

Responses to the [June 2022 second consultation](#) on a draft Complaints Code of Practice  
ORR has redacted all personal data from these responses

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## **Arriva Trains UK response to ORR second Complaints Code of Practice consultation**

Please send your response and any queries to [chp@orr.gov.uk](mailto:chp@orr.gov.uk)

by **5pm on Friday 5 August 2022**,

### **About you**

Full name:

Job title:

Organisation: Arriva Trains UK

*\*This information will not be published on our website.*

### **Response**

We are happy with the changes to the wording of the revised Complaints Code of Practice.

We would like to be kept informed to the implementation timeline for the new Complaints Code of Practice so that we can amend our respective Complaints Handling Procedure(s) in good time.

### **Publishing your response**

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 UK General Data Protection Regulation (UK GDPR) the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004.

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.

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.

Any personal data you provide to us will be used for the purposes of this consultation and will be handled in accordance with our privacy notice, which sets out how we comply with the UK General Data Protection Regulation and Data Protection Act 2018.

### ***Consent***

In responding to this consultation you consent to us:

- handling your personal data for the purposes of this consultation; and
- publishing your response on our website (unless you have indicated to us that you wish for your response to be treated as confidential as set out above.)

Your consent to either of the above can be withdrawn at any time. Further information about how we handle your personal data and your rights is set out in our privacy notice.

### ***Format of responses***

So that we are able to apply web standards to content on our website, we would prefer that you email us your response either in Microsoft Word format or OpenDocument Text (.odt) format. ODT files have a fully open format and do not rely on any specific piece of software.

If you send us a PDF document, please:

- create it directly from an electronic word-processed file using PDF creation software (rather than as a scanned image of a printout); and
- ensure that the PDF's security method is set to no security in the document properties.

Thank you for the opportunity to review the proposal for the operating model for the Rail Ombudsman. There is a response to the questions provided in the consultation on a draft Rail Ombudsman operating model below as well as feedback relating to the revised Complaints Code of Practise Revised draft.

### **Consultation Questions**

**Q1. Please provide any additional information not provided in the draft equality impact assessment (Annex C) which you consider we should take into account, whether in relation to impacts on those with the protected characteristic of disability or any other protected characteristic.**

Some consumers may not have access to smart technology along with a visual impairment which severely limits access to documents that could be sent in easy read or braille, however, only seven per cent of people who are registered blind or partially sighted use braille so it would be beneficial to have an option for people who identify as this with the option of a spoken transcript of documents.

**Q2. Do you agree with our proposed governance structure? Please give reasons for your answer.**

c2c agree with the proposed governance structure as it will give consistent reporting and transparency with both stakeholders and train operating companies.

**Q3. Please set out your opinion on the three funding model options, explaining why you consider that one option may be better than another:**

- a. Status quo**
- b. Less cost reflective**
- c. More cost reflective**

**If you are a current member of the Rail Ombudsman scheme, please explain what you think works well and less well with the current model (i.e. the status quo option).**

Status quo would be the most beneficial funding model for c2c as complaint numbers are small. The status quo has worked well for c2c in the past as we are a small train operating company and do not have the same demands as larger operating companies.

**Q4. Do you agree with our proposals for the Rail Ombudsman operating model? When considering this question, please set out any ways in which you consider the OOM could further improve the accessibility of Rail Ombudsman services provided to passengers. If you have specific feedback on one area of ORR's proposals, please clearly indicate which proposal you are commenting on.**

c2c agree with the proposals for the Rail Ombudsman operating model. Please see below under Complaints Code of Practise for further feedback.

**Q5. Do you have any comments on our proposal to amend the Complaints Handling licence condition?**

Please see below under Complaints Code of Practice for further feedback.

**Q6. Do you have any comments on the proposed drafting amendments to the Complaints Handling licence condition?**

No comments at the moment.

**Q7. What do you consider are the advantages and disadvantage of having two rail ADR schemes running simultaneously for a short transitional period? What are the potential impacts on your organisation of running two rail ADR schemes simultaneously?**

The primary advantage of having two rail ADR schemes is that consumers will not be transferred to multiple agents whilst getting resolutions for existing complaints. By keeping the same agent as was originally assigned, it will prevent data leaks, confusion and will keep satisfaction levels consistent.

However, the risk of having two rail ADR schemes running simultaneously would be possibly not getting the same level of customer satisfaction if there are differences in how they are run. Also there is room to get caught between the 2 scheme as people member may get confused.

**Complaints Code of Practice Revised draft for consultation**

**1.28 Licence holders must ensure information about how and to whom to complain is prominently displayed: (a) at stations; (b) on websites; and (c) on social media, for those licence holders who have a social media presence**

Social media is for marketing purposes and general questions. Twitter is unable to have a substantial bio so it would need to be broadcasted at intervals.

**Where a complaint is made via social media and the licence holder cannot resolve it on the spot, the licence holder must, as a minimum, assist the complainant in making a complaint by signposting them to the appropriate channels. ~~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.~~**

In the event that the social media team experiences short staffing, this can make it difficult to individually signpost customers to the appropriate channels for the ombudsman in the event

of severe disruption. Broadcasted messages are signposts to appropriate channels, however, this would be towards delay repay in the event of severe disruption.

**1.53 If the licence holder requests further information from the complainant, and the complainant does not respond within ten working days, the licence holder may close the complaint. They must inform the complainant that they have done so and how the complainant can get in touch with the licence holder if they wish for their complaint to be re-opened.**

Once a complainant has been answered or a request for further information has been requested, the escalation team will close the case as once the complainant has provided a response then this will automatically reopen the case as a priority in the agent's name. By keeping the case active whilst waiting for a response from the complainant would be an increase in case numbers for a small team.

**3.45 We consider the current 40 working day response target for in-scope cases as an area for potential improvement going forward. We note that the current Rail Ombudsman scheme has most recently reported an average time of 26.2 days to close cases (see page 2 of the Rail Ombudsman's most recent CTSI Annual Activity Report). However, there is some uncertainty around the stability of the time series data on this, owing mostly to the impact of COVID-19 on case volumes and temporary changes it drove in the types of cases the Rail Ombudsman received.**

The current timescale of 40 working days works more favourably for c2c. This is because we have a small complaint escalation team and in times of severe disruption and short staffing, the risk of not meeting deadlines will increase if reduced to 26 days.



## **DPTAC response to the ORR consultation: Complaints Code of Practice Revised Draft.**

### **About DPTAC**

The Disabled Persons Transport Advisory Committee (DPTAC) was established by the Transport Act 1985 and is the Government's statutory advisor on issues relating to access for disabled people to transport and the built environment. Our vision is that disabled people should have the same access to transport as everybody else, to be able to go where everyone else goes and to do so easily, confidently and without extra cost.

### **Introduction**

Disability affects some 14 million people in the UK. It includes physical and sensory impairments as well as 'non-visible' disabilities such as autism, dementia, learning disabilities or mental health conditions. For many people a lack of mobility or confidence in using the transport system is a barrier to being able to access employment, education, health care, broader commercial opportunities (for example shopping), and a social life.

The ability for all passengers, including disabled people to be able to complain easily and obtain redress is crucial. Accessible, transparent and easy-to-use complaints procedures support consumer confidence in the rail sector and are also a key part of what drives improved service, culture and behaviours, which in turn and delivers better outcomes for all.

### **DPTAC Response**

We welcome the opportunity to comment on the ORR's Complaints Code of Practice Revised Draft. We outline below our feedback on the revised wording of the Complaints Code of Practice providing our views on selected issues. Where appropriate, we have also proposed additional issues that should be considered.

We are supportive of most of the changes. We also see this revision of the Code as an opportunity to deliver improvements in access to services and a reduction in exclusion and discrimination. Our overriding concern is that complaints processes must be accessible to all and offer the complainant the flexibility to choose how to submit their complaint irrespective of how the channel they had previously used to purchase the service and communicate with the transport provider.

We would like to see research undertaken by ORR specifically focused on people with lived experience of disability. The aim should be to identify any issues and challenges with accessing the complaints handling process of rail operators as we don't believe that enough



is known about the experience of disabled people. Filling this gap in insight is particularly important because of the specific duties the Equality Act 2010 imposes on providers of services (see more detailed proposal under ‘Provision 4: Responding to and investigating complaints’ below.)

### **Ownership of complaints**

We particularly welcome the addition of para 1.25. This helps to ensure that licence holders (transport providers) can demonstrate at senior management level an understanding of the levels and types of passenger complaint, the actions that have been taken to address issues, and how that insight is used to drive continuous improvement and better outcomes for passengers. Our advice to DfT has been to ensure that there is Board-level responsibility for service-levels and clear oversight on delivery on accessibility with regular reporting via standing items on Board agendas. We propose that this complaint volume, trends and cause-analysis should form part of such regular Board reporting.

### **Provision 1: Information for passengers**

#### ***Purpose – to promote passengers’ awareness of the complaints process and how to complain***

We support the proposed changes here, particularly the need to make it clear that material relating to the promotion of complaints handling, and the CHP itself, must be presented in plain language and avoid technical terms.

High levels of consumer awareness of the complaints process are important to achieve and maintain, including signposting at all stages of the relationship between the passenger and the licence holder. We would propose that there is requirement that the levels of consumer awareness are measured, monitored and published and a target level set and to be achieved by licence holders. This should also form part of our proposed ORR research into the experiences of people with lived experience of disability using the complaints process.

### **Provision 2: Receiving complaints**

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

We welcome most of the proposed changes here. However, it is important to remember that disabled people are disproportionately represented among those who are ‘digitally excluded’ and either face substantial challenges accessing the internet or have no access at all:

- 6% of non-disabled adults have no internet access compared to 23% of disabled adults<sup>1</sup>.
- Around 38% of people with sight loss have never used the internet or have no internet access<sup>2</sup>.

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<sup>1</sup>[https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/articles/exploringtheuksdigitaldivide/2019-03-04#:~:text=Though%20the%20percentage%20of%20disabled%20adults%20not%20using%20the%20internet%20has%20been%20declining%2C%20in%202018%2C%20it%20was%2023.3%25%20compared%20with%20only%206.0%25%20of%20those%20without%20a%20disability%20\(Figure%2012\).](https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/articles/exploringtheuksdigitaldivide/2019-03-04#:~:text=Though%20the%20percentage%20of%20disabled%20adults%20not%20using%20the%20internet%20has%20been%20declining%2C%20in%202018%2C%20it%20was%2023.3%25%20compared%20with%20only%206.0%25%20of%20those%20without%20a%20disability%20(Figure%2012).)

<sup>2</sup> <https://www.rnib.org.uk/sites/default/files/APDF%20Sight%20Loss%20and%20Technology%20Briefing.pdf>

- Even where people can access the internet, for those who use screen-reader technology or a mouseless keyboard the ticket purchasing platforms themselves can be inaccessible.
- Older people also are less likely to use the internet; in England among those aged 75+ more than 42% do not use the internet.<sup>3</sup>

Passengers' requirements and choice of communications may change over time, and may even change during the process of an individual complaint being pursued. Choice of how to submit a complaint remains key. For example, just because a customer has booked online and interacted with the transport operator online throughout their relationship, this should not prevent them from making their complaint using a different format if they choose. This would reflect a number of things including changing personal circumstances, or because some activities such as booking travel, reserving assistance if needed etc can be a very different experience and have different requirements to the process of setting out and submitting a complaint.

That customer choice should be reflected in the range of accessible formats available to remove the different barriers disabled people face when complaining. These include, for example, large print, audio, BSL, Braille, and Easy Read.

### **Websites**

We are disappointed that ORR does not feel able to include the original proposal that the relevant web link for complaints should be labelled 'complaints' rather than hidden under a more generic and less obvious heading such as 'Contact us' or 'Find help'. If consumers have something they wish to complain about then they should be able to easily find a place to do just that either on the operator's homepage or one click from it. Being a consumer is not a full-time job, and for most consumers, when they do wish to contact an operator it will be for a specific reason. That could be to purchase, find information, ask a question, provide general feedback or make a specific complaint. The avenues for those communications are generally clear and distinct (even if some of those communications end up with the same people or teams within the operator). That clarity should remain for 'complaints'.

For many disabled people the simpler and more straightforward the language, the lower the risk of confusion and exclusion. For example, it is particularly important for many disabled people who have a learning disability to be provided with information that uses language and terms that are relevant to the reason why they wish to make contact. Hiding the place where complaints can be made would be a retrograde step and potentially exclude some consumers or present an unnecessary hurdle.

### **Provision 3: recording complaints**

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

We support the proposed changes here.

We would welcome involvement in the review of the core data as part of ORR's annual core data exercise later in the year. It is important that 'real-time' complaints data should be

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<sup>3</sup> <https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/active-communities/digital-inclusion-in-the-pandemic-final-march-2021.pdf>

made available for the statutory advocacy bodies, Transport Focus and London TravelWatch. This is essential to the effective delivery of their role analysing this important data to understand themes and issues affective passengers.

We welcome the fact that ORR has been engaging separately with the watchdog organisations and continues discussions around the scope for specific areas of complaint to be highlighted, including accessibility, safety and potentially hate crime – all areas that are of particular and increasing concern to disabled people. Our particular concern is to ensure that data arising from complaints about accessibility and disability discrimination, as well as related issues around safety and hate crime is visible and used to drive improvement.

#### **Provision 4: Responding to and investigating complaints**

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

We welcome the proposals here. The need to keep customers updated on their complaint is very important, particularly where there may be a delay, so the requirement for an update every 10 working days is particularly welcome.

As with all other information and communications to customers, updates must be fully accessible to the individual customer and in a format of their choosing that best meets the customer's own requirements for the purpose the communication is intended.

We have a particular recommendation that relates to disputes under the Equality Act 2010. This relates to the obligation on operators to make reasonable adjustments on an anticipatory not just a reactive basis.

It is particularly important to note that the duty under the Equality Act is owed to disabled people generally, and, unlike with other protected characteristics is an anticipatory duty which means service providers and people exercising public functions must anticipate the needs of disabled people and make appropriate reasonable adjustments.

We do not believe that there is currently any reliable process to ensure relevant complaints are linked with the legal obligation to make reasonable adjustments to prevent substantial disadvantage occurring to all other disabled passengers. For example, a passenger might complain about the lack of a particular feature at a station that has prevented them from using trains from that station. The rail operator will typically view the complaint only in terms of resolving the issue for the individual complainant. For example the operator may apologise, offer alternative accessible transport, suggest alternative routes, or possibly offer compensation of some kind. The operator's focus will very much be on keeping the individual complainant happy - as will the Ombudsman's should the complaint be escalated. What the operator and Ombudsman will not *automatically* do is use the complaint as evidence of the need to consider whether a reasonable adjustment is needed to prevent other disabled people experiencing the same substantial disadvantage in future (to meet the 'anticipatory duty').

Operators may promise to pass on the complaint to e.g. the station management or facilities teams, but this does not deal with the anticipatory duty in a reliable or structured

way. More often than not, the complaint is viewed as a 'suggestion' not the trigger for a legal obligation, and just gets lost in the system.

Ideally any relevant complaint by a disabled person relating to a barrier to access should *automatically* be considered as potential evidence of a need to make an adjustment, and an initial decision should be made on whether this would be reasonable - as part of the complaint handling process. For this to work properly, operators would need to maintain some kind of formal 'register of reasonable adjustments' and ensure that a senior individual is responsible for this. We suggest that this could be overseen by ORR. The result of this would be good for the operators as a way of demonstrating that they have met their anticipatory duties should they be challenged by other disabled customers. Many decisions regarding reasonableness of adjustments are very straightforward, and most complaints fit established patterns which allow for a standardised approach. Where there is a real opportunity for improvement is in the reasonable adjustments which can make a significant improvement to accessibility for all other disabled customers.

The key point is that a complaints system which focusses entirely on redress for the individual passenger is not appropriate when it comes to the specific rights of disabled people to have their needs anticipated. Complaints are a key piece of evidence which operators can use to support the evaluation of reasonable adjustments, and at the moment the systems are not in place to ensure this happens.

In our response to the ORR consultation on the Rail Ombudsman Operating Model we have outlined the importance of funding the Ombudsman's prevention work. Prevention is a key element in the social value of the Ombudsman taking its role much wider than just dealing with individual cases, and ensuring that insights and data are used to prevent other consumers experiencing the same problems. This is particularly important in the context of service providers' 'anticipatory duty' under the Equality Act.

#### **Provision 5: Resolving complaints**

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

We welcome the new requirements added here.

#### **Provision 6: ADR**

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

We welcome the new requirements set out here. In particular we welcome the requirement on licence holders to provide information on ADR when acknowledging complaints and that this should extend to all complaints, including telephone contacts.

While the ORR's proposal to collect additional data on the impacts of reducing the current 40 working day timescale for operators to deal with complaints before escalation is welcome, we are disappointed that ORR has chosen not to reduce the timescale as a matter of urgency.

Our concern is that because of the long timescale a number of consumers are likely to give up and not pursue their complaint, or may simply lose the motivation after a period of time.

Unnecessary or unrealistic process timescales are not in consumers' interests. And in the current financial climate the need for disputes to be resolved quickly and for consumers to receive compensation that may be due to them is particularly important.

Which? in its recent policy report on ADR found, in relation to the 40 working day timescale that *'In the digital age this period is simply too long, and for most types of claim is unjustifiable. It damages the effectiveness and consumer trust in ADR, and can contribute to the level of harm consumers may have already suffered.'*<sup>4</sup>

We do not agree that a reduction in the 40-day timescale would have any adverse effect on complaints nor would it encourage customers not to engage with first-tier complaints resolution and go straight to the Ombudsman. We view the more likely effect of a reduction in the timescale would be to encourage the operator to engage earlier with the complainant in a more focused way, driven by the incentive to deal seriously with the complaint and settle it quickly - with all the cost savings this brings.

### **Provision 7: Reporting**

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

We support the proposals set out here.

### **Provision 8: Training, resourcing and quality assurance**

We support the proposals set out here. In addition, effective complaints handling is best served by staff who understand the issues they are investigating allowing for the identification of relevant evidence and making sense of contextual and causal factors. This includes disability awareness, vulnerability and awareness of all other protected characteristics.

We propose that all staff should received in-person disability equality and awareness training, including regular refresher training. We would urge ORR to consider including a requirement for all transport operators to achieve accreditation as part of the DfT's Inclusive Transport Leaders Scheme, or at least satisfying training criteria that matches the level of training that already exists as part of the DfT's REAL disability equality training programme.

**Disabled Persons Transport Advisory Committee (DPTAC)  
August 2022**

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<sup>4</sup> <https://www.which.co.uk/policy/consumers/7428/adrschemes>

ORR Complaints Code of Practice consultation  
Office of Rail and Road  
25 Cabot Square  
London E14 4QZ

By email: [chp@orr.gov.uk](mailto:chp@orr.gov.uk)

22 August 2022

Dear Madam or Sir,

### **Complaints Code of Practice: second consultation**

Thank you for this consultation and draft Code of Practice, and for agreeing to accept this response today. Eurostar is pleased to provide its reply and looks forward to further engagement with the ORR on this important topic.

Eurostar is an international-only, open access operator of passenger rail services between London and destinations in mainland Europe. As such, it operates services in several jurisdictions with an international customer base. All Eurostar journeys require that an advance ticket be purchased for a specific seat on board. Travel with us includes pre and post journey contact to ensure customers are sighted on the requirements for international travel with us. In this sense, a journey with Eurostar is akin to a journey on board an international aircraft.

We have reviewed the second consultation and associated Complaints Code of Practice (CoP) and have the following comments.

Eurostar strongly supports an effective and efficient complaints handling process for the benefit of all of its customers. In working across a number of jurisdictions, it has established a bespoke system that treats complaints in an equal manner, seeks to hear and resolve complaints directly from customers. Eurostar provides an independent railway sector mediator, to whom customers can refer complaints, in English or French, should they wish to appeal via this means.

Due to the specific nature of the international service operated by Eurostar, and the bespoke nature of the system developed by the company to serve customers, there are some differences of approach to those proposed for the UK only, ORR regulated only railway sector. The ORR notes some of these in its consultation and draft code. Eurostar considers that in these cases it can demonstrate that it meets the required standards of an effective operator with a strong complaints handling process, and where there are departures from the new UK requirements it considers that these are justified taking into account the international only nature of its operation.

### ***Comments on the code***

#### **Provision 1 – Information for passengers**

##### **1.24**

Eurostar supports the obligation on senior managers to regularly view complaint volumes, trends and underlying causes. This formulation is sufficiently flexible to ensure it captures those most senior with decision making authority within an organisation, without being overly prescriptive in the identity of the senior decision maker.

##### **1.28**

**Eurostar International Ltd**

6<sup>th</sup> floor Kings Place  
90 York Way  
London N1 9AG

**T +44 (0)3432 186 186**

**eurostar.com**

Given the nature of the international services which we run, we submit that demonstrating we meet the information requirement through channels other than stations; such as our staff, website and telephone contact centre should be permissible.

As noted in our response at the earlier consultation stage there are requirements in force relating to the heritage characteristics of the St Pancras building. Crucially, as an international operator, the priority focus is on displaying the essential information that will help customers move through the ticket check, juxtaposed border controls and boarding stages of their journey. Some of this information is mandated (for example, in relation to health checks required to enter a country).

This means the practical opportunities to display multiple signage both in line with heritage restrictions and being able to present all information necessary for international travel simply and clearly to customers is jeopardised if we have to display information that is, in our view and experience, better received by customers after their journeys, taking into account the significant level of journey specific information that they must absorb in order to travel internationally. This view is based on our own significant experience of providing mandated information for travel, including during recent years. For this reason, we request for international journeys that this requirement be met instead via post-travel communication.

## **Provision 2 – Receiving complaints**

### **1.41**

We welcome the removal of the obligation for social media to be a formal channel for complaints. The addition of the requirement to state the policy on social media in the CHP we consider a good additional touchpoint to inform customers of the ways that they can raise a complaint.

### **1.43**

We agree that receiving complaints by telephone remains a preferred route for some customers, and therefore in a business as usual context should be offered by operators. We request that the ORR be prepared to take a pragmatic view of this overall obligation, including the temporary suspension of telephone lines in cases of extremely high contact where this is justified, and to clarify this part of the CoP accordingly. This is because, where very high levels of contact are experienced:

- It is not possible to reserve a telephone line purely for complaints (as this would be used for all means of contact);
- Maintaining telephone lines during these times leads to detrimental impacts for customers seeking to raise complaints in the form of longer waits to speak with an adviser, and
- This also increases the amount of time to make a complaint, and drives contact volumes higher, as customers take to multiple channels to raise the same contact.

This effect, in turn, can operate to slow response times overall to respond to contact via all channels during exceptionally busy times. This is because, typically, a fixed number of calls can be answered in a day, and teams are split between telephone and other forms of contact (which, typically, tend to have higher response rates).

To ensure that operators are able to efficiently respond during times of extremely high contact, we suggest the CoP retain the flexibility to suspend telephone contact for short, temporary, and genuinely exceptional reasons where this would allow for quicker response to all customer contact than otherwise would be the case, and allows for complaints to be quickly identified and provided to the team responsible for investigation and reply.

To be clear, in making this comment we are thinking of the significant external impact driving significantly increased contact for many reasons that travel industry companies have experienced from events such as:

- the various changes to rules introduced in respect of covid-19 both in the UK and overseas, some at only a few hours' notice;

- contact seeking confirmation in respect of future services, for example to ask if there are specific rules applicable to a service on a particular date/service in the future (a noticeable rise in such requests following the changes to health rules for travel in recent times); and
- recent reports of delays at ports that have led to a very noticeable increase in contact on this topic for carriers not affected by port delays, such as ourselves.

Whilst we of course acknowledge and support the opportunity for customers to contact us on the telephone, including for complaints, we would like to highlight to the ORR that, where it is possible for the customer, we prefer that they contact us via the 'contact us' form. This allows us to understand the nature of the complaint and gather as much information as we can prior to contacting our customer, with the aim of providing as efficient a response as is possible in the case concerned.

### **Provision 3 – Recording complaints**

As explained above, Eurostar operates services in a number of jurisdictions subject to a range of rules and regulations. It has relationships with third party suppliers and providers in each of these countries. A small number are subject to regulatory oversight of the ORR in the UK.

In responding to complaints, Eurostar can be required to reach out to these parties and seek their input into an investigation before a response may be provided. It seeks to do this, in line with its licence obligations, under the timescales set out in the PRO legislation which applies to our service.

In our specific case, taking into account the nature and profile of our international operation, we are very concerned that a requirement that we calculate an average response time will not place us on a level playing field with other UK only operators and will disproportionately impact us compared to the rest of the UK-only rail industry. We submit that dispensing with the average reply requirement in Eurostar's case will reflect the specific characteristics of the operation without, importantly, impacting on the quality of response to customers. This impact is particularly felt by us as the rail related bodies we deal with are largely not accountable to the ORR, have their own procedures for responses to us, and the nature of our operation is different to those elsewhere only on the UK network. An average response time where neither we nor the ORR are in a position to determine the response time of third parties to us would not be representative of the effort that Eurostar invests in providing a quality response to complaints, nor would it be a driver for reduction in this time as we simply do not control this process.

We also consider that such an average response time, being out of our control, will be inaccurate as a performance metric, not capable of comparison in the UK, nor will it achieve the desired reputational incentive as the response times of third parties overseas are not within Eurostar's control. It will not create the reputational incentive that the ORR seeks to introduce as we already do all that we can to receive responses to complaint enquiries as quickly as possible. In fact it will have an asymmetric effect on Eurostar as we anticipate it will operate to have an unjustified detrimental reputational impact on our brand, which is a commercial competitor in a multi modal market. We note that the ORR mentions that it tested this approach with certain operators; this did not include us.

More generally we would be concerned that such an approach could, instead, inadvertently operate as a pressure on companies to close complaints with average times in mind. At Eurostar we place our complaints handling emphasis on providing a reply of good quality to a customer as soon as we are able to respond. Our commitment to effective complaint resolution is demonstrated by the small number of complaints escalated beyond Eurostar, and we very much wish to continue with this approach for the benefit of customers raising complaints. [Confidential]



In balancing this, we invite the ORR to consider that we:

- Already have a very strong, commercial incentive to provide a high level of service, including complaint handling, by virtue of our position as a commercial open access operator competing with other modes of transport including air. Eurostar is incentivised to prioritise customer service at each stage of its operation. As a competitor in a multi-modal transport market, those wishing to travel to destinations that we serve have a range of options to make their journey. They choose to travel with us, and can choose another provider if they are not happy with any element of our service, including our response to complaints;
- Possess a consistently low number of complaints that progress beyond our organisation; and
- Do not consider it an adequate counterbalance this detrimental impact on our brand to be permitted to add text around the reasons for the average. As the ORR will be aware, this explanatory text is not the information or message that will be understood or taken publicly from this metric and so, again, will not serve to balance the disproportionate harm that will be experienced by this proposal.

We strongly urge this approach be revisited for international operators where the metric will disproportionately place us at a disadvantage as it will heavily rely on third parties outside of the ORR and Eurostar's jurisdiction, and a disproportionate level of harm will be felt by those operators who have significant activities outside of the ORR's jurisdiction.

We remain committed to understanding the nature of our complaints and using these to inform our future approach. We already review the complaints, trends and reasons for longer delays to respond to complainants and we will continue to do so. We consider this is an effective check and balance which, where appropriate, drives further investigation and highlights areas where we need to consider whether there are improvements that can be made to further optimise our response.

#### **Provision 4 – Responding to and investigating complaints**

##### **1.51**

We have concerns about the addition to this provision in our case. For the reasons highlighted above, Eurostar considers that a 20 working day response time for 95% of complaints about its international service disproportionately harms its service and we are concerned in our case that this would provide less positive outcomes for customers. This is because this timescale would require us, in cases where we are legitimately awaiting input to a complaint inquiry, to respond prior to conclusion of the investigation. This, in turn, is likely to lead to a less effective outcome for a customer's complaint and additional work for the customer in appealing. All of which could be expected to disproportionately harm Eurostar and its brand reputation in the eyes of consumers.

Eurostar complies with the obligation in condition 6 of its SNRP, which includes the obligation to comply with Article 27 of the PRO Regulation. This article establishes a different timeframe for response. We are of the view that the approach in the Regulation, which itself was established to apply to cross border services, is a realistic timeframe in which a cross border international operator can be expected to provide a reply to a customer. We also consider that this is the timeframe from which the obligation in 1.55 should apply. To impose this within the PRO Regulation timescales would create additional cost and complexity for a system designed around these legislative requirements.

Eurostar does not, however, take these timelines solely as a target. It seeks to respond to complaints with a good quality of response as quickly as is possible, which will not change. We have noted above that, as an organisation, we have a low number of escalations of complaints versus the number of complaints we receive. We consider that this approach coupled with the obligation in the PRO demonstrates our commitment to our customers and our complaints handling process. [Confidential]

### 1.53

We anticipate that the trigger for reopened complaints will differ by organisation.

[Confidential]. So, the number of re-opened cases in the system in Eurostar's case will not indicate what the ORR are expecting.

#### **Provision 5 – Resolving complaints**

### 1.61

We are very concerned that publishing the remedies that may be offered risks misleading customers and prolonging the complaints process for customers. The points made in our earlier Consultation response remain and we would welcome further discussion on this important point at our meeting.

#### **Provision 6 - ADR**

We have some concerns about the potential to mislead and confuse some customers and that including this information as standard at an earlier stage in correspondence risks being misinterpreted. This risks driving complaints to ADR either in parallel or at a stage where the company has not had the right to respond to the complaint. This, in turn, does not allow the organisation the right to reply and attempt to resolve matters for our customers as quickly and simply as possible. As we have noted above, we are strongly incentivised to do this in as amicable manner as possible. [Confidential]. To be clear, we have no issue in raising awareness of ADR as we do at present, our concern is with the negative effect that signposting this route too early in the complaint process creates. We would welcome further discussion on this point at our meeting on 31 August.

We'd also welcome a discussion about deadlock and signposting at our meeting to clarify our understanding of the expectations in the consultation proposals. Should there be any additional comments on this topic following this clarification, we will provide these.

#### **Provision 7 – Reporting**

Thank you for the clarification in **1.76** on our reporting obligations under the PRO, which we continue to adhere to.

#### **Draft Licence Condition**

As the holder of a bespoke licence condition, we remain available for the discussion ahead of the statutory consultation.

Thank you once again for the opportunity to respond to the consultation, and we look forward to discussing this with you at our meeting on 31 August.

Yours faithfully

cc

## **ORR Complaints Code of Practice Second Consultation First Rail Holdings response – 04/08/2022**

This is a response by First Rail Holdings Limited on behalf of our train operators trading as South Western Railway (SWR), Great Western Railway (GWR), TransPennine Express (TPE), Avanti West Coast (AWC), Hull Trains (HT) and Lumo, as well as First Customer Contact Limited (FCC) which conducts complaints handling activity for a number of our operators.

### **Complaints Code of Practice**

We have relatively few comments on the complaints Code of Practice, and none that relate to the specific proposed wording. Our main piece of feedback is that it would be helpful, given the planned implementation date for the Code of Practice of 1 April 2023, for the wording to be finalised and made available as soon as possible, so that operators can have as much time as possible to prepare their revised CHPs and implement the new requirements of the Code ahead of this deadline.

#### **Provision 1: Information for passengers**

In general, we agree that more and better signposting is a good thing to raise awareness. This includes signposting of, e.g., Transport Focus and London TravelWatch as the more appropriate recipients of complaints that fall out of scope for operators.

#### **Provision 2: Receiving complaints**

We welcome ORR's position in relation to social media (consultation document paragraphs 2.81 to 2.86) and concur that this is the correct approach to be taking at this time. We look forward to continuing to work with ORR on continuous improvement in this area, responding to the challenges raised.

#### **Provision 4: Responding to and investigating complaints**

In relation to paragraph 2.110 we can find it difficult to estimate in advance whether a substantive response would be likely in the following few days. In general, complaints via post are acknowledged by email if the complainant provides their email address; we do not typically provide pro forma acknowledgements by post. We do not believe that mailed acknowledgements are appropriate in these circumstances as we believe it provides a poor customer experience for complainants to receive a standardised letter laying out Rail Ombudsman and other details without including any feedback on the substance of the specific complaint. We will consider these factors further as we develop our new CHPs, including whether better signposting of any differences in process between the different complaints channels is appropriate, requesting that written complaints include an email address if possible for prompter follow-up, etc.

**ORR Complaints Code of Practice Second Consultation  
First Rail Holdings response – 04/08/2022**

**Draft licence condition**

We have no specific comments.

## Glasgow Prestwick Airport response to ORR's second consultation on a draft complaints code of practice

**From:**

**Sent:** Friday, August 5, 2022 4:17 PM

**To:** ORR CHP <CHP@orr.gov.uk>

**Subject:** [EXTERNAL] Re: Complaints Code of Practice: Consultation response and second consultation

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Dear CHP Policy Team

Thank you for giving us the opportunity to comment on your second consultation regarding the proposed Complaints Code of Practice.

I have discussed your proposals with the management team responsible for the operation of Prestwick International station, and have been asked by \_\_\_\_\_, Rail Manager, to respond on his behalf.

We are broadly in agreement with the principles set out in your proposals, and have the following particular comments to make:

### 1. General

As a very small operator with a low historical record of complaints, and whilst we agree with the broad principles of the proposals, we trust that there will be a proportionate approach to recognise the size and scope of our operation.

### 2. Provision 6 – ADR

We note the ADR requirements. Please note also that we have made comments to the consultation currently being undertaken on the proposed Ombudsman model.

### v) Provision 7 – Reporting.

We are supportive that operators with less than 100 complaints per year will only have to report response times annually instead of quarterly.

Please do not hesitate to contact me if you have any further queries

Many thanks

Yours sincerely



## Network Rail's response to ORR's Consultation on Complaints Code of Practice – Second Consultation

Network Rail welcomes the opportunity to respond to the ORR on the Complaints Code of Practice – Second Consultation published 28<sup>th</sup> June 2022, following the original consultation published 04<sup>th</sup> August 2021.

Our response to this consultation is based on the current industry structure and mechanisms but we recognise that the introduction of GBR may impact the industry's complaints handling process.

We appreciate that the ORR took on board several points raised by Network Rail in our original consultation response in 2021.

We support the principles set out in the code in relation to complaints handling, transparent process, and clear communication in our aim for continuous improvement. These principles align to Network Rail's ethos of a customer focused culture and putting passengers first. Overall, we are supportive of the proposed changes including the focus on equality and accessibility subject to specific comments outlined in this response.

We appreciate the ORR taking a collaborative approach and are happy to discuss or provide additional clarity on any of the points we have raised.

For any enquires on this response, please contact

### General

It would be helpful to clarify that the new Code of Practice has the same scope for us as the previous guidance. That is, it only relates to complaints at our managed stations. Our response to this consultation is formed on this basis.

### Response to sections of the revised Complaints Code of Practice "CoP"

#### Overview

Section 1.3 - We acknowledge that complaints provide a valuable source of customer feedback and insight – however, there are other forms of feedback and commentary which are also valuable sources of information and may also act as early warning indicators or evidence of behaviours we should consider continuing or enhancing. This will link into point 1.28 below.

Section 1.6 – We would like further clarity on how the ORR will monitor the adherence to the CoP? This includes the evidence we would be required to provide to allow the ORR to make this assessment and whether this will introduce additional reporting or a material regulatory burden.

Section 1.7 - How will the benefits to passengers be assessed?

#### Scope

Section 1.8 - This revised draft states "*Unless otherwise stated, the provisions of this CoP apply to all licence holders who have a complaints handling obligation in their licence.*" As stated above, we would like this to clearly reference in the case of Network Rail that the scope of this policy is only in relation to our managed stations.

We raised this point in our initial response to the first consultation and acknowledge that you have addressed this in your summary of responses, which states at section 2.272: *We recognise that the scope of the Code's application is to Network Rail's station licence. We are also mindful of the wider rail reform agenda and the structural reform to the industry. Whether this will entail any implications in terms of the scope and ownership of complaints handling is not yet clear. We will keep the Code under review and consider any ways in which it may need to respond to any changes in the existing arrangements.*

### **Ownership of Complaints**

Section 1.14 – *'Where licence holders receive a complaint about a third-party supplier, they must work with their supplier to coordinate a response.'* This is not necessarily an unreasonable approach, however, for Network Rail, this may have implications for processes currently followed by our regional teams. If we take the example of APCOA-managed car parks, it would be usual for the regional teams to direct the customer to the supplier rather than to coordinate a response.

We suggest that there is a change of wording in relation to the word 'must' to allow Network Rail to decide the most appropriate course of action, that is whether to provide direction to the supplier or coordination between Network Rail and the supplier.

Suggested wording (see red font): *Where licence holders receive a complaint about a third-party supplier, where practicable, they must work with their supplier to coordinate a response or provide appropriate signposting and information.*

### **Provision 1: Information for passengers**

Section 1.28 - As we receive and aim to deal with all contact in the same way, we would prefer the approach to be 'ways to contact us' rather than specifically signpost complaints information with clarity/ direction on how customers can complain where they feel it is needed. Focussing on complaints provides a negative impression from the outset, when, useful insight can be gained from all forms of customer feedback, not just complaints. This is acknowledged in point 1.39 of the CoP.

### **Provision 2: Receiving complaints**

Section 1.37 – Comments as per 1.28 above.

### **Equality and Diversity**

Section 1.46 – It would be useful to outline what alternative formats should be provided by operators in the CoP to support consistent application of alternative formats.

### **Provision 4: Responding to and investigating complaints**

Section 1.51 (b) - This will require updates to the automated messaging within our Customer Relationship Management (CRM) system to comply with this. We do not anticipate any issue associated with this but may require time to make the amendment.

Section 1.51 (c) - If this is not sent as part of the automated messaging, this will need the regional team's involvement as they manage the complaints locally. We support this statement, as it can often be difficult to meet timelines due to defined rosters and need for collaboration with other parties for complex complaints.



## Provision 7: Reporting

Section 1.75 - *Licence holders with average complaint volumes lower than a threshold to be specified in the annual reference guides for ORR Core Data compliance reporting must publish data on the key metrics set out in 1.73 annually.* We would need to see some additional clarity on this/ to understand the minimum thresholds.

Section 1.84 - We don't currently do this and instead provide survey data to the ORR. If this changes, we will need to understand what we would need to implement to our Customer Relationship Management (CRM) system to allow this to happen.

## Provision 8: Training, resourcing and quality assurance

Section 1.85 -1.89 – Network Rail would need to assess who should do this and how it applies to different teams such as our contact centre, passenger-facing staff, second-line support teams. Training requirements should be dependent on how often individual colleagues deal with complaints as part of their day-to-day role.

## Annex A: Draft licence condition

We would like to reiterate that the proposed licence conditions would form part of the Network Rail Station Licence, which relates to our Network Rail Managed Stations.

Whilst the formal acceptance of proposed licence changes is a matter reserved for our Board, we support a simplified licence condition.

However, we would like clarity on the suggested amendments in the CoP. These currently do not align to the proposed changes highlighted in the Consultation on Ombudsman Operating Model – July 2022.

Under Model Condition Proposed Amendments - Section 5: Alternative dispute resolution, the CoP shows little change. In the Ombudsman Operating model, this shows condition C as amended.

In our response to the consultation on the Ombudsman Operating model, we refer to the proposed amendments to condition c under section 5, which states: *c) the [SNRP / Licence] holder shall make such payments as required for the Relevant ADR Scheme on the terms notified to the [SNRP / Licence] holder in writing by ORR.*

The current wording presumes unconditional payment into the scheme and compels the licence holder to pay the ADR based on the terms outlined by the ORR but makes no reference to the acceptance of these terms being a requirement or provide a clause for agreement if these terms change.

We request consideration of the following wording: *c) the [SNRP / Licence] holder shall make such payments as required for the Relevant ADR Scheme on the terms notified to the [SNRP / Licence] holder in writing by ORR on agreement of the licence holder to the terms. The ORR will provide in writing notice of any proposed changes and will consult and agree with these with licence holder.*

**Nexus response**  
**Complaints code of practice consultation – August 2022**

Nexus welcomes the opportunity to respond to the draft Complaints code of practice. Nexus appreciates that the feedback provided through the previous consultation has been taken into account in the further development of the draft Complaints code of practice, particularly on handling of complaints via social media.

As a result of this Nexus only has two comments on the draft, which are outlined in the following sections.

**Data sharing arrangements**

Paragraph 1.84 of the code of practice document states: *“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.”*

Nexus considers that the provision, or supporting information, needs to be expanded in order to adequately address the sharing of data with the ORR. This includes:

- A data sharing agreement with the ORR, governing data flow and what the ORR does with the customer data.
- The basis on which the data is being sent to the ORR, in particular assessing whether it is legitimate interest or consent?
- The resultant information provided to customers, and consent required from customers, as appropriate.

Whilst, ultimately, it is the responsibility of each organisation sharing data with the ORR to consider and address these items, Nexus believes that it would add value if the ORR could develop a ‘standard’ approach/guidance that can be used as a basis to work from. Otherwise, each organisation sharing data with the ORR will have to carry out this work from scratch which will result in a considerable amount of duplication and potentially different approaches being adopted.

**Reporting requirements**

Nexus requests that an allowance is made for amendments to Customer Relationship Management (CRM) systems where new or amended reporting indicators are being introduced, as implementing the changes to allow the CRM to report these takes time and in some cases may be extremely difficult or time-consuming to do. In Nexus’ case this applies to:

- Complaints Code of Practice – 1.49 (f) number of days taken to respond to complaints, and an ability to calculate average response times.
- Complaints Code of Practice – 1.49 (h) report on the number of reopened complaints.
- Consultation document – 2.192 removal of ‘stop the clock’ from the calculation of complaints handling response times.

Whilst Nexus has already started work on this and identified funding, implementation relies on work to be carried out by the external CRM supplier which may not be complete by the start of the 2023/24 year.



ORR COMPLAINTS  
CODE OF PRACTICE CONSULTATION  
Office of Rail and Road  
25 Cabot Square  
London  
E14 4QZ

Northern Trains Ltd

3 August 2022

Dear Sir / Madam,

## Complaints Code of Practice – Second Consultation Response

As requested, please accept this response from Northern Trains Ltd. in relation to the Complaints Code of Practice Consultation Response and Second Consultation document, published on 28 June 2022. We note that you plan to publish all consultation returns on your website and we confirm that we have no objections to this letter being published in this way.

### Summary

Northern Trains Ltd. supports the proposed changes and will develop a delivery plan to ensure that we remain compliant with the Code of Practice as revised.

### Specific Observations

- We note the requirement to publish a new compliant complaint handling policy and recognise that this will no longer be distributed in hard copy to our stations, which we consider a positive development. We will fully brief our front-line teams to ensure that they are aware of this change and are able to continue to support customers in accessing the detail of our policy and to advise how complaints can be made. The policy will be available to download from our website with a direct link from our customer complaints landing page, and we will have paper copies available within our customer services centre for dispatch by post should customers request this.
- We recognise the requirement to publish additional complaint metrics including an annual update outlining our continuous improvement and we will progress these changes.
- We note the minor amendments to the specification of minimum reporting requirements and will adjust our approach accordingly.

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED  
GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT  
Company No. 03076444

- We note the proposed removal of 'Stop the Clock' functionality and an allowance for TOCs to close complaints if customers do not respond within the specified ten working days.
- It should be noted that to deliver the proposed changes we will need to make revisions to our supporting systems. These revisions will generate an unbudgeted cost and have some lead time which is yet to be determined. We will review both of these factors as we develop our delivery plan.

### Clarifications in Draft Code of Practice Requested

- **Section 1.53 – Complaint Re-opening:** How will this SLA be measured? If the case is re-opened what date would this start from i.e. would the clock start afresh or continue from the original date received?
- **Section 1.73 – Reporting:** Please provide further detail on the methodology to be employed when making these calculations.

Please do not hesitate to contact me if you wish to discuss any of the above.

Yours faithfully,

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED  
GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT  
Company No. 03076444



# Office of Rail and Road Complaints Code of Practice second consultation

## Rail Ombudsman response

The Rail Ombudsman reads the Office of Rail and Road's (ORR's) second consultation on the Complaints Code of Practice with interest and welcomes the opportunity to comment further on the proposals. We are, as always through our engagement with the ORR and the industry more broadly, happy to amplify any of points made in this consultation response. Comments made in the response to the previous consultation retain relevance and have since been published on our website; this response therefore seeks to avoid repetition.

Effective complaints handling has a crucial role to play in sustaining trust and confidence in rail travel; we recognise the different scenarios where complaints handling can have a particular impact, such as upon first time travelers and those adopting rail travel for new purposes, notably leisure travel. The Rail Ombudsman plays a central role in facilitating a positive complaints handling culture through its wider remit to raise standards by learning from disputes. Sector buy-in to this culture is vital to avoid disputes being settled artificially to prevent escalation, ensuring there is a broader access to learning derived from disputes such as recommendations, case studies and other learning/development opportunities such as webinars and accredited training delivered by the Rail Ombudsman. The Rail Ombudsman is using such insights to deliver new training material in 2022, including an Advanced Consumer Law course and 'Train to Terminal', a session designed specifically to address issues identified by the Rail Ombudsman through casework.

## **Signposting and Complaints Acknowledgements**

The Rail Ombudsman notes that the proper operation of a “single front door” to complaints and thus the simplest route to navigating the complaints landscape, is dependent on effective and ideally consistent signposting. These principles, discussed also in our response to the Office of Rail and Road’s consultation regarding the future Ombudsman Operating Model, underpin confidence and transparency, and the Rail Ombudsman welcomes the recognition of the role signposting plays in this regard.

We note the request from the industry for support with template wording and the ORR’s position with regard to the Rail Delivery Group’s Good Practice Guide and further engagement with the industry. The Rail Ombudsman would embrace the opportunity to engage with all stakeholders regarding the application of best practice in this area.

## **Reducing the 40 working day timescale for eligibility**

The Rail Ombudsman has called for such a reduction previously, including in our 2019 Annual Review and acknowledges the ORR’s position that now is not the appropriate time to make such changes. Recognising the rationale for maintaining the status quo presently and keeping the matter under review, we remain of the view that this would be a positive step to take in the future. As such, we are committed to supporting the ORR and other stakeholders including Rail Service Providers and Transport Focus / London TravelWatch with insight, contributing to an informed decision in the future. We note that provision 1.51 (a) of the code could form a suitable metric in assessing this, in conjunction with other available data.

## Specific comments on the Code

1.24 – this could specifically reference the recommendations made by the Rail Ombudsman during casework, which contribute to the organisation's role in addressing systemic issues and achieving impact and influence in the sector recognised by the RedQuadrant review and Lucerna Partners technical report commissioned by the ORR. The ORR will also be aware that the Rail ADR Scheme Council has shown particular interest in this impact and influence role and formalising the requirement for review of recommendations alongside relevant Management<sup>2.59</sup> Information would represent a more complete picture in terms of insight available for review at senior levels in the industry.

1.35 – in line with the position on signposting and acknowledgements, this training should account for external escalations and the roles of other organisations in the landscape, such as the Rail Ombudsman, Transport Focus / London TravelWatch.

1.49(g) – the differentiation between deadlock and expiry of the permitted timeframe is very helpful in terms of forecasting and understanding complaints handling practices at an individual operator level.



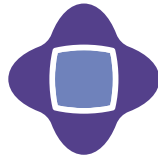
## **Draft licence condition**

The Rail Ombudsman notes that for the Rail ADR Scheme to be compliant, Designated Competent Authority approval is required but not Ombudsman Association approval. We would note that the wider remit of an Ombudsman helps to build the trust and confidence expected of schemes operating in high-profile sectors; these factors are fundamental to the impact and influence role identified and care should be taken to ensure suitable steps are taken to preserve and build upon the scheme's ability to facilitate and drive improvement in the rail industry. This is also of relevance to the effective operation of the single front door to complaints, as an Ombudsman scheme does have the requisite power to determine its own jurisdiction.

## **Summary**

The Complaints Code of Practice establishes a solid platform for consistent good practice across the rail industry, and can be used to drive improvement through learning. The Rail Ombudsman looks forward to working with the industry, ORR and stakeholders to continue delivering on our organisational vision to inspire confidence and raise standards.

# The Rail Ombudsman



[www.railombudsman.org](http://www.railombudsman.org)

Premier House  
1-5 Argyle Way  
Stevenage  
Hertfordshire  
SG1 2AD

## Registered Office

Dispute Resolution Ombudsman Limited - Registered in England. No 8945616  
Registered office: Premier House, 1-5 Argyle Way, Stevenage, Hertfordshire, England SG1 2AD

*Inspiring consumer confidence*

# ***Rail Delivery Group***



## **Rail Delivery Group response to:**

**The ORR Second Consultation on an  
Industry Complaints Code of Practice**

For enquiries regarding this consultation response, please contact:

**Rail Delivery Group**  
2<sup>nd</sup> Floor  
200 Aldersgate Street  
London  
EC1A 4HD

**Date: 09 August 2022**

## Introduction

1. The Rail Delivery Group (RDG) welcomes the opportunity to respond to the Office of Rail and Road's (ORR) second consultation on a Complaints Code of Practice (CoP), published on 28 June 2022.
2. This document has been prepared on behalf of and with input from Train Operating Companies (TOCs) and represents a collective view of the ORR's second consultation on a Complaints CoP proposal for the rail industry.
3. Overall, TOCs are supportive of the proposed amended licence condition for a Complaints CoP and view this as a positive step forward for customers when it comes to complaint handling.
4. TOCs would like to be kept informed on the implementation timeline for this new Complaints CoP, so that they can amend their respective Complaints Handling Procedure(s) in good time and ensure that this date aligns to the NRC annual business planning process to prevent any negative implications to funding access where applicable.
5. To ensure customers know what they can expect and guarantee consistency of process, this document highlights the main areas RDG would request the ORR provide further clarity on, and the key principles we would expect the ORR to take into consideration for an aligned and consistent complaint handling process. This would give customers confidence that the industry is listening and addressing any concerns customers may have.
6. TOCs have very much appreciated the collaborative approach and constructive engagement with the ORR to date when discussing this draft Consultation on a CoP. We trust that the input provided in this document is helpful and RDG would be happy to expand on specific points or provide further details should this be required.

Yours sincerely,

# Consultation Response: The Complaints Code of Practice

## Ownership of complaints

### (Section 1.12)

7. TOCs agree that a complaint about a delay should be owned by the license holder on whose train the customer was travelling when the delay occurred.
8. However, the Terms & Conditions of an Advance ticket state *“If delays occur while travelling, you will be allowed to take the next available train(s) to complete your journey.”* To ensure TOCs are able to properly address any complaints from those who have purchased Advance tickets and experienced delays that lead to a missed connection or resulted in a dispute over ticket validity on a later train, we would suggest that the subsequent TOC needs to take some responsibility to allow travel at different times during disruption.

### (Section 1.15)

9. TOCs would like to seek further clarity on when operators should coordinate a single response to a complaint that involves more than one TOC and how to establish who takes on the bulk of the complaint.
10. At present, if a TOC receives a complaint that involves both their organisation and another TOC, they will address the issues that they were responsible for and pass the rest of the complaint to the other TOC involved to address the other issues.

## Principles of good complaints handling

### (Section 1.25)

11. TOCs agree that senior management should be aware of and understand the volume, type and reasons for customer complaints and use this information to drive continuous improvement.
12. To be able to ensure that TOCs are meeting the expectations of the ORR in seeking evidence as part of compliance monitoring, more clarity on what this evidence should entail and how this will be measured would be appreciated.

## Provision 2: Receiving complaints

### Websites

#### (Section 1.37)

13. Easy access to help and support from the homepage of TOC websites, including how to make a complaint, is important. However, TOCs believe that making the word “complaint” mandatory is unnecessary. Focussing on complaints provides a negative impression from the outset, when in reality, useful insight can be gained from all forms of customer feedback, not just complaints.

### Social Media

#### (Section 1.42)

14. TOCs are pleased to see that the ORR recognises that at the present time social media is not an appropriate channel for complaint management.

15. TOCs do agree with the ORR that it would be a positive step to assist customers to the correct channels by signposting this information in a clear manner.

## **Equality and diversity**

### **(Section 1.47)**

16. TOCs are supportive of ensuring that carers, support workers and guardians are able to act/advocate on behalf of a customer with their permission/authority.
17. However, this has caused issues with GDPR compliance in the past. We would suggest that guidance on processes to achieve this objective are clearly outlined so that this objective can be achieved without breaching GDPR compliance.

## **Provision 4: Responding to and investigating complaints**

### **Responding to and investigating complaints**

#### **(Section 1.53)**

18. TOCs agree they must inform any complainant if further information is required and to ensure that customers are aware of the ten working day timescale.
19. Members are not supportive of the need for an additional email contact to do so. The preferred method to ensure awareness of the need for more information and that the complaint may be closed if additional information is not received, would be to include this requirement within the response for more information.
20. This message could also include how the complainant can get in touch with the licence holder if they wish for their complaint to be re-opened. This would also remove the risk of bothering a customer, who may voluntarily wish to abandon a complaint only to be given a further unsolicited email.

### **Delays in handling complaints**

#### **(Section 1.55)**

21. TOCs agree with the ORR that where a complaint cannot be answered fully within published timescales, it is right to ensure the complainant is made aware of the reason for the delay.
22. Nevertheless, the ability to update customers on the progress in resolving the complaint every ten working days may be difficult for some members to forecast. Resources and costs to automate this process through industry CRMs may import undue cost into the industry at a time when it is still working to recover from the negative impacts of the pandemic.

## **Provision 6: ADR**

### **Complaint acknowledgements**

#### **(Section 1.69)**

23. TOCs agree that acknowledgements of complaints must explain that the licence holder is a member of the relevant Alternative Dispute Resolution (ADR) scheme.

24. The majority of customer contacts are via webform or email and therefore TOCs can automate acknowledgements and share key information with customers.
25. In the case of phone calls or white mail, TOCs that currently acknowledge receipt of a complaint online are looking at how to implement this request without the acknowledgement being the 'first substantive response' as it would cause an error in the accuracy of the data submitted to the ORR.
26. To extend this requirement to white mail or telephone contacts may have a negative impact on TOC responsiveness and focus on first time resolution, in turn worsening the overall customer service.
27. For white mail in particular, this would also involve an additional step for both agents and fulfilment teams, as well as increased postage costs.
28. As the wording in this section indicates that this is mandatory requirement, it is proposed that instead of stating that the licence holder 'must' explain that it is a member of the relevant ADR scheme, the word 'must' is replaced by 'where practical'.

## **Provision 7: Reporting**

### **(Section 1.73)**

29. The collection and publishing of data on TOC performance in handling complaints is important as it provides customers confidence that any concerns raised will be dealt with effectively and in a timely manner.

To ensure this is reported consistently and in line with the ORR request, TOCs would appreciate if the ORR could provide guidance on where on each website this should be published.

## **Provision 8: Training, resourcing, and quality assurance**

### **Training and development**

#### **(Section 1.88)**

30. TOCs agree that the provision of refresher training at regular intervals and in response to evidence that complaints are not being dealt with effectively is important to ensure a high level of customer service.
31. To ensure consistency and to meet the ORR expectations, it would be beneficial if the ORR could provide clarity on what would be viewed as the appropriate definition of regular intervals so that TOCs can ensure they are able to meet this expectation.

## **TfL response to ORR's second consultation on a draft complaints code of practice**

### **Provision 4: Responding to and investigating complaints**

1.53

By closing the complaint after 10 days in the absence of a response from the customer and asking the customer to get in touch to reopen their complaint, this could increase the number of reopened complaints and lead to additional costs.

TfL would seek assurances from the ORR that there would be no penalties for reopened cases.

### **Provision 5: Resolving complaints**

1.60

The ORR should provide further clarity on the process of deadlock when dealing with vexatious customers

### **Provision 6: ADR**

1.69

TfL has concerns that signposting the ADR process in acknowledgments before a complaint has been addressed, could lead to customers contacting the ombudsman prematurely.

Signposting to the ADR process should initially be done at the first response stage.

### **Provision 7: Reporting**

1.73-75

TfL currently has robust reporting and publishing criteria.

TfL believes that the process for publishing pan TOC reports should continue to be done by the ORR. This would provide rail customers with a single source of truth and allow customers to easily compare the performance of all TOC's.

### **Annex A: Draft licence condition**

#### **5 a. Alternative Dispute Resolution**

With any significant changes to complaints handling introduced, TfL would seek assurances from the ORR that sufficient timescales are applied, so that operators can introduce these changes in a structured way with minimal impact to costs.



## **ORR consultation: Complaints Code of Practice Revised Draft**

### **Joint response from Transport Focus and London TravelWatch**

**August 2022**

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Transport Focus is an independent, statutory consumer watchdog promoting the interests of transport users. Working with transport providers and Governments across England, Scotland and Wales we ensure that the users voice is heard.

London TravelWatch is the official watchdog representing the interests of transport users in and around London. Independent of transport operators and government, London TravelWatch is sponsored and funded by the London Assembly, part of the Greater London Authority. Our aim is to press in all that we do for a better travel experience for all those living, working or visiting London and its surrounding region.

London TravelWatch and Transport Focus welcome the opportunity to comment on the revised code of practice. These comments build upon our submission to the original consultation in 2021. For the sake of brevity, we have avoided commenting on every amendment.

### **Revised wording of the Complaints Code of Practice (CoP)**

#### **Chapter 1**

In our original submission we supported the principle of moving away from 'signing-off' individual complaint handling procedures (CHPs) provided that there was a well refined process for identifying and acting upon non-compliance. We note and welcome the continued commitment in para 1.6 that ORR will monitor compliance and investigate poor performance. We also welcome ORR's commitment to consult on any material changes to the CoP (para 1.7).

Our original response also stressed the importance of learning from complaints. We welcome the addition of para 1.25 which boosts ORR's ability to ensure that senior management are aware of and use complaint handling data to drive continuous improvement.

The commitment in para 1.16 whereby licence holders are encouraged to signpost complaints about multi-modal travel to the appropriate organisation is also welcome.

### **Provision 1: Information for passengers**

We welcome the shift in emphasis in para 1.29 such that publicity at multi-operator stations must (rather than should) make clear the different contact points. This is helpful – if a complaint starts in the right place it makes it easier for all concerned.

We would ask how this applies to a station where there is a One Team approach to staffing? For instance, if someone has a complaint about a staff member operating under the one team approach to whom would they make that complaint?

### **Provision 2: Receiving complaints**

We welcome the continued requirement for operators to accept written complaints via non digital means (para 1.36) – not everyone has access to digital communications.

Licence holders must provide a link to their complaints page on their website's homepage. The original suggestion that this link be labelled as 'complaint' has been removed and it will now be up to licence holders how they label it. We had supported the original proposal and would re-iterate the importance of making it easy for people to find relevant information. People who are angry or frustrated and who want to make a complaint do not want to cycle through websites searching for the relevant page. Having a link called 'complaints' is the simplest and clearest way of avoiding this. We do not accept the 'negative inference' argument of the industry. Those wanting to make a complaint are arguably already in a negative mindset, while those on the website for other reasons are unlikely to be surprised at the thought that complaints exist.

Similarly, the proposal to allow complaints via social media has not been incorporated in the revised CoP. We agreed with ORR's original suggestion that this should be an option for complainants where it is practical and feasible for the licence holder to do so. We see from the summary of responses that many operators feel it is not feasible or practical and would require new systems or costly upgrades.

However, we believe it is an aspiration still worth pursuing - social media has become the communication method of choice for many people and it is important that the complaints guidance acknowledges and facilitates this. We note that ORR has challenged the industry to look into this and we would like this to stay on the 'agenda' for future iterations of the CoP. We feel the transition to Great British Railways provides an opportunity to build new features such as this into systems from the outset.

In a similar vein we would ask whether there is any requirement to pass on complaints made alongside a Delay Repay claim? The complaint element is often either ignored or the passenger is advised to write in separately.

### **Provision 3 – recording complaints**

In our original submission we saw value in recording and possibly publishing the outcome of a complaint (i.e. compensation, apology, explanation etc); and in also highlighting specific categories of complaint, such as accessibility, safety, or potentially even hate crime. We welcome ORR's decision to engage with us on this as part of the forthcoming annual core data review.

We welcome the additional reporting requirements set out in para 1.49:

- the number of days taken to respond to complaints and the ability to calculate average response times
- the volume of complaints signposted to ADR due to deadlock or expiry of the ADR timescale
- the number of reopened complaints

This extra data will add to the ability to learn from and better utilise complaints information.

### **Provision 4: Responding to and investigating complaints**

We had asked that operators provide updates to complainants where complaints had not been answered within published timescales. So we particularly welcome para 1.55 which requires such an update every 10 working days.

### **Provision 6: ADR**

We welcome para 1.69 requiring licence holders to provide information on ADR when acknowledging complaints.

It is disappointing that the reduction to the current 40 working day referral time to the Rail Ombudsman is not being considered at this time. This means that the complainant must stay motivated to see their complaint through and that some will drop out of the system as a result. We note the argument that Covid and the upcoming rail reform programme have created uncertainty around case volumes and costs, but we believe it would be more efficient and simpler to have new standards built into Great British Railways from the start rather than having to change everything at a later point. However, if ORR is to retain the 40 working day target, we would at least like to see some timeline for transition or a date for any future review. This would have the effect of putting the industry on notice that a change is coming.

**Provision 7: Reporting**

The inclusion of average response times into reporting requirements (para 1.73) is welcome. This will allow for a better comparison/benchmarking of performance.

We note the move towards licence holders publishing their own continuous improvement reports on an annual basis. It will be important that these are easily found on websites and not tucked away – so we welcome para 1.80 requiring licence holders to notify ORR when and where it has been published.

**Transport Focus and London TravelWatch  
August 2022**

## Transport Scotland response to ORR's second consultation on a draft complaints code of practice

**From:**  
**To:** [ORR CHP](#)  
**Cc:**  
**Subject:** RE: [EXTERNAL] RE: Complaints Code of Practice: Consultation response and second consultation  
**Date:** Monday, August 15, 2022 3:55:00 PM

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Good afternoon,

Thank you for providing Transport Scotland with the opportunity to review the Complaints Code of Practice, second consultation and for granting a short extension.

Transport Scotland wanted to again (as highlighted in our reply to the first consultation) bring to the ORR's attention that the Scottish Public Service Ombudsman (SPSO)<sup>[1]</sup> functions include the "*final stage for complaints about most devolved public services in Scotland*". It is unclear from the ORR's consultation response how this would interact with the Rail Ombudsman given the status of ScotRail Trains Ltd<sup>[2]</sup> as a public sector operator in Scotland since April 2022 and the creation of the Scottish Rail Holdings<sup>[3]</sup>. Transport Scotland would expect that ScotRail Trains Ltd, through its licencing agreement, would use the Rail Ombudsman scheme instead of the SPSO. However, this may need to be clarified and how this would be communicated to passengers ought to be considered.

Transport Scotland is aware there is a consultation from the ORR specifically on the Rail Ombudsman which we intend to respond to separately. However, as there is some crossover we wished to highlight it here first.

Transport Scotland has no further comments beyond the above and those provided in response to the first consultation.

[1] [Home | SPSO](#)

2 [About Us | Information about ScotRail operated by Abellio | ScotRail](#)

3 [Scottish Rail Holdings](#)

Kind regards