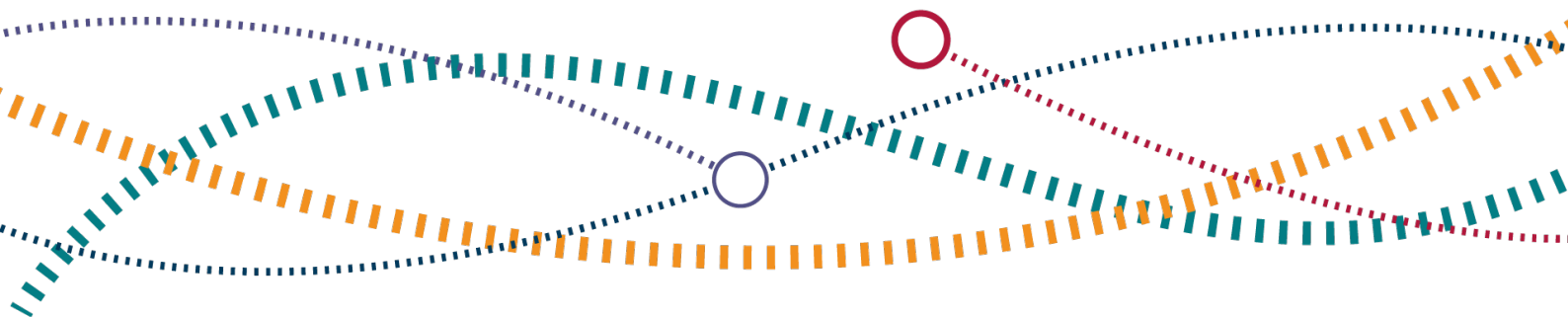




Complaints Code of Practice: Decision document

10 October 2022



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Executive summary

1. Our 2020 Annual Rail Consumer Report set out our intent to carry out a review of our current [guidance](#) on complaints handling procedures for train and station operators to ensure it remains fit for purpose. In summer 2021 we launched a consultation on replacing the guidance with a new Complaints Code of Practice (CoP), along with proposed amendments to the complaints handling licence condition.
2. The new CoP is designed to embed a culture where insights from complaints are used to drive continuous improvement, and to incentivise quality and timeliness in complaints handling, which are the key drivers of passenger satisfaction with the complaints handling process. The CoP also makes important updates to our current guidance following the introduction of the Rail Ombudsman in 2018.
3. We published [ORR's response](#) to that consultation in June this year, along with a revised draft of the CoP in which we made some amendments to the text in response to stakeholder feedback. At the same time, we launched a second consultation on the text of the revised CoP, and on the draft Licence condition, and asked stakeholders to submit any comments by 5 August 2022.
4. This document sets out a high-level summary of the comments submitted by respondents, our response, and the changes we have made to the final CoP as a result. Stakeholders were broadly supportive of the changes we made following our first consultation, meaning that the amendments we are making to the final text of the CoP are small in number. The final text of the CoP is published alongside this document.
5. Our next step will be to publish a statutory consultation in which we will seek licence holders' consent to amend their licences to give effect to these changes. We expect to publish this later this month.
6. We have actively considered accessibility needs when producing this document in PDF format. Individuals and organisations can use free Adobe Reader accessibility features or screen readers to read the contents of this document.
7. If you need this document in a different format such as large print, easy read, audio recording or braille, please contact our Public Correspondence Team via:
 - email: webteam@orr.gov.uk
 - telephone: 020 7282 2000 (select option 3)

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- Post to: ORR Complaints Code of Practice, Office of Rail and Road, 25 Cabot Square London E14 4QZ.

1. Consultation responses and our conclusions

- 1.1 We received 14 written responses to our consultation from train and station operators, the Disabled Persons Transport Advisory Committee (DPTAC), Network Rail, the Rail Ombudsman, Transport Focus and London TravelWatch, and Transport Scotland. We also received a response from the Rail Delivery Group, whose response was prepared on behalf of, and with input from, train operating companies. We are grateful to all those who responded.
- 1.2 A full list of respondents is provided at Annex A. All responses have been published on the ORR website alongside this document. Responses have been redacted to remove confidential and personal information.
- 1.3 Since the consultation we have engaged in bilateral discussions with some respondents where it has been helpful to seek clarification on their responses, and/or to help develop our thinking.
- 1.4 Below we set out a high-level summary of the views submitted by respondents to our consultation, our comments on those responses, and the changes we have made to the CoP as a result. These changes are reflected in the final text of the CoP that we have published alongside this document.

General comments

Implementation

- 1.5 RDG said that overall train operators are supportive of the proposed amended licence condition for a Complaints CoP and view this as a positive step forward for customers. It said operators would like to be kept informed of the implementation timeline so that they can amend their complaints handling procedures (CHPs) in good time and ensure alignment with the annual business planning process.

Scope

- 1.6 Network Rail said that it would be helpful to clarify that the new CoP has the same scope as the previous guidance and only relates to complaints at its managed stations. It also sought further clarity on how ORR will monitor adherence to the CoP and what evidence it would be required to provide.

- 1.7 One station only operator with a low historical record of complaints supported the broad principles but emphasised the importance of a proportionate approach to recognise the size and scope of its operation.

Research on people with lived experience of disability

- 1.8 DPTAC said that it would like to see research undertaken by ORR specifically focused on people with lived experience of disability with the aim of identifying any issues and challenges with accessing the complaints handling process of rail operators, as it does not believe that enough is known about the experience of disabled people.

ORR response

Implementation

- 1.9 Subject to the receipt of consent to the licence change we expect the Code of Practice to come into effect from 1 April 2023, meaning that operators will be required to have compliant CHPs in place from this date. We are publishing the final text of the CoP alongside this document so that operators have good lead time to begin the process of updating their CHPs and their reporting systems. We are encouraged to see from their responses that some operators are already beginning this process.
- 1.10 ORR's [reference guides](#) for Core Data compliance reporting will continue to set out the data that licence holders must report to ORR, along with relevant guidance on methodology. We will also engage with Network Rail about its core data reporting requirements, which differ from those of other operators.
- 1.11 ORR will be producing refreshed core data reference guides that reflect the new requirements of the CoP and will be consulting with industry on these shortly. This will include consulting with those smaller station only, charter and other operators who are subject to our reference guide for station only and non-scheduled passenger services.

Scope

- 1.12 In relation to Network Rail the CoP applies to complaints about its managed stations only, as dictated by its station licence.

Research on people with lived experience of disability

- 1.13 We agree with DPTAC that there would be considerable value in undertaking research that focuses specifically on disabled peoples' experience of the

complaints handling process. We will now give further consideration to how this research can best be taken forwards, which will include engaging with stakeholders including disabled passenger bodies on research design. We will consider how to take into account any findings from this work in future iterations of the CoP.

Ownership of complaints

Complaints involving third party suppliers

1.14 Where licence holders receive a complaint about a third party supplier, they must work with their supplier to coordinate a response. Network Rail proposed an amendment to this requirement noting that in the case of some complaints about car parks, it would be usual for it to direct the customer to the supplier than to coordinate a response.

Complaints involving more than one licence holder

1.15 RDG said that train operators would like further clarity on when operators should coordinate a single response to a complaint that involves more than one licence holder and how to establish who takes on the bulk of the complaint.

Complaints about delays

1.16 RDG said that train operators agree that a complaint about a delay should be owned by the operator on whose train the customer was travelling when the delay occurred but that in cases where Advance ticket holders experience delays that lead to a missed connection or dispute over ticket validity on a later train, the subsequent train operator should take some responsibility to allow travel at different times during disruption.

ORR response

Complaints involving third party suppliers

1.17 Our current guidance already expects operators to work with their supplier to coordinate a response. The complainant should not be required to contact the third-party supplier (unless they wish to).

1.18 Operators must consider how to achieve compliance with the requirement to coordinate a response in ways other than simply signposting the customer to the third party supplier. A complaint could, for example, be transferred to the third party supplier so that they can respond to the passenger directly. Complaints

involving third party suppliers must be processed in line with the operator's own CHP.

Complaints involving more than one licence holder

- 1.19 We recognise that it may not always be efficient for operators to coordinate a *single* response to a complaint involving more than one licence holder. The important principle is that a complainant should not have to submit a complaint to more than one party in these circumstances.
- 1.20 We have therefore amended the CoP to set out how operators should coordinate responses to complaints in these circumstances, whilst adding in some important information requirements to ensure complainants are clear about the customer journey.
- 1.21 Going forwards, an operator who receives a complaint relating to one or more operators will be required to respond to any aspects of the complaint that relate to its own services and transfer any other issues to the relevant operator for a response.
- 1.22 The operator in receipt of the original complaint must inform the complainant that their complaint has been transferred and must provide the complainant with the contact details of the customer relations department of any other operator(s) they have transferred the complaint to. The response must make it clear that the other operator(s) will respond separately to the complaint(s) made about its/their services. (See clause 1.16 of the final CoP.)

Complaints about delays

- 1.23 In the event that there needs to be clarification around ticket acceptance in the event of delay or disruption, this should be addressed via the relevant ticket terms and conditions and conditions of travel.

Management information

- 1.24 Management information on complaint volumes, trends and underlying causes must be regularly viewed by senior management so that systemic issues can be identified and addressed. Senior management means those who effectively direct the business of the licence holder, which may include members of the governing Board. (Clause 1.23 of the final CoP.)
- 1.25 As set out in clause 1.24 of the final CoP, ORR may seek evidence as part of any compliance monitoring activities that senior management: (a) is aware of and

understands the volume, type and reasons for passenger complaints; and (b) is taking sufficient action to address issues; and (c) is using the information to drive continuous improvement in passengers' experience of rail.

- 1.26 RDG asked for more clarity on what the above evidence should entail and how this will be measured. The Rail Ombudsman proposed that management information could specifically reference the recommendations made by the Rail Ombudsman during its casework.
- 1.27 DPTAC proposed that management information should form part of regular Board reporting specifically. Conversely one train operator felt that "senior management" was sufficiently flexible to ensure it captures those most senior with decision making authority within an organisation, without being overly prescriptive.

ORR response

Management information

- 1.28 It is for operators to ensure that they can meet the requirements of clauses 1.23 and 1.24 and can evidence them.
- 1.29 We amended the second draft CoP to require management information on complaints to be regularly viewed by senior management rather than the Board specifically, to allow operators the flexibility to determine the best arrangements for their business. There are no changes to the final CoP on this point.
- 1.30 In response to feedback from the Rail Ombudsman, we have added a new paragraph to Provision 6 of the CoP to state that operators must give consideration to recommendations made by the relevant ADR scheme and be able to demonstrate, where appropriate, what action has been taken as a result. ORR may seek evidence of this as part of its compliance monitoring activities. (See clause 1.72 of the final CoP.)
- 1.31 This addition to the final CoP recognises the non-binding nature of Rail Ombudsman recommendations, whilst at the same time insisting upon a culture of ownership and accountability over the feedback loop from the Rail Ombudsman to industry and ensures that this culture is embedded within the complaints handling processes of all operators.

Provision 1: Information for passengers

Display of information about the complaints process

- 1.32 One train operator highlighted again the limitations in place on information displays within heritage buildings. Another train operator drew attention to the space limitations on Twitter and said information (presumably meaning information about the complaints process) would need to be broadcasted at intervals.
- 1.33 Network Rail preferred the approach to be 'ways to contact us' rather than specifically signposting complaints information. It also noted that useful insight can be gained from all forms of customer feedback, not just complaints.

Monitoring consumer awareness

- 1.34 DPTAC proposed that there is requirement that the levels of consumer awareness of the complaints process are measured, monitored and published with a target level set and to be achieved by operators. It said this should also form part of ORR research into the experiences of people with lived experience of disability using the complaints process, as set out above.

ORR response

Display of information about the complaints process

- 1.35 We have amended the final CoP to allow for situations in which information about how and to whom to complain, which in practice can mean displaying contact information for channels that can accept complaints, cannot be physically displayed at stations. In these circumstances operators can meet the requirements by ensuring that station staff are able to provide information about the complaints process between the hours of the first and last train's arrival and departure. (See clause 1.26 of the final CoP.) This information could be provided verbally.
- 1.36 We recognise that all forms of feedback are valuable. The second draft CoP already stated that licence holders are encouraged to invite wider feedback and praise via their complaints page. We have expanded on this in the final CoP to note that this might incorporate other channels too, as appropriate. (See clause 1.37 of the final CoP.)
- 1.37 We have seen how information about how to complain can be incorporated effectively into a social media bio and we expect operators to find ways to comply with the CoP's information requirements on social media. As a result, we have not made any changes to the requirements set out in the CoP.

Monitoring consumer awareness

- 1.38 Provision 1 of the CoP sets out what operators are required to do to promote passengers' awareness of the complaints process and how to complain. Monitoring operators against these requirements will be our principal tool for ensuring that appropriate levels of consumer awareness are maintained.
- 1.39 We will also consider how awareness of the complaints process can be incorporated into the proposed research on disabled passengers' experience of the complaints process above.

Provision 2: Receiving complaints

Websites

- 1.40 Whilst operators had agreed in their response to our first consultation that it should be easy for customers to make a complaint, many industry respondents felt that the requirement to include the word 'complaint' or 'complaints' on the homepage link to their complaints page was unduly negative and that it was also not in line with practice in other regulated sectors.
- 1.41 Transport Focus and London TravelWatch expressed disappointment that the requirement, as proposed within the first draft CoP, for operators to label the homepage link to their complaints page using the word 'complaint' or 'complaints' had been removed in the second draft. They disagreed with concerns from industry that this would create a negative impression, saying that 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.
- 1.42 DPTAC echoed this sentiment and said that if consumers have something they wish to complain about then they should be able to easily find a way to do so – and that simple and straightforward language can lower the risk of exclusion and confusion for many disabled people. It said 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.
- 1.43 In its response to our second consultation, RDG said easy access to help and support from the homepage of train operators' websites, including how to make a complaint, is important but train operators believe that making the word 'complaint' mandatory is unnecessary.

Social media

- 1.44 Both RDG and several train operators welcomed ORR's position in relation to social media and that this is not an appropriate channel for complaints management at this time. Transport Focus and London TravelWatch wanted this to remain on the agenda for future iterations of the CoP and said the transition to Great British Railways provides an opportunity to build new features such as this into systems from the outset.

Delay compensation claims

- 1.45 Transport Focus and London TravelWatch asked whether there is any requirement to pass on complaints made alongside a Delay Repay claim.

Phone lines

- 1.46 One operator asked ORR to take a pragmatic view of the requirement to accept complaints via telephone, and proposed the CoP be amended to allow for the temporary suspension of telephone lines in cases of extremely high contact where this is justified.

Accessible formats

- 1.47 Network Rail said that it would be useful to outline what alternative formats the CHP should be provided in to support consistent application amongst operators. Transport for All, in its response to our [separate consultation](#) on a draft Rail Ombudsman Operating Model said that copies of the CHP need to be available in the same formats as those materials on offer for the ADR process (including a videoed British Sign Language translation, an Easy Read copy, a way to obtain the Complaints Procedure that is not via the internet).
- 1.48 DPTAC said that choice of how to submit complaints remains key, and that customer choice should be reflected in the range of accessible formats available to remove the different barriers disabled people face when complaining.

Carers, support workers and guardians

- 1.49 RDG said operators are supportive of ensuring that carers, support workers and guardians are able to act/advocate on behalf of a customer with their permission/authority but noted that this has caused issues with UK GDPR compliance in the past and suggested guidance on this be issued.

ORR response

Websites

- 1.50 The CoP goes further than our current guidance by requiring all operators to make information on how to complain easily accessible on their website via a direct link to a complaints page from their homepage – rather than the complaints page being accessible within 2 clicks of the home page, as is currently the case.
- 1.51 We have maintained the flexibility on how to label this link, but operators will want to take note that passenger bodies are clear that the word ‘complaint’ provides clarity and accessibility for complainants.

Social media

- 1.52 As set out in our June 2022 response to the first CoP consultation, we remain of the view that complainants would ideally be provided with the option of having their complaint dealt with via social media, where that is their preferred mode of contact, and will look to industry to consider this challenge.
- 1.53 We will also continue to engage with stakeholders involved in rail reform to flag issues for consideration within the design of the future customer experience, such as the role of social media in complaints management.
- 1.54 As also set out in our June 2022 response, we plan to explore with industry options for reporting to ORR volumes of complaints dealt with end to end on social media, and the referral rate of social media complaints to customer service teams so that we can monitor developments over time. We will explore this further with industry via our annual core data consultation shortly.

Phone lines

- 1.55 It is essential that nobody is excluded from the complaints process and that a choice of access routes for complainants remains available, including for those who may be unable to use digital means. Therefore, the requirement to accept complaints via telephone remains unchanged.
- 1.56 In the event that exceptional circumstances arise we expect licence holders to proactively engage with us to set out the challenges they are facing and their plans to return to compliance. We have also amended the CoP to make it clear that the telephone contact number for complaints and the hours within which customers can make a complaint by telephone must be clearly displayed on the licence holder’s complaints page and in their CHP. (See clause 1.41 of the final CoP.) We

have also clarified in the final CoP that the different contact methods available for making complaints must be made clear in each operator's CHP, as well as being displayed on operators' websites (see clause 1.29 of the final CoP).

Delay compensation claims

- 1.57 As set out in our core data reference guides, a delay compensation claim in and of itself is not a complaint, and this will continue to be the case. If a complaint is received as part of a delay compensation claim, and it meets the definition of a complaint, we would expect operators to recognise it as a complaint and to handle it accordingly.

Accessible formats

- 1.58 All licence holders should ensure they are aware of their obligations under the Equality Act 2010. The CoP is clear that licence holders **must** make appropriate and proportionate provision for customers who need assistance in accessing and using the complaints process.
- 1.59 A copy of the CHP must be made available in alternative formats, on request, within a reasonable time period. We have specified that the range of alternative formats may include, for example, large print, audio, British Sign Language, Braille, and Easy Read. (See clause 1.45 of the final CoP.)

Carers, support workers and guardians

- 1.60 It is for licence holders to satisfy themselves that their procedures comply with UK GDPR. UK GDPR should not be an obstacle to facilitating access to the complaints process for those who need extra help in submitting a complaint.

Provision 3: Recording complaints

- 1.61 Transport Focus and London TravelWatch, DPTAC and the Rail Ombudsman welcomed a number of the complaints recording requirements set out under Provision 3.
- 1.62 DPTAC said that it would welcome involvement in the review of core data as part of ORR's annual core data exercise later in the year. Transport Focus and London TravelWatch also welcomed ORR's decision to engage with them on specific suggestions relating to complaints data reporting.
- 1.63 As an international operator across a number of jurisdictions Eurostar expressed concerns that the requirement to calculate an average response time will not place it on a level playing field with other UK only operators.

ORR response

- 1.64 We will engage with DPTAC and with Transport Focus and London TravelWatch as part of our core data consultation shortly.
- 1.65 Eurostar, as an international operator, will continue to be subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations (PRO regulation). This includes an obligation to publish an annual report on the number and categories of received complaints, processed complaints, response times, and possible improvement actions undertaken.

Provision 4: Responding to and investigating complaints

Delays in handling complaints

- 1.66 Where a complaint cannot be answered fully within published timescales, operators must ensure that the complainant is made aware of the reason for the delay. The second draft CoP added a new requirement to say that where these circumstances arise, operators must update the complainant on their progress in resolving the complaint every 10 working days. This was added in response to feedback from passenger bodies.
- 1.67 RDG said that whilst train operators agreed with the principle, updating customers every 10 working days may be difficult for some members to forecast and may import undue cost to the industry at a time when it is still working to recover from the negative impacts of the pandemic.

Closing complaints after 10 working days

- 1.68 The second draft CoP also introduced a new clause to say that if an operator requests further information from a complainant, and the complainant does not respond within 10 working days, the operator may close the complaint. The operator must inform the complainant that they have done so and how the complainant can get in touch if they wish for their complaint to be re-opened.
- 1.69 One operator asked for further information about the methodology around this, and if a case is re-opened, what date it would start from. RDG said that whilst train operators agree that customers are made aware of the 10 working day timescale, its members do not support the need for an additional email contact to do so and would prefer to include this within the request for further information along with

how the complainant can get in touch if they wish for their complaint to be reopened.

- 1.70 One operator was concerned that the above requirement would not align with its reporting systems. Another sought assurances that there would be no penalties for reopened cases. Another said that once a complainant has been answered or a request for further information has been made, the case will be closed and only reopened once the complainant has provided a response.

The 95% requirement

- 1.71 The second draft CoP carried forward the current requirement on operators to make a full response to 95% of all complaints within 20 working days. The 95% requirement was added into the second draft CoP following our decision not to reduce the 40 working day timescale for accessing ADR at this time.
- 1.72 Eurostar was concerned about the application of the 95% requirement to its services given it operates across several jurisdictions, and is required to comply with the PRO Regulation, which establishes a different timeframe for a response.

The anticipatory duty

- 1.73 DPTAC had a particular recommendation relating to disputes under the Equality Act 2010, and the obligation on operators to make reasonable adjustments on an anticipatory basis. It said 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.
- 1.74 Under its proposal, ideally any relevant complaint by a disabled person relating to a barrier to access would automatically be considered as potential evidence of a need to make an adjustment, with an initial decision made on whether this would be reasonable as part of the complaint handling process. For this to work, operators would maintain some form of 'register of reasonable adjustments' owned by a senior individual – and the register could be overseen by ORR.

ORR response

Delays in handling complaints

- 1.75 Operators are already required under our current complaints handling guidance to make complainants aware of any potential delays in handling complaints and provide regular updates after the target response time has elapsed. The CoP simply introduces a set frequency of 10 working days to these updates.

- 1.76 We have not received evidence of undue cost impacts arising from this proposal and therefore we have made no changes to this requirement. We also note the potential benefits of this measure in reducing the volume of repeat contacts and chasers where complainants are waiting for their complaint to be reviewed.

Closing complaints after 10 working days

- 1.77 In response to feedback from operators we have amended the CoP so that operators may inform passengers about the potential closure of their complaint as part of any request for further information, rather than after it. (See clause 1.52 of final CoP.)
- 1.78 If the complainant does get in touch to have their complaint re-opened after the 10 working days have elapsed, the clock would re-start from the date that the operator receives this new contact.
- 1.79 The CoP does not require operators to close a case after 10 working days – they simply have the option to do so. Operators will no longer be permitted to use ‘stop the clock’ in the calculation of complaints handling response times. As described above, complaints may be closed after 10 working days whilst waiting for a response.

The 95% requirement

- 1.80 We have amended the 95% requirement to state that operators must provide a full response to **at least** 95% of all complaints within 20 working days. (See clause 1.50 of the final CoP.) This aims to reinforce the nature of this requirement as a backstop, not a target to achieve, and that operators should strive to resolve all complaints within this timeframe wherever possible. This does not alter the reporting methodology.
- 1.81 We have added a clarification at clause 1.50 to state that the requirement to make a full response to at least 95% of all complaints within 20 working days does not apply to Eurostar. As an international operator working across multiple jurisdictions Eurostar is subject to the requirements on response times set out within the PRO Regulation.

The anticipatory duty

- 1.82 It is essential that operators are aware of their obligations under the Equality Act 2010, including those obligations relating to disabled passengers. ORR guidance already sets out a number of ways in which operators must provide information about action taken in response to both complaints and claims – including those

from disabled passengers. For example, in the case of claims for redress when assistance is not provided as booked, operators must explain to passengers why the assistance was not provided, and what steps have been taken to ensure the failure does not reoccur.

- 1.83 Regarding complaints, the CoP states that the range of remedies for complaints must include, as appropriate, a practical action to be taken to correct a problem. And, for the first time, all operators will be required to report annually on how they have actively used and applied learning from complaints within their business and describe the impact of those improvement activities.
- 1.84 However, we recognise that continuous improvement should encompass not only learning from complaints, but also learning from passengers' experience of accessing and using the complaints process itself. As a result, we have expanded upon the continuous improvement reporting requirement under Provision 7 of the CoP to state that these reports must also assess the passenger experience of using the complaints process and describe any improvements made. (See clause 1.77 of the final CoP.)

Provision 5: Resolving complaints

Dealing with frivolous or vexatious complaints

- 1.85 Under the CoP operators must 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. One operator said that ORR should provide further clarity on the process of deadlock when dealing with vexatious customers.

Compensation and redress

- 1.86 Under the CoP operators must also set out the remedies they may offer as part of the complaints process within their complaints handling procedure. One operator expressed strong concerns that publishing the remedies offered risks misleading customers and prolonging the complaints process.

ORR response

Dealing with frivolous or vexatious complaints

- 1.87 The decision to terminate a complaint on the grounds of being frivolous or vexatious is something for the operator to take in accordance with its own internal procedures. We have now clarified the CoP to say that where a complaint has

been terminated for these reasons, operators must follow the requirements on issuing an ADR letter as the complaint has effectively been ‘deadlocked’ – i.e., the operator does not intend to do anything further to reach a resolution. (See clause 1.59 of the final CoP.)

Compensation and redress

- 1.88 The requirement to set out the remedies offered as part of the complaints process is intended to provide transparency for complainants about the possible outcomes from the complaints process. These must include, as appropriate, an apology, the award of compensation, an explanation of what went wrong or a practical action to be taken to correct the problem.
- 1.89 This means that complainants will be able to see in each operator’s CHP the potential remedies on offer through the complaints process. It does not mean that operators are required to publish remedies in the sense of narrative responses to complaints.

Provision 6: ADR

Including information about ADR in complaint acknowledgements

- 1.90 Two operators had concerns that signposting the ADR process in complaint acknowledgments could lead to customers contacting the ADR provider prematurely or risked misinterpretation.
- 1.91 RDG said that train operators agreed with the measure but noted that the majority of contacts are via email and webform. It said that extending this requirement to white mail or telephone contacts may have a negative impact on responsiveness and focus on first time resolution.

Reducing the 40 working day timescale

- 1.92 Transport Focus, London TravelWatch and DPTAC expressed disappointment that the 40 working day timescale for escalating complaints to the Rail Ombudsman was not being reduced at this time and said this risks complainants dropping out of the complaints process. Transport Focus and London TravelWatch wanted to see some timeline for transition or a date for any future review.

ORR response

Including information about ADR in complaint acknowledgements

- 1.93 The inclusion of basic information about the Rail Ombudsman in complaints acknowledgements was identified as good practice [in the review of the Rail Ombudsman](#) carried out by RedQuadrant. It is also different from the process of formal signposting to the Rail Ombudsman; this is reflected in the differing information requirements the CoP imposes at each stage.
- 1.94 It is essential that there is equality of access and treatment for all complainants. This applies to providing information about access to ADR to those who may choose to complain via letter or phone, including those who are unable to use digital means to access the complaints process.
- 1.95 Good practice guidelines produced by industry already envisage that those handling telephone calls should reference the Ombudsman when appropriate; therefore, providing information about ADR when acknowledging complaints by telephone should not represent a significant step change.
- 1.96 The volume of complaints received via letter (i.e., white mail) has been diminishing over time and totalled 8,126 complaints across train operators in 2021-22. We have already proposed one way in which the requirements on acknowledging complaints for white mail could be fulfilled in an efficient way – such as by incorporating acknowledgement information within the first substantive response if it is due to be sent out soon after a complaint is received. We have heard evidence on other ways in which operators are looking at fulfilling this requirement. We expect operators to find ways to comply with this requirement and propose no changes to the CoP.

Reducing the 40 working day timescale

- 1.97 Our response to the second consultation set out ways in which we would take forward work to enable us to revisit the decision on reducing the ADR timescale – including via the collection of further data from industry. We will begin this process via our annual core data consultation this year. We will provide an update on this work in our Annual Rail Consumer Report next year.

Provision 7: Reporting

Complaints data publication

- 1.98 The CoP will require all operators (other than Eurostar) to publish their own data on complaints handling response times on a quarterly or annual basis, depending on their complaint volumes, and to publish this data on their website. This must cover performance on responding to complaints within 10 and 20 working days, and average response times.
- 1.99 One operator asked for further detail on the methodology to be employed when making these calculations. RDG said that to ensure this is reported consistently operators would like to see guidance on where on each website this should be published.
- 1.100 One operator said that publishing pan industry reports should continue to be done by ORR, and that this would provide rail customers with a single source of truth and allow customers to easily compare performance.
- 1.101 Eurostar, as an international operator across multiple jurisdictions, will remain subject to the reporting requirements of the PRO Regulation, and to the requirements of the CoP on continuous improvement reporting. These requirements can be included within the annual service quality report (see clauses 1.77 and 1.78 of the final CoP).

Research

- 1.102 The CoP carries forward wording from our current guidance that states that ORR may wish to conduct research with complainants to learn more about their experiences, and that data protection concerns must be properly addressed to allow this, and sets out ways in which this could be achieved. One operator suggested that this paragraph could be expanded upon, and there would be value in ORR developing a standard approach/guidance that can be used as a basis to work from.

ORR response

Complaints data publication

- 1.103 The methodology for calculating the percentage of complaints responded to within 10 and 20 working days is expected to be unchanged from the current [core data reference guides](#) – with the important exception that the use of ‘stop the clock’ in the calculation of complaints handling response times will no longer be permitted.

- 1.104 Average response will be calculated as the (mean) average of response time to provide a first substantive response to all complaints received each rail period. We will set out further details around these calculations as part of our annual core data consultation exercise with all operators later this year.
- 1.105 Data on complaints handling response times, along with annual reporting on continuous improvement, must be published on each operator's website. We allow flexibility for each operator to determine the best location but recommend that this could be published on the complaints page of each operator's website. It should be clearly visible and easy to find. ORR will continue to publish industry wide data.
- 1.106 We have amended the wording in Provision 7 to clarify that the publication of data on 10 and 20 working day response times relates to the percentage of complaints 'responded to', as opposed to 'resolved' within this timeframe in order to align with the templates used for core data reporting. In other words, this metric uses the first substantive response as the basis for calculating response times. (See clause 1.73 of the final CoP.)

Research

- 1.107 Participation in ORR's complaints handling satisfaction survey is governed by a standard data processing agreement to ensure all parties comply with UK GDPR requirements if sharing customer information.

Provision 8: Training, resourcing and quality assurance

Refresher training

- 1.108 Under the CoP operators must provide refresher training at regular intervals and in response to evidence that complaints are not being dealt with effectively. RDG said that to ensure consistency and to meet the ORR expectations, it would be beneficial to provide clarity on what would be viewed as the appropriate definition of regular intervals for refresher training.
- 1.109 DPTAC proposed that all staff should receive in-person disability equality and awareness training, including regular refresher training. It urged 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.

ORR response

Refresher training

- 1.110 We sought views on what should constitute “regular intervals” in relation to the frequency of refresher training via our first consultation. Views ranged from between 12 and 24 months – but there was a sentiment amongst respondents that operators are best placed to decide.
- 1.111 Refresher training may need to be carried out in response to evidence that complaints are not being dealt with effectively meaning that stipulating the frequency is not appropriate. We do not propose to define this within the CoP but note that 24 months was the maximum interval proposed by respondents in feedback to our first consultation.
- 1.112 We fully support the need for all staff to receive disability equality and awareness training. Under our [ATP guidance](#) operators are already required to provide equalities and accessibility training to all new staff, and all existing passenger-facing staff, along with refresher training every two years. This includes specific requirements for operators to provide relevant training to contact-centre staff, including any affected staff that are employed on an agency or temporary basis, where reasonably practicable. Our ATP guidance sets out the outcomes that this training must achieve.

Draft licence condition

- 1.113 Network Rail reiterated that the proposed licence condition would form part of the Network Rail Station Licence, meaning that the scope of the CoP would apply to complaints about its managed stations only.
- 1.114 Transport Scotland asked how any interaction would work between the role of the Scottish Public Services Ombudsman, the final stage for complaints about most devolved public services in Scotland, and the Rail Ombudsman, given the status of ScotRail Trains Ltd as a public sector body. Transport Scotland expected ScotRail Trains, as a result of its licence, to use the Rail Ombudsman.
- 1.115 Several respondents to our consultation commented on changes proposed to the ADR clauses that were set out in our separate [consultation](#) on a draft Rail Ombudsman Operating Model.

ORR response

- 1.116 ScotRail Trains Ltd will continue to be a member of the relevant ADR scheme as defined within its operating Licence, i.e., the Rail Ombudsman.
- 1.117 Comments on the changes proposed to the clauses on ADR via our consultation on a draft Rail Ombudsman Operating Model will be addressed in ORR's response to that consultation.

Annex A: Consultation respondents

Respondents to our June 2022 consultation are listed below. All consultation responses will be published on our website alongside this document.

Arriva UK Trains Ltd

Trenitalia c2c

The Disabled Persons Transport Advisory Committee

Eurostar International Limited

First Rail Holdings Limited

Glasgow Prestwick Airport

Network Rail

Nexus

Northern Trains Ltd

The Rail Ombudsman

Rail Delivery Group

Transport for London (TfL)

Transport Focus and London TravelWatch

Transport Scotland



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