in ensuring passengers are aware of the relevant ADR scheme and its role – and signposting, which is the stage in the complaints process in which a complainant is actively informed of their right to take their complaint to the relevant ADR scheme if they are dissatisfied with the provider's response.
- 3.61 Ensuring passengers are aware of their right to access ADR is important. A [Citizens Advice](#) report published in 2016 found that 72% of consumers were not aware of free mediation services like ADR in regulated markets. In non-regulated sectors, this lack of awareness stood at 84%. In regulated and non-regulated sectors respectively, just 8% and 5% of surveyed complainants said that they had taken advantage of ADR and other mediation services.

- 3.62 Our Code sets out **clear requirements about when in the complaints process signposting to ADR must take place, and what information must be provided**. As now, we propose that passengers must be signposted to ADR at deadlock, or when the timescale passengers must wait before having the right to access ADR has expired, whichever is sooner. (Deadlock is where the operator becomes aware before reaching the requisite time limit for signposting that it is unable to resolve a complaint to the consumer's satisfaction.)
- 3.63 Provision 6 also sets out new requirements about the information that must be provided when passengers are signposted to ADR. These information requirements align with the conclusions of our [previous consultation](#) regarding the introduction of the Rail Ombudsman, but strengthen them, to make clear the minimum information that **must** be provided.

Consultation questions: Provision 6: ADR

- Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?
- Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?

Timescales for accessing ADR

- 3.64 In 2018, we published conclusions from our consultation on the introduction of the Rail Ombudsman, including the timescale that passengers must wait before having the right to access ADR. Currently, passengers must wait 40 working days or deadlock, whichever is sooner, before they are eligible to escalate a complaint to the Rail Ombudsman. We were clear in our [2018 decision](#) letter that we would review whether this period remains appropriate after the first year of the scheme's operation.
- 3.65 The eight week (40 working days) time limit is common in many regulated sectors, but we believe that it is right to consider whether this time limit remains appropriate. [A 2019 report](#) from an inquiry by the All-Party Parliamentary Group (APPG) on Consumer Protection into the wider ombudsman sector noted that the eight week timescale was created in a non-digital age, and recommended this be reduced to somewhere between two and four weeks across all ombudsman schemes.
- 3.66 The recent RedQuadrant review recommended a reduction from the current 40 working days to 20, as has the Rail Ombudsman itself.

Reducing the 40 day timescale

- 3.67 Under our current complaints handling guidance, licence holders are **required** to resolve 95% of complaints within 20 working days, and the majority of passenger rail complaints are resolved within this timescale. In 2019-20, at national level, 94.7% of complaints to franchised and non-franchised operators were resolved within 20 working days. In 2020-21 the equivalent figure was 94.2%.
- 3.68 We consider that 40 working days is a long period for passengers to wait to take an unresolved complaint to the Rail Ombudsman, given that the vast majority of complaints must be resolved within 20 working days already. There is a risk of complainants dropping out of the complaints process if the time that they must wait before having the right to access ADR is seen to be too long. [Research](#) published in 2019 on consumer attitudes across the European Union, including the UK, found that amongst the reasons consumers stated for not taking action when encountering a problem, the most common was that they thought it would take too long. We also note that government has [recently launched](#) its own consultation that seeks views on speeding up access to ADR in regulated markets. It considers that there is a good case for halving the upper threshold of eight weeks in markets where ADR is mandatory so that businesses are incentivised to settle problems promptly and, if necessary, consumers can take complaints to ADR more quickly.
- 3.69 A reduction in the current time limit for accessing the Rail Ombudsman from 40 to 20 working days would allow passengers who are not content with the outcome of their complaint to take their complaint to the ombudsman sooner. It should also incentivise early resolution (i.e. getting the response to complaints right first time). A shorter timescale would show passengers that service failures are taken seriously, and passengers themselves may be less likely to drop out of the complaints process.
- 3.70 We recognise that there may be some cost impacts for operators if the timescale were reduced in terms of more cases being escalated to the ombudsman, although this may be balanced by the improvements in complaints handling that this change may drive. In 2019-20, just over 5% of complaints were not resolved within 20 working days. However, not all of those complainants would necessarily have been dissatisfied with the response and sought redress via ADR. [A 2013 research study](#) published by the energy regulator Ofgem found that around 5% of eligible complainants escalated their complaint to the Energy Ombudsman.
- 3.71 Our own data on the volume of complainants who receive a letter at 40 working days or deadlock signposting them to the Rail Ombudsman indicates that the current proportion of complaints appealed to the Ombudsman was around 1.6% of all complaints in 2019-20. This could indicate that the vast majority of passengers

are satisfied with the handling of and/or outcome of their complaint. However, it could also suggest that there is some consumer drop-off in exercising the right to access ADR.

- 3.72 As part of its research, QMU sought the views of a sample of train operators on reducing the time-limit for consumers to access ADR. Several operators commented that a reduction in the escalation timescale should not have a big impact, as most complaints must already be resolved within 20 working days; however they wanted flexibility for complaints that cannot be resolved in that period. There was also concern that an undue focus on speed could impact the quality of complaints handling. One operator noted that at present, even if the 40 working day time limit expires, consumers do not necessarily choose to escalate their complaint to the Rail Ombudsman; they may choose to stick with the train company to resolve the complaint.
- 3.73 As part of their core data reporting on complaints, train operators are currently permitted to 'stop the clock' (to take into account any period of time where they are waiting for the complainant to reply to any communication from the company) when calculating their performance on complaints handling response times against our 20 working day requirement. This does not align with the requirement to signpost consumers to the Rail Ombudsman at 40 working days, which is absolute. We expect any future signposting requirement to continue to be absolute. In other words, licence holders would not be permitted to 'stop the clock' when calculating the time limit for signposting at 20 working days, or any alternatively reduced timescale.
- 3.74 Our most recent informal data gathering exercise on stop the clock indicated that not all train operators make use of it when handling complaints currently, with use varying between not at all to on 42% of cases. We are keen to raise standards in complaints handling and achieve a common baseline for performance. We are concerned that the ability to stop the clock may act as a disincentive to make improvements and conduct root cause analysis to address failings. The rail sector is also not alone in receiving some complaints which may be complex in nature. QMU noted that 'stop the clock' does not apply to ombudsman referrals and they are not used in other schemes or in other regulatory complaints processes. We therefore propose to remove the use of stop the clock when calculating complaints handling response times (see provision 7 below for further detail).

Our proposals – Reducing the 40 day timescale

- 3.75 We believe that there are benefits to reducing the time that passengers must wait before accessing the Rail Ombudsman from the current 40 working days. We are minded therefore to **replace** our current regulatory requirement to resolve 95% of

complaints within 20 working days with a **new requirement** on licence holders to signpost complainants to ADR at 20 working days, or an alternatively reduced timescale.

- 3.76 We are seeking views on a number of options for achieving a reduction; namely whether the current 40 working days should be reduced to 20 working days, or to 30 working days, or from 40, to 30, to 20 working days via a phased reduction. In all cases these time limits would include “or deadlock”, whichever is the sooner.
- 3.77 The advantages of a phased approach may include providing industry with more time to prepare and adjust to reduced timescales. However, it may risk consumer confusion if the time-limit undergoes several step-changes over a short period of time.
- 3.78 We have also listened to the feedback from train operators above regarding complaints that remain unresolved at 20 working days. In future as now, whilst our Code would **require** passengers to be informed of their right to take their complaint to the Ombudsman when the timescale elapses, licence holders can continue to engage with the complainant with the objective of resolving the complaint, unless the passenger or the ADR scheme asks them not to do so. Indeed, many complainants may choose to stick with their provider if the complaint is unresolved when the timescale elapses, if they have confidence in its complaints handling process.

Consultation questions: Reducing the 40 working day timescale

- Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?
- Q14. If yes, do you believe that the time limit should be reduced:
 - (i) to 20 working days or deadlock (whichever is sooner) or
 - (ii) to 30 working days or deadlock (whichever is sooner) or
 - (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?
- Q15. What would be an appropriate lead time to implement each of the options in Q14?
- **It would be helpful if licence holders will provide evidence to support their answers to Q13-15.**

Provision 7: Reporting

- 3.79 Provision 7 of the Code aims to incentivise good complaints handling through transparent reporting for passengers and stakeholders on operators' performance. It creates strong reputational incentives on operators to maintain good standards of complaints handling by enabling the benchmarking of performance between peers. It also provides ORR with the data we need to monitor licence holders' performance against regulatory requirements, as well as how well licence holders' complaints handling procedures are working for passengers.
- 3.80 Our [reference guides for core data compliance reporting](#) set out in detail the complaints data that licence holders must report to us. We will continue to set this out via our core data reference guides, and to publish data on complaints volumes and trends via our quarterly and annual statistical releases.
- 3.81 Our Code sets out the minimum requirements on which licence holders **must** collect and report data, and which we regard as central to driving good complaints handling performance. These cover the key areas of **timeliness, and continuous improvement**. We are also seeking views on how we can expand on these to include metrics on **quality** in complaints handling. We also propose to require licence holders to **publish more of their own complaints data**, in order to incentivise greater ownership over complaints handling performance and continuous improvement.

Response times

- 3.82 It is in the interests of both consumers and train and station operators that complaints are dealt with in a manner and timeframe commensurate with passengers' expectations. To this end, we commissioned Critical Research to conduct a deep dive of the results from our survey of passenger satisfaction with complaints handling in order to help us better understand what really matters to complainants by uncovering their priorities and preferences.
- 3.83 This research revealed that, firstly, the quality of the complaints handling process, including the outcomes it produces, and, secondly, timeliness (both speed of response and being kept informed), are the two most important drivers of satisfaction. This shows that there is a balance to be struck between ensuring that a response is timely, but also of sufficient quality.
- 3.84 Under our current guidance, licence holders are **required** to make a full response to 95% of all complaints within 20 working days. A similar expectation was set out in the complaints handling guidance published by the Strategic Rail Authority in 2005, and which we inherited when first taking on our complaints handling role.

Given the now longstanding nature of this expectation on response times, it is right that we review it, alongside our wider monitoring and reporting arrangements for response times, to consider whether they remain fit for purpose.

- 3.85 In their feedback to QMU, train operators highlighted that the vast majority of complaints are already resolved within 20 working days, and that they always strived to resolve complaints as quickly as possible. Most interviewees were fairly relaxed about the prospect of shortening this timescale, but expressed concerns that a disproportionate emphasis on time could be at the expense of quality. There was also a perception among interviewees that more could be done by train operators and ORR to make use of the existing complaints data that ORR collects.
- 3.86 In addition to collecting data on train operators' performance in resolving complaints within 20 working days, ORR also collects and publishes data on train operators' performance in resolving complaints within 10 working days, and against train operators' own internal targets.
- 3.87 QMU considered that ORR and train operators should consider giving greater prominence to some of these existing metrics, and consider introducing new metrics like average response times in order to provide a more complete picture of industry performance. We have considered this feedback in our proposals below.

Our proposals – response times

- 3.88 We are keen for train and station operators to take ownership of their performance and inform their passengers of this on a regular basis. We have considered which suite of metrics may be helpful to passengers for them to publish on a quarterly basis to allow passengers to note trends in performance.
- 3.89 As set out above, we propose to replace the current requirement to resolve 95% of complaints within 20 working days, meaning that it would cease to be a regulatory requirement in its own right. Nonetheless, it is a longstanding recognised metric, and ceasing data collection would end an important data time series. Therefore, we propose that train and station operators should publish the **percentage of complaints resolved within 20 working days**.
- 3.90 We note that of those train operators who reported their internal targets to ORR in 2020-21, the majority (17 out of 23 operators) had internal targets of 10 working days or less. In light of this, and to incentivise timeliness of complaints handling, we propose that train and station operators should publish their performance on the **percentage of complaints resolved within 10 working days**.
- 3.91 Average response times would allow operators to benchmark themselves against peers, and may provide passengers and stakeholders with a more intelligent

measure of response time than solely measuring performance against a set timescale. Given that some train operators already report on average response times within their business, and that these should be able to be generated from existing datasets, the introduction of this as a new metric should have low impacts for current franchise and non-franchised operators. Therefore, we propose that train and station operators report their **average response times**.

- 3.92 This means we would no longer collect data on performance against train companies' own internal targets on response times, though they remain free to publish this data.
- 3.93 We recognise that some licence holders are currently subject to different reporting requirements to train operators and Network Rail, and are instead subject to the requirements set out in our [core data reference guide for station only operators or non-scheduled passenger services](#). This group includes station-only and charter operators (excluding Network Rail), and some other licence holders who do not offer regular timetabled services and/or have limited interaction with national mainline services. It is not clear to us whether, given the number of complaints received, it is proportionate to require these licence holders to collect and publish all of this response time data. We are therefore seeking feedback on this question below.
- 3.94 Train and station operators currently report data to ORR and this will continue. This will allow ORR to publish information on complaints performance covering the whole industry, and to understand whether licence holders' complaints handling procedures are working well for passengers.
- 3.95 To ensure consistency across operators we will set out these requirements in our core data guidance.
- 3.96 To assist passengers further in their understanding of performance, we are giving operators the option to add narrative to explain their performance. This will allow them, if they so choose, to add context such as the impact of major prolonged disruption on complaints performance.
- 3.97 As set out above, we also propose to remove the ability for licence holders to use "stop the" clock when calculating all complaints handling response times. This is likely to impact some operators' performance on complaints handling response times initially. Our data publications will provide appropriate contextualisation to this – and we expect that operators may do the same.
- 3.98 As noted in Provision 6, we are proposing to introduce a new regulatory requirement to provide passengers with information about their right to access

ADR at 20 working days (or alternatively reduced timescale). In light of this, and considering this in the context of the wider suite of response time metrics that train operators will publish and that we will collect and report upon, we do not consider it necessary to introduce a further regulatory requirement on complaints handling response times.

Consultation questions: response times

- Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?
 - Percentage of complaints resolved within 20 working days
 - Percentage of complaints resolved within 10 working days
 - Average response time for resolving complaints
- Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)
- Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

Continuous improvement

- 3.99 Our policy approach on complaints handling, as set out in our 2014 regulatory statement, is *to promote continuous improvements in passengers' experience of rail, through licence holders acting on feedback through complaints*. Continuous improvement – the use of learning from complaints – sums up this objective and is also central to the principles of good complaints handling.
- 3.100 Currently all licence holders report to us each year on their continuous improvement activities. This is done through an annual data return that sets out what each operator is doing to address the top five key areas passengers have complained about that year.
- 3.101 In their feedback to QMU, train operators wanted greater emphasis on changing the culture around learning from complaints – and some felt strongly that the guidance and the complaints data generated were still not being used effectively to drive continuous review and service improvement.

- 3.102 Since the publication of our complaints handling guidance in 2015 other changes in the reporting landscape have occurred. Specifically, Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations (PRO) sets a requirement on those railways undertakings that are subject to it to produce an annual service quality report whose content shall include possible improvement actions undertaken in relation to complaints.
- 3.103 Whilst ORR clearly has a role here, we believe that the onus is on operators to identify learnings from the complaints they receive, and to instigate service improvements within their own business. We propose therefore to require **all** licence holders to publish data annually on their continuous improvement activities, and how they have used and applied learning from complaints within their business, rather than reporting on this annually to ORR. We believe that this will support an internal culture that owns and values continuous improvement, and embeds it within the culture of an organisation. A move to self-publishing should also increase transparency around this data for consumers and stakeholders.
- 3.104 For those licence holders who are subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations (PRO), this requirement could, for example, be fulfilled as part of the publication of the annual service quality report. Ultimately it will be for licence holders to decide how best to publish this data. However, it will be a requirement of our Code for them to do so.
- 3.105 We have also given greater prominence to the expectation within our current guidance that management information on complaint volumes, trends and underlying causes should be regularly viewed at Board level so that systemic issues can be identified and addressed.

Consultation questions: continuous improvement

- Q19. Do you have any comments on our approach regarding continuous improvement, and the requirement that all licence holders publish data on their continuous improvement activities?

Quality in complaints handling

- 3.106 The research we commissioned from Critical Research found that the aspect of complaints handling most influential on overall satisfaction is quality. Critical Research's measure of quality is a composite of a number of elements currently covered by ORR's survey of passenger satisfaction with complaints handling. These are best described as the operator's apparent attitude and ability to handle the complaint in the expected professional manner, and comprises the extent to which the complaint was fully addressed, the extent to which the train operator

seemed keen to reach an agreeable outcome, whether the complaint was taken seriously, and whether the train operator was seen as helpful and clear in its communications.

- 3.107 The importance of quality in the measurement of complaints handling performance was also echoed in train operators' feedback to QMU. There was general agreement that while response time is important, this should not be the only indicator used, and that there was a need to develop indicators that looked at other issues such as quality and accuracy of response. There was a desire amongst the train operators interviewed to collaborate with ORR to come up with revised standards and indicators.
- 3.108 We expect that a combination of metrics may be required to produce a picture of quality in complaints handling. We seek to be proportionate in our requirements, and avoid the duplication of metrics where meaningful measures of quality with the complaints handling process may already exist. For example, train operators currently use their own quality management programmes to support complaint handlers to deliver good quality complaints handling, and may also draw on the results of in-house and/or industry-wide surveys of the customer experience. Understanding the industry-wide measures that may already exist is also relevant.
- 3.109 In light of these findings and evidence, we propose to work with operators and other relevant stakeholders between now and the introduction of our new core data reference guides in 2022-23 to consider how we can develop a revised suite of performance metrics that give appropriate consideration to quality, as distinct from speed of resolution. We expect this to consider how more use can be made of data from the ORR passenger satisfaction survey, as well as understanding existing industry measures that could potentially form part of future reporting.
- 3.110 We expect our future core data reference guides to then set out further details around the frequency and manner of reporting for this data, including data that might be self-published, and data that might continue to be published by ORR.

Consultation questions: quality in complaints handling

- Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?
- Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

Driving wider learning from complaints

- 3.111 Whilst it is for operators to identify learnings from the complaints they receive, and to instigate service improvements within their own business, other stakeholders also have a role to play here. Existing groups and bodies, such as industry-led redress groups, and the Rail ADR Scheme Council, which provides governance over the ADR scheme, already provide regular forums for the sharing of learning from complaints. The government's white paper envisages a role for Transport Focus in monitoring complaint volumes and themes to support its work as passenger champion, which may give rise to a greater role for it in the analysis and use of complaints data in future.
- 3.112 We are mindful therefore of not adding to or duplicating existing structures and networks that already promote learning from complaints, or pre-empting new structures that may yet take shape. However we also identified a clear appetite – including from train operators – for more to be done to drive continuous improvement and learning from complaints.

Consultation questions: Driving wider learning from complaints

- Q22. Are the existing fora sufficient to best facilitate continuous improvement and learning from complaints across industry? If not, what further measures would you like to see, and how can ORR best play a role in facilitating them?

Provision 8: Training, resourcing, and quality assurance

- 3.113 Provision 8 of the Code sets our requirements and expectations on licence holders in relation to training, resourcing and quality assurance in relation to their complaints handling functions. It is clearly important that when passengers make a complaint it is handled by staff who have been given the relevant training to enable them to do so appropriately.
- 3.114 Our requirements strengthen some of our existing expectations and set baseline requirements on what the training should cover. We include a requirement to ensure that where complaints handling functions are outsourced, licence holders must ensure that the requirements in relation to training are met. We have also highlighted the importance of refresher training and the expectation that this should happen at regular intervals and in response to evidence that complaints are not being dealt with effectively.
- 3.115 Finally, we have introduced a **new requirement** for licence holders to ensure that they allocate and maintain adequate resources to receive, handle and process complaints in a timely manner. This is to ensure that passengers making complaints have the assurance that these will be dealt with promptly. We

recognise that it would be unrealistic for licence holders to be permanently resourced to deal with exceptional spikes in demand. We reflect this in our proposals by stating that they must also give reasonable consideration to what contingency measures may be required in these circumstances.

Consultation questions: Provision 8 Training, resourcing, and quality assurance

- Q23. Do you have a view on what should constitute “regular intervals” in relation to the frequency of refresher training?
- Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

4. Proposals for an amended licence condition

- 4.1 In addition to seeking views on our new Complaints Code of Practice, we are also seeking views on proposals for an amended complaints handling licence condition, as set out at Annex B below. In doing so, we propose to simplify the current licence condition and incentivise greater ownership amongst train and station operators over their complaints procedures. We set out the principle changes below.
- 4.2 We will consider the feedback gathered through this current consultation prior to proceeding with any changes via the statutory consultation process in relation to licence changes.

Our proposals

- 4.3 QMU's research on approaches to the regulation of first tier complaints handling in other sectors found ORR to be unique across the five regulators reviewed in approving individual providers' CHPs. In other sectors, providers are expected to ensure that they are meeting the required standards, with the potential for regulatory action if they do not.
- 4.4 We want to incentivise train and station operators to take greater ownership of their complaints handling procedures in future, and reduce regulatory burden. We propose therefore to amend the current licence condition so that in future, instead of ORR approving individual operators' complaints handling procedures, the onus will be on operators to ensure that their CHPs satisfy the requirements of our Code, with ORR having ultimate recourse to take compliance action where necessary. This approach is consistent with that taken in our recent work on delay compensation, and reflects well established regulatory models in other sectors.
- 4.5 The principal effect of the change will be for ORR to discontinue approving individual licence holders' CHPs in favour of a new obligation on licence holders to establish and comply with a complaints handling procedure that complies with ORR's complaints Code of Practice. It would also mean that Transport Focus and London TravelWatch would no longer have a role as a consultee in the CHP approval process, though it does not preclude licence holders from seeking the views of these bodies as they develop their CHPs.
- 4.6 We also propose to simplify the current licence condition. For example, under the current licence condition ORR can require licence holders to carry out a review of

their complaints procedure, or any part of it, or the manner in which it has been implemented, with a view to determining whether any change should be made. We propose that in future this may form part of our monitoring and compliance activities as set out in clause 5.5 of our Code (see Annex A below), rather than being reflected within the licence condition itself.

- 4.7 We also propose to remove the current requirement in paragraph 4 of the model licence to display or procure the display of a notice giving the address from which a current copy of the Complaints Procedure may be obtained. This is superseded by the broader requirements within Provision 1 of our Code around promoting awareness of the complaints procedure at stations, websites, and on social media. Finally, under our proposals the licence requirement to make available free of charge a copy of the complaints procedure to any person who requests it has been transposed from the current licence condition, and into our Complaints Code of Practice instead (see 5.40 at Annex A below).

ADR

- 4.8 It is a condition of their licence for train and station operators to be a member of the relevant ADR scheme. The Rail Ombudsman provides the ADR scheme for the rail industry.
- 4.9 The Williams-Shapps Plan for Rail announced the government's intent for ORR to take over the sponsorship of the Rail Ombudsman from the Rail Delivery Group.
- 4.10 The current licence condition defines the relevant ADR scheme as "the alternative dispute resolution scheme procured by Rail Delivery Group (the Rail Ombudsman) or, as the case may be, any Successor Scheme".
- 4.11 We do not have any current plans to amend the licence condition in this respect, but will keep this under review as work to deliver on the government's white paper proceeds.

Consultation questions: licence condition

- Q25. Do you have any comments on our proposals to amend the complaints handling licence condition?

5. Annex A: Draft Complaints Code of Practice

Overview

- 5.1 Train and station operators are required, by their operating licences, to establish and comply with a Complaints Handling Procedure (CHP).
- 5.2 A good complaints handling procedure should:
- (a) resolve individual complaints promptly and fairly, taking account of the reasonable interests of the complainant, including providing compensation/redress as appropriate; and
 - (b) lead to continuous improvement, so that in the medium term the root causes of complaints are addressed and systemic solutions are put in place
- 5.3** This Complaints Code of Practice (CoP) sets out good practice requirements in relation to complaints handling arrangements for passengers. **Licence holders must establish and comply with a CHP that complies with this Code.**
- 5.4 Licence holders may go beyond the requirements set out in this CoP. We do not expect licence holders to discontinue or reduce existing policies where their existing standards exceed those of the CoP.
- 5.5 ORR shall monitor licence holders' compliance with this CoP. Where ORR considers it necessary, it will investigate incidences of non-compliance and/or poor performance, and escalate as appropriate in accordance with the relevant ORR policy.
- 5.6 ORR shall maintain this CoP and monitor how it is working in practice. ORR will consult on proposals for any substantive changes to it, should we deem these are in the interests of passengers, and will publish a revised CoP, as it considers appropriate, following such consultation.

Scope and definitions

Scope

- 5.7 Unless otherwise stated, the provisions of this CoP apply to all licence holders who have a complaints handling obligation in their licence.

- 5.8 The requirements of this CoP do not affect licence holders' other legal obligations or passengers' legal entitlements, including those established in consumer law, contracts, or other licence conditions.

Claims Allocation and Handling Agreement (CAHA)

- 5.9 The Claims Allocation and Handling Agreement (CAHA) is an industry agreement regarding the allocation of liabilities and the handling of claims relating to issues such as property damage and personal injury. CAHA is outside the scope of this Code of Practice. Licence holders may however choose to use their complaints handling procedure to publicise information on how members of the public can submit such claims. Where claims are handled within customer service departments, operators should ensure that mechanisms are in place for identifying claims and for handling them in accordance with CAHA.

Definitions

- 5.10 **Complaint:** For the purposes of this CoP a complaint is defined as: *“Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy where a response or resolution is explicitly or implicitly expected.”*
- 5.11 **ADR:** Alternative Dispute Resolution
- 5.12 **ATP guidance:** Guidance for train and station operators on Accessible Travel Policies, as published by ORR
- 5.13 **CAHA:** Claims Allocation and Handling Agreement
- 5.14 **CHP:** Complaints Handling Procedure
- 5.15 **CRM:** Customer Relationship Management system
- 5.16 **GDPR:** General Data Protection Regulation
- 5.17 **NRCOT:** National Rail Conditions of Travel
- 5.18 **RIDDOR:** Reporting of Injuries Diseases and Dangerous Occurrences

Ownership of complaints

- 5.19 A complaint about a specific train, ticket office or station shall be owned by the licence holder responsible for that train, ticket office or station.²

² The licence holder responsible includes third party or agency staff working on behalf of the licence holder

- 5.20 A complaint about a delay will be owned by the licence holder on whose train the passenger was travelling when the delay occurred.³
- 5.21 A complaint about a ticket sale will be owned by the licence holder which sold the ticket. A complaint against a third party ticket retailer should be handled by the third party retailer.
- 5.22 From time to time licence holders may receive complaints which relate to a third party supplier on matters such as security personnel; cleaning and catering staff; revenue protection services; suppliers of rail replacement services; or car parking providers. Where licence holders receive a complaint about a third party supplier, they must work with their supplier to coordinate a response.
- 5.23 For complaints involving more than one licence holder, the receiving licence holder should (where reasonably practical) coordinate a single response on behalf of all the licence holders involved. If the bulk of the issues rest with another licence holder it is acceptable for the receiving licence holder to make arrangements to have the complaint passed to the more appropriate party. The complainant must be informed when their complaint is transferred to another licence holder.
- 5.24 In coordinating a response to complaints, the licence holder should be aware of its responsibilities under the GDPR and any other relevant data protection requirements. Nothing in this guidance is intended to alter, replace or impose upon those obligations.
- 5.25 Network Rail customer relations will handle complaints relating to:
- services provided by Network Rail at the stations which it operates (Managed Stations); and
 - Network Rail as infrastructure operator (for example, complaints from local residents about line-side fencing, or complaints from car users about a level crossing).
- 5.26 Complaints about Network Rail as a supplier (for example, where a signal failure causes delay) will be handled by the receiving licence holder in line with its own CHP.

³ This holds true even where the impact of the delay arises on another part of the journey i.e. where a delay leads to a missed connection or results in a dispute over ticket validity on a later train.

5.27 Some licence holders may use third parties to handle complaints. Where complaints handling is outsourced, licence holders remain responsible for ensuring compliance with the requirements of this Code of Practice.

The complaints handling procedure

5.28 Complaints provide valuable customer feedback and insight. They offer an opportunity to improve processes and service delivery, helping to maintain or even increase customer patronage, loyalty and satisfaction. They can also provide an early warning that something is not working, or that passenger expectations have changed over time, or simply help to identify problems and improve service provision.

Organisational culture

- 5.29 Those at the top of the organisation should take the lead in ensuring good complaints handling, with regard to both the practice and the culture. Senior managers should:
- (a) set the complaints handling procedure, and own both the policy and the process
 - (b) give priority and importance to good complaints handling, to set the tone and act as an example for all staff
 - (c) ensure that complaints handling staff are trained and empowered to deliver a good complaints handling service, and that this is embedded in the organisation's overall recruitment and training strategies respectively
 - (d) develop a culture that values and welcomes complaints as a way of putting things right and improving service
 - (e) be responsible and accountable for complaints handling
 - (f) ensure that effective governance arrangements underpin and support good complaints handling
 - (g) ensure complaints are dealt with through a clear and accountable complaints handling process
 - (h) ensure learning from complaints is used to improve service.

Principles of good complaints handling

5.30 The following sets out ORR's view on the key principles that underpin a good complaints handling procedure. They are intended to support licence holders when establishing their CHP. A good complaints handling procedure is:

- (a) **customer-focused:** it puts the complainant at the heart of the process – complainants should be listened to, respected and treated with courtesy.
- (b) **accessible:** the complaints process should be well-publicised, easy to understand, and easy to access for those who need to use it.
- (c) **simple, timely and responsive:** the process should be simple, with as few stages as necessary. Complaints should be dealt with promptly, and within clearly published timescales that are communicated to complainants at the outset. Where timescales cannot be met, complainants should be informed and kept updated on progress.
- (d) **objective, impartial and fair:** the process should be objective, impartial and evidence-based. It should also be transparent – meaning decisions should include explanations as to how and why they were reached.
- (e) **effective:** the process should provide quality outcomes, allowing for full and fair investigation, proportionate to the circumstances of the complaint. It should ensure consistency in the way similar complaints are handled. Decisions should address all points of the complaint and be able to offer an appropriate range of remedies.
- (f) **focused on early resolution:** the process should aim to resolve complaints at the earliest opportunity, to the complainant's satisfaction, wherever possible and appropriate, and seek to gather all of the necessary information at the outset.
- (g) **open and accountable:** operators should publish clear and accurate information about how to complain, the scope of complaints that can be considered, and what customers can and cannot expect from the complaints handling process, including timescales and likely remedies, and how, when and where to take things further if necessary.
- (h) **committed to continuous improvement:** feedback from complaints is acted upon to drive continuous improvement in passengers' experience of rail. Data from complaints should be used to measure performance, identify trends and highlight problems so they can be solved before they escalate, with the

overall objective of contributing to the continuous improvement of service delivery.

- 5.31 Management information on complaint volumes, trends and underlying causes should be regularly viewed at Board level so that systemic issues can be identified and addressed.
- 5.32 Licence holders must ensure that all complaints handling staff (including outsourced staff) are made fully aware of the contents of the licence holder's CHP and that there are processes in place to monitor continuing staff awareness and compliance.
- 5.33 The remainder of this Code sets out what a complaints handling procedure "must" contain or what licence holders "must" or "shall" do, as a minimum. It is also intended to set out good practice and what a good CHP "should" contain or achieve.

Provision 1: Information for passengers

Purpose – to promote passengers' awareness of the complaints process and how to complain

- 5.34 Licence holders must ensure information about how and to whom to complain is prominently displayed:
 - (a) at stations
 - (b) on websites
 - (c) on social media, for those licence holders who have a social media presence
- 5.35 At multi-operator stations, publicity should make clear the different contact points for complaints about different services.
- 5.36 Material relating to the promotion of complaints handling, and the complaints handling procedure itself, should be:
 - (a) free from any industry-jargon
 - (b) presented in plain English
- 5.37 The complaints procedure must make clear how a complaint can be made, to whom it should be sent, and what the essential information is that a complainant needs to provide. It must also set out the licence holder's target timescales for responding to complaints.

- 5.38 Licence holders that provide rail services in Wales should be aware of their existing legal obligations concerning the provision of information on complaints in both English and Welsh languages.
- 5.39 All Licence holders should make their working languages known to passengers via their CHP, along with any provision that they are able to make to respond to complainants in languages other than English.
- 5.40 Licence holders shall make available free of charge a current copy of the complaints procedure to any person who requests it.

Provision 2: Receiving complaints

Purpose – to set out how passengers can access the complaints process

In person

- 5.41 All customer-facing rail staff, including sub-contracted staff, should be trained to receive and pass on complaints.

Websites

- 5.42 Information on how to make a complaint must be easily accessible on the licence holder's website via a direct link to a complaints page, to be displayed on the licence holder's homepage.⁴ The homepage link must clearly contain the word "complaint" or "complaints."
- 5.43 The linked to complaints page must display clear information about:
- (i) how to make a complaint, and the different contact methods available
 - (ii) the essential information that passengers need to provide
 - (iii) what passengers can expect from the complaints process, including the timescales involved; this should include advising complainants of the anticipated resolution time for their complaint where this might differ from the licence holder's published targets
 - (iv) the licence holder's membership of the relevant ADR scheme, should passengers wish to appeal the outcome of their complaint
 - (v) a link to the licence holder's CHP, and any further information

⁴ Website accessibility requirements are set out in ORR's ATP Guidance: see A2.5.1

- 5.44 Licence holders should also provide a link from their complaints page to any Frequently Asked Questions (FAQs) page(s) that they host.

Social media

- 5.45 Licence holders should provide complainants with the option of having their complaint dealt with via social media where that is the complainant's preferred mode of contact, and where it is practical and feasible to do so. Where this is not practical or feasible, the licence holder should, where possible and practical to do so, offer to raise the complaint on the complainant's behalf, and transfer it to the appropriate team.
- 5.46 Where high volumes of complaints are received on social media (such as during periods of disruption, for example) and it is not feasible for licence holders to respond to them on social media, we expect licence holders to use their social media channels to signpost users to further information about the complaints process.

Call centres and customer relations teams

- 5.47 Licence holders must publish the hours within which customers can make a complaint by telephone. At all other times licence holders should ensure that callers are met with a recorded message which clearly sets out opening times.
- 5.48 The choice of access routes for telephone complaints should include landline or freephone or low call access number, e.g. 0800 or 0345.

Equality and diversity

- 5.49 Licence holders must make appropriate and proportionate provision for customers who need assistance in accessing and using the complaints process.
- 5.50 A copy of the CHP must be made available in alternative formats, on request, within a reasonable time period.
- 5.51 Licence holders must ensure that carers, support workers and guardians are able to act/advocate on behalf of a passenger with the passenger's permission/authority. Complainants who may need help in lodging or progressing a complaint must also be able to nominate a representative to act on their behalf and represent them throughout the process.
- 5.52 All licence holders should ensure they are aware of their obligations under the Equality Act 2010 and any other relevant legislation.

Provision 3: Recording complaints

Purpose – to set out the requirements on record keeping for complaints

- 5.53 Licence holders must record all complaints on a customer complaints database or Customer Relationship Management system (CRM). It must be capable of recording the following information, as a minimum:
- (a) the date on which the complaint was received and the contact method via which it was received
 - (b) the identity and contact details of the complainant
 - (c) what the complaint is about
 - (d) the status of the complaint
 - (e) the date on which the complaint was resolved or otherwise closed
 - (f) the basis on which the complaint was resolved or otherwise closed
 - (g) the volume of complaints signposted to ADR
 - (h) have the ability to retain complaints records for an appropriate period of time to allow complaints to be reopened, if necessary
- 5.54 Where complaints are handled by an outsourced provider on its behalf, licence holders must ensure that they have appropriate access to the outsourced provider's systems for the purposes of monitoring the quality of complaint handling.

Provision 4: Responding to and investigating complaints

Purpose – to set out the requirements for responding to and investigating complaints

- 5.55 Licence holders must:
- (a) provide all complainants with an acknowledgement and complaint reference/tracking number as appropriate
 - (b) when acknowledging a complaint, include a link to their complaints handling procedure, or inform the complainant where a copy can be obtained, as appropriate

- (c) advise the complainant of the timescales for a response – either when the complaint is acknowledged or as soon as practical thereafter. This should include advising the complainant of the anticipated resolution time for their complaint where this might differ from published targets

5.56 On receiving a complaint the licence holder should:

- (a) if it is not clear, clarify at the outset what outcome the customer wants
- (b) consider the nature of the complaint and whether it requires immediate prioritisation and/or escalation – for example, does it involve a safety-related issue that requires immediate action?
- (c) give discretion to customer-facing staff to resolve face-to-face complaints on the spot, without reference to senior management. ORR does not expect such face-to-face on-the-spot resolution to be considered as a complaint for compliance or data recording purposes

RIDDOR

5.57 Where complainants allege they have sustained an injury as a result of the licence holder's operations, consideration should be given to whether the incident is reportable to ORR under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR).

Delays in handling complaints

5.58 Where a complaint cannot be answered fully within published timescales, licence holders must ensure that the complainant is made aware of the reason for the delay.

5.59 The licence holder must inform ORR and the relevant ADR scheme in circumstances where it is likely to experience a widespread failure to adhere to the required timescales (40/30/20 working days) for signposting to ADR. This information must include:

- (a) the reason for the failure
- (b) the expected duration
- (c) the plans in place to remedy the situation
- (d) the procedures in place to ensure that the quality of responses is maintained
- (e) the steps taken to advise affected complainants

Provision 5: Resolving complaints

Purpose – to set out the requirements in relation to the resolution of complaints

- 5.60 Licence holders must ensure that all complaints are resolved by which we mean there are no outstanding actions required on the part of the licence holder.
- 5.61 In order to ensure quality of complaints handling licence holders should ensure the response is:
- (a) clear and easy to understand, and provided in a way that is passenger-centred and non-confrontational
 - (b) avoids technical terms – or explains these where they must be used
 - (c) addresses all the issues raised and demonstrates that each has been fully and fairly investigated
 - (d) includes an apology where things have gone wrong, and sets out any other redress offered
 - (e) identifies any areas of disagreement and explains why no further action can be taken
 - (f) explains that if the complainant is not satisfied with the outcome of the complaints process, they may seek a review by the relevant ADR scheme
- 5.62 Licence holders remain free to make their own judgements on what is appropriate to the circumstances of the complaint and the complainant. For example, a response could be appropriately dealt with by telephone (even if the original contact was in writing).

Dealing with frivolous or vexatious complaints

- 5.63 Licence holders must:
- (a) have internal procedures that clearly define the circumstances in which correspondence will be terminated where it considers the complainant's ongoing communication to be frivolous or vexatious
 - (b) advise the complainant of the contact details of the relevant ADR scheme where a complaint has been terminated for these reasons.
- 5.64 Licence holders should record any such complaints that have been terminated.

Compensation and redress

- 5.65 Licence holders must set out the remedies they may offer as part of the complaints process within their complaints handling procedure, alongside those relating to delay or cancellation as required under the National Rail Conditions of Travel (NRCoT), franchise/contract obligations or other relevant legislation. The range of remedies must include, as appropriate:
- (a) an apology
 - (b) the award of compensation
 - (c) an explanation of what went wrong
 - (d) a practical action to be taken to correct the problem
- 5.66 Licence holders should also specify that complainants may have additional rights under the Consumer Rights Act 2015 and, if relevant, their own passenger's charter.

Escalation

- 5.67 Licence holders must set out in their complaints handling procedures arrangements for escalating complaints when a passenger has asked for their complaint to be escalated or when the licence holder determines that it is appropriate. This must include:
- (a) the relationship between the escalation process and the complainant's right of appeal (see below)
- 5.68 The escalation process should also consider:
- (a) alignment with any relevant industry good practice, for example, in relation to the handling of safety-related contacts from the public.

Provision 6: ADR

Purpose: to set out how licence holders must promote awareness of and signpost to the relevant ADR scheme

- 5.69 It is a condition of their licence for train and station operators to be a member of the relevant ADR scheme.

Promoting awareness of ADR

The CHP

5.70 Licence holders' CHPs must contain details of the relevant ADR scheme where a complainant can go if not satisfied with the response provided by the licence holder.

Websites

5.71 Licence holders' websites must provide information about their membership of the relevant ADR scheme. As a minimum this must include:

- (a) contact details including website address (and, where possible, logo) for the relevant ADR scheme within one click of the licence holder's homepage,
- (b) the role of the scheme and how it can assist complainants

Complaint acknowledgements

5.72 Written acknowledgements of complaints (including letter and electronic communications) must explain that the licence holder is a member of the relevant ADR scheme, an impartial service who can assist when complaints remain unresolved, and signpost complainants to where they can find out further information about the scheme.

Signposting to ADR

5.73 An ADR letter informs complainants of their right to take an unresolved complaint to the relevant ADR scheme. An unresolved complaint is one where the complaint has not been resolved to the complainant's satisfaction, or a response has not been provided within the agreed [40/30/20 working day] timescale.

5.74 Licence holders must immediately issue an ADR letter when all of the following criteria are met:

- (a) it has told the complainant the outcome of its investigation;
- (b) the complainant has told the licence holder that the outcome has not resolved the complaint to their satisfaction; and
- (c) the licence holder does not intend to take additional steps to resolve the complaint that would produce a different outcome (e.g. the complaint is "deadlocked")

OR

(d) If the complaint is unresolved at [40/30/20] working days after the date the complaint was first made, licence holders must immediately issue an ADR letter informing the passenger of their right to take their complaint to the relevant ADR scheme at this stage. Unless advised otherwise by the complainant or the ADR scheme, the licence holder may continue to engage with the complainant with the objective of resolving the complaint.

5.75 ADR letters must include the following details:

- (a) that the complainant has the right to go to the ADR scheme;
- (b) it is independent and free of charge;
- (c) the possible outcomes include: an apology; an explanation of what went wrong; a practical action to be taken to correct the problem; a financial award;
- (d) its decision has to be accepted by (is binding on) the rail company but not the complainant; and
- (e) where the operator continues to investigate the unresolved complaint, it should set out the reasons why the complaint remains unresolved and the steps it is taking to reach a solution.

Provision 7: Reporting

Purpose: to incentivise good complaints handling through transparent reporting, and to monitor performance

5.76 Licence holders must collect and publish data on their performance in handling complaints on key metrics quarterly including:

- (a) Performance on **response times** on handling complaints, to cover:
 - (i) Percentage of complaints resolved within 10 working days
 - (ii) Percentage of complaints resolved within 20 working days
 - (iii) Average response times for handling complaints

5.77 Licence holders must also

- (a) report and publish data annually on their continuous improvement activities, and how they have actively used and applied learning from complaints within their business.

- 5.78 Licence holders may add narrative information to explain the reasons for their performance.
- 5.79 ORR will provide further information on these reporting requirements via its reference guides for core data compliance reporting, including those that will apply to licence holders subject to the guide for station only operators or non-scheduled passenger services.
- 5.80 Licence holders must collect and provide ORR with data on complaints and complaints handling as set out in ORR reference guides for core data compliance reporting.
- 5.81 The ORR may wish to conduct research with complainants to learn more about their experiences. Data protection concerns must be properly addressed to allow this. Licence holders should consider ways in which the complainant could be advised of this eventuality, for example by informing complainants that they could be contacted by the regulator or third parties operating on its behalf, and providing a tick-box option to opt-out if the complainant does not wish to be contacted.

Provision 8: Training, resourcing and quality assurance

Training and development

- 5.82 Licence holders must have complaints handling training programmes and training plans in place for all staff dealing with complaints.
- 5.83 Training must be designed to ensure that:
- (a) complaints handling staff have the capabilities and competencies (knowledge, skills, experience and abilities) needed to handle complaints in accordance with this Code of Practice.
- 5.84 As a minimum this training should cover:
- (a) customer service,
 - (b) complaints investigation and resolution skills,
 - (c) recording and maintaining complaints records.
- 5.85 Licence holders should provide refresher training at regular intervals and in response to evidence that complaints are not being dealt with effectively.
- 5.86 Where complaints handling functions are outsourced, licence holders must ensure that the requirements in 5.82 are met.

Complaints handling resources and quality assurance

5.87 Licence holders must:

- (a) ensure that they allocate and maintain adequate resources to receive, handle and process complaints in a timely manner
- (b) give reasonable consideration to what contingency measures may be required to deal with exceptional spikes in demand
- (c) have controls in place to monitor the quality of its complaints handling and to take remedial action where failures are identified.

Annex B: Draft obligation on licence holders

There are two legislative regimes for licensing operators of railway assets:

- the Railway (Licensing of Railway Undertakings) Regulations 2005 – that require most people who want to operate passenger trains or freight trains in Great Britain to hold an appropriate Railway Undertaking licence (if issued after January 2021, or, alternately, a European licence issued before that time), and comply with the conditions included in a Statement of National Regulatory Provisions (SNRP); and
 - the Railways Act 1993 (the Act). Section 6 of the Act makes it an offence to act as the operator of a railway asset without holding a Railways Act licence or licence exemption.⁵
- The drafting below uses a template to illustrate the changes we wish to consult on in relation to the complaints handling condition.

1. The [licence/SNRP] holder shall establish and thereafter comply with a procedure for handling complaints relating to licensed activities from its customers and potential customers. The procedure shall comply with the Complaints Code of Practice, and shall also comply with article 27 of the PRO Regulation.⁶
2. Alternative Dispute Resolution:
 - (a) The [licence/SNRP] holder shall become and thereafter remain, a member of the Relevant ADR Scheme;
 - (b) the [licence/SNRP] holder shall comply with its obligations under the Relevant ADR Scheme; and

⁵ Railways Act licences cover station, network, non-passenger and light maintenance depot licences, and 'small scale' passenger train licences that cover local and regional services

⁶ For Railways Act station and passenger train licence holders, omit the wording "*and shall comply with article 27 of the PRO Regulation*"

- (c) if the Relevant ADR Scheme, at any time, ceases to be Compliant, the [licence/SNRP] holder must:
- (i) within 14 days after becoming aware that the Relevant ADR Scheme is no longer Compliant, notify ORR of that fact;
 - (ii) within no more than 28 days after becoming aware that the Relevant ADR Scheme is no longer Compliant, notify ORR of the arrangements it has put in place to ensure that the interests of passengers are not adversely affected and must, if so directed by ORR at any time, revise those arrangements to take account of any concerns ORR reasonably raises about the protection of passenger interests; and
 - (iii) if the Relevant ADR Scheme continues to be non-Compliant for more than 6 months:
 - take all such steps as are reasonably practicable, including working together with other members of the Relevant ADR Scheme, and Rail Delivery Group, as appropriate, to identify another alternative dispute resolution scheme which is Compliant; and
 - notify such scheme to ORR within not more than 12 months (or such longer period as ORR may agree) after the date on which the Relevant ADR Scheme ceased to be Compliant.

3. For the purposes of this Condition:

“Relevant ADR Scheme” means:

- the alternative dispute resolution scheme procured by Rail Delivery Group (the Rail Ombudsman) or, as the case may be, any Successor Scheme.

“Successor Scheme” means:

- such other alternative dispute resolution scheme as is notified to ORR by the [licence/SNRP] holder under sub-paragraph (c)(iii) above, and is accepted by ORR as providing suitable protection for the interests of passengers.

“Complaints Code of Practice” means:

- the Complaints Code of Practice published by ORR, as amended from time to time.

“Compliant”, in relation to the Relevant ADR Scheme, means:

- that the scheme is approved by the Designated Competent Authority

“Designated Competent Authority” means:

- the relevant Designated Competent Authority under The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

Annex C: Collated consultation questions

Complaints Code of Practice

- Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?
- Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?
- Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

Provision 1: Information for passengers

- Q4. Are the provisions on information requirements clear and proportionate?

Provision 2: Receiving complaints

- Q5. Do you have any comments on our proposals regarding websites and other access routes?

Social media

- Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?
- Q7. To industry:
 - What social media channels do you currently operate (e.g. Twitter, webchat, other?)
 - Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?
 - What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on “on-the-spot” resolutions on social media within their complaints data? Are there

ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Provision 3: Recording complaints

- Q8. Is the list of requirements on recording complaints clear and proportionate? Are there any elements that have been overlooked?

Provision 4: Responding to and investigating complaints

- Q9. Do you have a view on the proposed requirements in relation to responding to and investigating complaints – including the requirement to inform ORR when licence holders are likely to experience a widespread failure to adhere to the required timescales for signposting complainants to ADR? Should this requirement extend to a failure to adhere to licence holders' own internal targets for responding to complaints?

Provision 5: Resolving complaints

- Q10. Are the requirements on resolving complaints clear and proportionate?

Provision 6: ADR

- Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?
- Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?

Reducing the 40 working day timescale

- Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?
- Q14. If yes, do you believe that the time limit should be reduced:
 - (i) to 20 working days or deadlock (whichever is sooner) or
 - (ii) to 30 working days or deadlock (whichever is sooner), or
 - (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

Q15. What would be an appropriate lead time to implement each of the options in Q14?

- **It would be helpful if licence holders will provide evidence to support their answers to Q13-15.**

Provision 7: Reporting

Response times

- Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?
 - Percentage of complaints resolved within 20 working days
 - Percentage of complaints resolved within 10 working days
 - Average response time for resolving complaints
- Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)
- Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

Continuous improvement

- Q19. Do you have any comments on our approach regarding continuous improvement, and the requirement that all licence holders publish data on their continuous improvement activities?

Quality in complaints handling

- Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?
- Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

Driving wider learning from complaints

- Q22. Are the existing fora sufficient to best facilitate continuous improvement and learning from complaints across industry? If not, what further measures would you like to see, and how can ORR best play a role in facilitating them?

Provision 8: Training, resourcing, and quality assurance

- Q23. Do you have a view on what should constitute “regular intervals” in relation to the frequency of refresher training?
- Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

Annex B – draft obligation on licence holders

- Q25. Do you have any comments on our proposals to amend the complaints handling licence condition?

In addition to the questions set out above, we also invite any general feedback on our proposals and draft impact assessments

Annex D: Draft regulatory impact assessment and equality impact assessment

Draft regulatory impact assessment

This draft regulatory impact assessment summarises the key considerations that we have taken into account in developing our proposals for a new Complaints Code of Practice and amended licence condition.

We have sought to summarise our proposals, and their potential impact on passengers and licence holders, alongside any other factors that have been taken into account.

Where proposals are new, we have sought to indicate them with the word “new” in the table below. Where our proposals strengthen, amend or expand on already existing expectations within our current guidance, we have also noted this below.

This is a draft impact assessment on which we welcome feedback as part of our consultation. We will produce an updated assessment alongside our final proposals.

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|--|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| New Amended licence condition on | Licence holders will be required to establish and comply with a complaints | [+] Clarity for consumers on minimum standards, as well as guidance | [+] Clarity for licence holders on minimum standards, as well as guidance on what good looks like. | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|-------------------------|---|---|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| complaints handling | handling procedure that complies with our Code. | on what good looks like. | [+] Reduced regulatory burden via removal of the approvals process. | |
| Ownership of complaints | <p>Licence holders that outsource their complaints handling functions remain responsible for ensuring compliance with the requirements of the Code of Practice.</p> <p>Continues an existing expectation – but amended to relate to our new Code.</p> | [+] Ensures quality of complaints handling is maintained. | <p>[+] Provides clarity for licence holders, and continues the existing expectation that they are responsible for compliance with their CHPs even where complaints handling is outsourced.</p> <p>[+] Ensures licence holders have oversight of the complaints handling process, ensuring complaints are processed and resolved to good standards.</p> <p>[-] Potential administrative costs in ensuring outsourced suppliers are familiar with the new Code, and there are</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--------------------------------------|--|---|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | processes for assuring compliance. | |
| New Organisational culture | Sets out how those at the top of the organisation should take the lead in ensuring good complaints handling. | [+] Promotes and reinforces a positive complaints handling culture which should also be of benefit to passengers. | [+] Responds to industry feedback to incentivise a positive internal complaints handling culture. [+] Provides guidance on what good looks like. [-] Some potential resource costs in raising awareness of and embedding this within organisations. | - |
| Information for passengers | Licence holders must ensure information about how to and to whom to complain is prominently displayed at stations, on websites, and on social media (for those licence | [+] Promotes awareness of the complaints process. | [+] Promotes awareness of licence holders' complaints processes. [+] Under our current guidance, licence holders should already make use of these channels to | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|----------------------------|---|--|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | holders who have a social media presence). Strengthens an existing expectation. | | promote their complaints process. [-] Some financial and resource costs for those licence holders who do not already do this to ensure all mediums are kept up to date. | |
| Information for passengers | Licence holders' complaints procedures must make clear how a complaint can be made, to whom it should be sent, and what the essential information is that a complainant needs to provide. Licence holders' CHPs must also set out their target timescales for responding to complaints. | [+] Clarity for complainants on what essential information should be provided. [+] Clarity for complainants on the complaints process and timescales. | [+] Clarity for complainants on what essential information should be provided reduces follow ups, allowing licence holders more time to investigate and resolve complaints. [+] Under our current guidance it should already be clear how and to whom a complaint should be addressed, and what information needs to be provided | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|---|--|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | Strengthens an existing expectation – and extends it to include information on target timescales. | | [+] Information on timescales helps to manage complainant expectations and ensures licence holders are accountable for complaints handling. Many licence holders already set timescales out within their complaints handling processes. | |
| New Information for passengers | Licence holders should make their working languages known via their complaints handling procedures, along with any provision that they are able to make to respond to complainants in languages other than English. | [+] Provides clarity for complainants. | [+] Provides transparency for complainants. [+] An expectation to make their working languages known already exists on those operators who are subject to Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations (PRO). | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|---|---|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| Receiving complaints - websites | <p>Information on how to make a complaint must be easily accessible via a direct link to a complaints page, to be displayed on the licence holder's homepage, and which clearly contains the word "complaint" or "complaints".</p> <p>Strengthens an existing expectation – and expands it to include clear information requirements.</p> | <p>[+] Makes the complaints process more accessible for complainants.</p> <p>[+] Promotes clarity for complainants.</p> | <p>[+] Provides transparency for complainants and promotes trust.</p> <p>[+] Our current guidance already expects licence holders to have a complaints page within 2 clicks of their landing/homepage.</p> <p>[-] Some potential administrative costs in ensuring one-click access from homepage for those licence holders who do not currently do this.</p> | - |
| New Receiving complaints – social media platforms | <p>Licence holders should provide complainants with the option of having their complaint dealt with via social media where that is the complainant's preferred mode of contact,</p> | <p>[+] Allows greater flexibility for complainants. Makes the complaints process more accessible.</p> | <p>[+] Provides more flexibility for both complainants and licence holders.</p> <p>[+] Allows for greater opportunities to learn lessons from complaints through the</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|-------------|--|-------------------|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | <p>and where it is practical and feasible to do so.</p> <p>Where this is not practical or feasible, licence holders should, where possible and practical to do so, offer to raise the complaint on the complainant's behalf, and transfer it to the appropriate team</p> | | <p>recording of some complaints raised via social media. This can lead to increased consumer satisfaction where action is taken based on complainant feedback.</p> <p>[+] Provides opportunities for complaints to be resolved via social media platforms more swiftly.</p> <p>[+] It is not always practical to respond to complaints raised via social media platforms through social media. The Code of Practice allows flexibility in responding to complaints via social media. This balances the interests of both complainants and licence holders.</p> | |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|-------------|---|-------------------|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | <p>[-] Potential financial costs where licence holders need to upgrade systems to integrate social media with its CRM systems.</p> <p>[+ -] Potential for increased complaint volumes with associated resourcing costs to respond, capture and record complaints received via social media platforms. Complaints raised through other modes may concurrently reduce or be maintained.</p> <p>[+ -] Adjustments in how licence holders service complaints via social media may need to be made. There are likely to be financial/resourcing costs for licence holders to ensure that they have adequate staffing</p> | |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|---|---|--|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | <p>who are appropriately trained to service complaints via social media.</p> <p>These impacts should be considered within the context of our proposals and that we are not mandating the handling of complaints via social media, but have set out our view of what we think is appropriate that licence holders should do. Licence holders can provide further evidence of potential costs as part of their response to consultation question 7 (social media) or via feedback on this draft impact assessment.</p> | |
| Receiving complaints - call centres and | Requirement to publish the times that complaints | [+] Provides clarity for complainants that wish to raise a | [+] All licence holders should already be ensuring that they | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--------------------------|--|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| customer relations teams | <p>can be made by telephone.</p> <p>Strengthens an existing expectation.</p> | complaint via telephone. | <p>publish the times they can receive telephone complaints.</p> <p>[+] The Code of Practice provides flexibility regarding the hours of operation in order to account for licence holders' circumstances and operations.</p> | |
| Equality and diversity | <p>Licence holders must make appropriate and proportionate provision for customers who need assistance in accessing and using the complaints process.</p> <p>A copy of the CHP must be made available in alternative formats, on request, within a reasonable time period.</p> | <p>[+] The complaints process is open to all consumers.</p> <p>[+] Complainants are able to, on request, receive alternative formats of the licence holder's complaints handling procedure to meet their needs.</p> | <p>[+] Ensures the complaints process is open to all consumers.</p> <p>[-] Possible financial and resourcing costs for licence holders to ensure staff are appropriately trained.</p> <p>[-] Some financial and resourcing costs to provide copies of licence holders' complaints handling procedures in alternative formats, on</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|------------------------|---|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | Strengthens existing expectations and introduces a new requirement on making the CHP available in alternative formats. | | request, within a reasonable time. | |
| Equality and diversity | <p>Licence holders must ensure that carers, support workers and guardians are able to act or advocate on behalf of a passenger with the passenger's permission/authority.</p> <p>Complainants who may need help in lodging or progressing a complaint must also be able to nominate a representative to act on their behalf and</p> | [+] Ensures that all consumers are able to have access to the complaints process. | <p>[+] Ensures the complaints process is open to all consumers.</p> <p>[-] Some potential financial and resourcing costs for licence holders who do not already do this to ensure systems are in place to enable a nominated person to lodge or progress a complaint on behalf of a complainant with the complainant's permission – although the first requirement opposite strengthens an</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|----------------------|--|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | <p>represent them throughout the process.</p> <p>Strengthens an existing expectation in relation to carers, support workers and guardians, and expands it to accommodate other complainants who may wish to nominate a representative.</p> | | existing expectation within our current guidance. | |
| Recording complaints | The Code of Practice sets out the minimum information that must be recorded within licence holders' customer complaints database or Customer Relationship Management system | [+] Complainants have confidence that there is a clear and consistent record of their complaint, and that they will not have to repeat information should | <p>[+] Good record keeping enables effective complaints investigation.</p> <p>[+] Good record keeping supports learning through easy identification of trends and systemic issues.</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|----------------------|--|----------------------------------|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | <p>(CRM) to support good record keeping.</p> <p>Strengthens an existing expectation on licence holders to have a process for recording all complaints, and expands it to set out minimum information requirements.</p> | they need to make contact again. | [-] It is likely that all licence holders already have adequate database/ CRM systems in place to facilitate the recording of complaints. There may be some additional IT costs for any licence holders that may need invest in upgrades to existing systems to facilitate the capture of the minimum information set out in the Code of Practice. Any new system is also likely to involve additional staff resourcing in both time and training. | |
| Recording complaints | Where complaints are handled by an outsourced provider on behalf of licence holders, the licence holder must ensure that they have | | [+] Appropriate levels of oversight ensure effective monitoring of complaints handling processes to ensure good complaints handling practices and complainant | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|---|--|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | <p>appropriate access to the outsourced provider's systems for monitoring purposes.</p> <p>Strengthens an existing expectation</p> | | <p>satisfaction levels are maintained.</p> <p>[-] Under our current guidance, licence holders should already ensure that they have appropriate access to third party supplier systems for the purposes of monitoring passenger satisfaction with the service provided. Where this is not currently in place there may be financial and staffing resource costs to establish and maintain appropriate levels of access.</p> | |
| <p>New</p> <p>Responding to and investigating complaints</p> | <p>When acknowledging complaints, licence holders must include a link to their CHP or inform the complainant where a</p> | <p>[+] Provides transparency of the licence holder's complaints handling procedure at the</p> | <p>[+] Increased transparency between complainants and licence holders.</p> <p>[-] There may be some staff resourcing costs in setting up</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|--|--|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | current copy can be obtained. | outset of the complaints process. | acknowledgement templates to include a link to the licence holder's complaints handling procedure. It is expected that this cost will diminish once templates are established. | |
| Responding to and investigating complaints | <p>Advising complainants of the timescales for a response including when the anticipated resolution time might differ from published targets – either when acknowledging a complaint, or as soon as practical thereafter.</p> <p>Strengthens and expands on an existing expectation.</p> | <p>[+] Provides clarity for the complainant at the outset of the process.</p> <p>[+] Keeps complainant informed.</p> | <p>[+] Transparency helps to manage complainant expectations. This may reduce premature contacts from complainants before complaints are resolved. This allows complaints handling teams to engage in resolving and responding to complaints.</p> <p>[+] Under our current guidance complainants should already be advised of the target timescales</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|---|--|---|---|
| | | Consumers | Licence holders and Industry | Other |
| | | | for a response at the outset of the process. | |
| New Responding to and investigating complaints | When receiving a complaint licence holders should, if it is not clear, clarify what outcome the complainant wants and consider whether a complaint requires immediate prioritising and/or escalation. | [+] Helps to raise complainant satisfaction with licence holders' complaints handling processes. | [+] Supports and incentivises early resolution and getting the response right first time. [+] Complaints that require swift escalation are prioritised. [+] Reduced likelihood of a complainant coming back with further concerns. [-] Some possible financial and resourcing costs in clarifying the outcome the complainant wants, if it is not clear at the outset. | - |
| Delays in handling complaints | The licence holder must inform ORR and the relevant ADR scheme in | | [+] Under our current guidance licence holders must already inform ORR and the relevant | [+] Allows ORR to effectively carry out its role. |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|------------------------------------|---|--|---|---|
| | | Consumers | Licence holders and Industry | Other |
| | <p>circumstances where it is likely to experience a widespread failure to adhere to the required timescales (40/30/20 working days) for signposting to ADR.</p> <p>Amends an existing expectation and applies it to new signposting requirements.</p> | | <p>ADR scheme when emergency timescales are in place. This provision therefore amends an existing expectation, and applies it to the required timescale for signposting to ADR.</p> | <p>[+] Provides transparency for the relevant ADR scheme.</p> |
| New Resolving complaints | <p>The Code sets out good practice considerations for licence holders when responding to complaints.</p> | <p>[+] Supports a good customer experience and satisfaction with licence holders' complaints handling processes.</p> | <p>[+] Provides licence holders with good practice considerations.</p> <p>[+] Supports good complaints handling across the rail industry.</p> <p>[-] Some potential costs for revising templates or staff training where good practice is</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|---|-------------------|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | not already followed – although licence holders remain free to make their own judgement on the appropriate format for a response. | |
| Dealing with frivolous or vexatious complaints | <p>Licence holders must have in place procedures for dealing with communications believed to be frivolous or vexatious.</p> <p>Strengthens an existing expectation.</p> | | <p>[+] Provides clarity and improves confidence of complaints handling staff dealing with communications believed to be frivolous or vexatious.</p> <p>[+] Under our current guidance licence holders should already have internal procedures in place in relation to dealing with frivolous and vexatious complaints.</p> <p>[-] There may be some resource costs (training, procedure materials) for the establishment</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--------------------------|--|---|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | of an internal procedure where this is not currently in place. Any costs are likely to diminish once the procedure is established. | |
| Compensation and redress | Information requirements on compensation and redress. Updates, strengthens and expands on existing guidance. | [+] Complainants are informed about the remedy options available for complaints. This promotes transparency for complainants. | [+] Licence holders provide clarity on the remedies available to address dissatisfaction as appropriate for each complaint. | - |
| Escalation | Licence holders must set out in their CHP arrangements for escalating complaints when a passenger has asked for their complaint to be escalated or when the licence holder | [+] Clarity for consumers. | [+] Licence holders are already expected under our current guidance to set out in their complaints procedures criteria for escalating complaints. | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|---|--|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | <p>determines that it is appropriate.</p> <p>Strengthens and simplifies an existing expectation.</p> | | | |
| New Promoting awareness of ADR | <p>Licence holders must provide information about the relevant ADR scheme within their complaints handling procedure, on their website and when acknowledging complaints.</p> <p>Updates and expands on requirements within our current guidance.</p> | <p>[+] Raises awareness of the right to access ADR for those complainants who may wish to appeal the outcome of their complaint.</p> <p>[+] This is likely to increase awareness of ADR, making it more accessible for everyone.</p> | <p>[+] Website and acknowledgement requirements reflect existing industry good practice guidelines. Clear requirements on all licence holders will ensure consistency and clarity for complainants and a level playing field for licence holders.</p> | - |
| Signposting to ADR | <p>Sets clear requirements on when to signpost complainants to ADR, and</p> | <p>[+] Ensures complainants are aware of their right to</p> | <p>[+] Provides clarity and consistency for licence holders on the timeframe and conditions</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|-------------|---|--|---|--|
| | | Consumers | Licence holders and Industry | Other |
| | <p>adds new requirements on what information must be provided to complainants.</p> <p>Updates, strengthens and expands on requirements within our current guidance.</p> | <p>appeal the outcome of their complaints in cases where they are dissatisfied with the licence holder's response.</p> <p>[+] Provides transparency for complainants. This may reduce premature contacts and associated rejected cases with the relevant ADR scheme. This may deter complainants from being further frustrated and dissatisfied.</p> | <p>in which an ADR letter is to be issued.</p> <p>[+] Provides clarity and consistency on the minimum information that must be provided within ADR letters.</p> | |
| New | Options for reducing the time that passengers must | [+] A reduction in the timescale | [+] Incentivises early resolution and getting the response to | [+] Reducing the time that passengers must |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|------------------------------|---|---|---|--|
| | | Consumers | Licence holders and Industry | Other |
| Timescales for accessing ADR | wait before accessing ADR. | <p>complainants must wait before accessing the relevant ADR scheme allows complainants to take their complaints to the ombudsman sooner. A shorter timescale may also mean complainants are less likely to drop out of the complaints process.</p> <p>[-] A phased approach to reducing timescales may lead to consumer confusion if timescales change.</p> | <p>complaints right first time in order to avoid the reputational and financial costs of complaints being escalated to the ombudsman.</p> <p>[+] The majority of complaints are already resolved within 20 working days (in 2020-21, 94.2% of complaints were resolved within 20 working days by franchised and non-franchised train operators).</p> <p>[-] Reducing the timescales for complainants to wait before accessing the relevant ADR scheme may lead to some cost impacts for operators if this results in more cases to the ombudsman – although the costs may be balanced by improvements in the complaints</p> | <p>wait before accessing ADR may also reduce the volume of premature contacts to the relevant ADR scheme.</p> <p>[+ -] Where timescales may reduce from 40 working days, there may be additional case volumes escalated to the ADR scheme.</p> |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|----------------------|---|---|--|---|
| | | Consumers | Licence holders and Industry | Other |
| | | | <p>handling that this change may drive.</p> <p>The cost impacts of a reduction in timescales are difficult to forecast at this time and would be dependent on the cost structure of the ADR provider in place at the time, and the number of complainants that decide to exercise their right to appeal.</p> <p>[+] Licence holders may benefit from the option of a phased approach to reducing the timescale, in order to prepare and adjust for its implementation.</p> | |
| New Reporting | Licence holders must collect and publish data on their performance in | [+] Increased transparency for consumers on the | [+] Enables complaints handling performance to be benchmarked across industry to | [+] ORR will be able to effectively monitor complaints handling |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|-------------|--|---|--|--|
| | | Consumers | Licence holders and Industry | Other |
| | handling complaints on key metrics quarterly, and self-report on continuous improvement activities annually. | complaints handling performance of licence holders. | <p>incentivise improvements in complaints handling.</p> <p>[+] Systematic collection and reporting of data allows licence holders to closely monitor and reflect on their own complaints handling performance.</p> <p>[+] The proposed metrics on response time replicate data that many licence holders already collect and report on to ORR (e.g. 20 and 10 working day resolution time).</p> <p>[+] The introduction of an average response time metric will provide a more complete picture of licence holders' performance. It should also be</p> | <p>performance, and understand whether licence holders' complaints handling procedures are working well for passengers.</p> <p>[+] ORR will continue to publish data quarterly and via annual statistical releases, supporting transparency of industry wide data.</p> |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|-------------|---|-------------------|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | <p>easily generated from existing data.</p> <p>[+] Collaboration with ORR on the development of metrics on quality in complaints handling should allow for better benchmarking of this aspect of performance.</p> <p>[+] ORR is seeking input on whether the licence holders who are subject to our core data reference guide for station only operators or non-scheduled passenger services should be required to publish all of the proposed response time metrics.</p> <p>[-] Potential resourcing and financial costs for the</p> | |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|--|---|---|---|--|
| | | Consumers | Licence holders and Industry | Other |
| | | | implementation of new reporting requirements. | |
| New Reporting – Stop the clock | Removal of the use of stop the clock when calculating complaints handling response times. | [+] May incentivise greater clarity at the outset of the complaints process on the key information needed by licence holders to progress a complaint. | <p>[+] Ensures a common baseline for performance across all licence holders.</p> <p>[-] Removal of the ability for licence holders to ‘stop the clock’ when calculating all complaints handling response times may in some cases impact response time performance.</p> <p>[+ -] Licence holders’ data publications may provide appropriate contextual information on performance.</p> <p>[-] Potential administrative costs for system changes.</p> | [+ -] ORR data publications will provide appropriate contextual information on licence holders’ performance. |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|---|---|---|--|-------|
| | | Consumers | Licence holders and Industry | Other |
| Training, resourcing, and quality assurance | <p>Complaints training programmes and plans for all staff dealing with complaints, including where complaints handling functions are outsourced.</p> <p>Strengthens aspects of our existing guidance, and sets baseline requirements on what training should cover.</p> | <p>[+] Provides assurance in the handling of complaints and quality of complaint responses.</p> | <p>[+] Staff handling complaints are confident and proficient in responding to and resolving complaints.</p> <p>[-] Potential financial and resource costs for licence holders, including those who outsource complaints, to ensure training provision is in place and undertaken, with refresher training provided at regular intervals. This is mitigated against the fact that our current guidance already expects licence holders to provide complaints handling staff with complaints handling training that covers many of the baseline requirements set out in our Code, and seek assurance that outsourced staff have</p> | - |

| Policy area | Evidence and Proposals (full details in consultation document) | Impact on [+] [-] | | |
|---|--|---|---|-------|
| | | Consumers | Licence holders and Industry | Other |
| | | | received complaints handling training. | |
| New Complaints handling resources and quality assurance | Strengthened requirement to have quality controls in place, and new requirement to allocate and maintain adequate resources to handle complaints in a timely manner. | [+] Complaints handled and processed in a timely manner. [+] Quality of complaints handling is maintained. | [+] Increased levels of consumer satisfaction. [-] Financial and resource costs to ensure adequate levels of staff are available to process complaints. Mitigated against a recognition that licence holders cannot be permanently resourced to deal with exceptional spikes in demand – and therefore requires licence holders to give reasonable consideration what contingency measures may be required in these circumstances. | - |

Draft equality impact assessment

This draft equality impact assessment summarises how the Office of Rail and Road (ORR) has sought to meet its responsibilities under the Public Sector Equality Duty (PSED) within our draft proposals for an amended licence condition and Complaints Code of Practice.

As set out in section 149 of the Equality Act 2010, the three arms of the PSED require ORR as a public authority to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by or under the Act
- Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
- Foster good relations between persons who share a relevant protected characteristic and those who do not

Section 149 defines the following as relevant protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

With regards to this work on complaints handling procedures, ORR has considered where people with relevant protected characteristics may face barriers in accessing information about the complaints handling process or in accessing the complaints process itself. Our assessment below sets out where we have given consideration to these, and sought to address them within our proposals.

We note that the Equality Act 2010 specifies the requirement for businesses and service providers to make reasonable adjustments for people with a disability. Nothing in our proposed Code of Practice is intended to affect or replace licence holders' legal obligations or passengers' legal entitlements, including those established in consumer law, contracts or other licence conditions.

This is a draft equality impact assessment on which we welcome feedback as part of our consultation. We will produce an updated assessment alongside our final proposals.

| Policy area | Potential issue | Relevant considerations and proposal |
|---|---|--|
| <p>Access to the complaints handling process</p> <p>Overall licence condition and structure of proposals.</p> | <p>Passengers with certain protected characteristics may face particular barriers in accessing information about the complaints handling process, or in accessing the complaints handling process itself.</p> | <p>As service providers licence holders are already subject to the requirements of general equality legislation (as described in the Equality Act 2010 and subsequent case law), which define a high-level obligation to make reasonable adjustments.</p> <p>Licence holders are also subject to specific sectoral regulation through ORR’s Accessible Travel Policy licence condition and guidance. This sets out detailed requirements for how licence holders must provide services and assistance for passengers with disabilities, including the provision of information about how to provide feedback or make a complaint.</p> <p>We have not sought to duplicate these existing requirements within our proposals.</p> <p>ORR recognises the complexity of the challenges faced by passengers with different protected characteristics, and the risk of setting detailed requirements that may not take the nature of every protected characteristic into account.</p> <p>Rather than specify specific requirements for each eventuality, we have sought instead to articulate a high-level requirement on licence holders to make appropriate and proportionate provision for customers who need assistance in accessing and using the complaints process.</p> <p>Our Code also requires licence holders to make available a copy of their CHP in alternative formats, on request, within a reasonable time period.</p> |

| Policy area | Potential issue | Relevant considerations and proposal |
|---|---|---|
| | | <p>These broad requirements will help to ensure that passengers with protected characteristics can participate in the complaints process to which they are entitled.</p> <p>Relevant text:</p> <p>Annex A, Provision 2 5.49-5.50, 5.52</p> |
| <p>Access to the complaints handling process</p> | <p>Passengers with certain protected characteristics may face particular barriers in accessing the complaints handling process.</p> | <p>Provision 2 on receiving complaints establishes a requirement on licence holders to ensure that carers, support workers and guardians are able to act/advocate on behalf of a passenger, with the passenger's permission/authority.</p> <p>Complainants who may need help in lodging or progressing a complaint must also be able to nominate a representative to act or advocate on their behalf and represent them throughout the process.</p> <p>This will ensure that passengers with protected characteristics are not excluded from accessing the complaints handling process.</p> <p>Relevant text:</p> <p>Annex A, Provision 2, paragraphs 5.51</p> |

| Policy area | Potential issue | Relevant considerations and proposal |
|--|---|--|
| <p>Information for passengers - working languages</p> | <p>Passengers with certain protected characteristics may face particular barriers in accessing information about the complaints handling process.</p> | <p>Licence holders that provide rail services in Wales should be aware of their legal obligations concerning the provision of information on complaints in both English and Welsh languages.</p> <p>Provision 1 on information for passengers sets out that licence holders should also make their working languages known to passengers via their complaints handling procedure, along with any provision that they are able to make to respond to complainants in languages other than English.</p> <p>Relevant text:</p> <p>Annex A, provision 1, paragraphs 5.38-5.39</p> |



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