Responses to the August 2021 consultation on a draft Complaints Code of Practice

ORR has redacted all personal data from these responses

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Introduction

Abellio welcomes the consultation on complaints handling and supports the intent of ensuring it remains fit for purpose and keeps pace with customer expectations. The industry falls behind other industries in this area and this impacts our reputation and therefore our ability to deliver the best value for the taxpayer. We request that ORR considers the various contracts in place across the industry and ensures any cost implications are agreed with relevant stakeholders e.g. Transport Scotland, Department for Transport, Liverpool City Region Combined Authority noting the industry's current challenge in terms of financial sustainability.

Clarity and consistency for customers is something that the industry should strive to achieve, and this will undoubtedly evolve further with the introduction of Great British Railways. With the existing fragmentation, the ORR play a vital role in achieving this and there are some elements of this consultation where further clarity is needed from ORR to ensure consistency both in terms of what is delivered to customers and what is monitored and reported. Also, in the context of the creation of GBR, we would ask that the timing of each component of this consultation is carefully considered to ensure cost and effort is not duplicated or wasted, especially based on guidance that this would not take effect until April 2023. We understand ORR will have responsibility for monitoring and driving improvement in this area in future as per the Williams-Shapps recommendations. ORR also need to consider devolved TOCs in this consultation and the governance and decision-making processes they have.

Despite our general support there are key areas of concern where we feel further clarity, consideration and engagement with the industry is essential:

- Social media
- Ombudsman
- Handling times

Generally, we would welcome a more specific understanding of the expected outcomes of these proposals, i.e. which metrics are expected to be impacted, and we would like to work with ORR in determining optimal solutions and timeframes to achieve these.

Consultation questions: The Complaints Code of Practice

● *Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?*

In general, we endorse the objectives of this consultation and the need for positive change now to be further developed in line with the plans of Great British Railways and the recommendations of the William-Shapps Plan for Rail. A lot has changed in the industry since 2015 when the existing guidance was issued, and this change will bring the rail industry more in line with other industries and the expectations of 21st century customers.

We welcome the transition of more ownership to TOCs to ensure more timely responses to customers and improved customer satisfaction. However, we have some concern that there are significant differences culturally, and in terms of service provision between train companies and thereby the experience customers have between TOCs will differ. Adherence to certain aspects of the Code of Practice may be practically difficult for some TOCs and addressing this should be considered further to ensure a consistent experience for customers regardless of TOC or journey.

We believe that having basic standards for complaints handling for TOCs that are clearly communicated to customers is a positive step for the industry.

We request more clarity on how this transition to a Code of Practice will be managed, and whether there will be opportunity for TOCs to ensure that their understanding of the Code is correct. We would recommend regular account meetings are set up between the TOCs and ORR as standard as currently happens in the compliance monitoring approach taken by ORR to Accessible Travel Policies.

● *Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaint handling procedure that should be included?*

- Inclusion of a first time resolution measure i.e. a target for complaint cases being reopened of, say, <5%.
- Guidance and principles for complaint management in exceptional circumstances such as during disruption, extended periods of disruption or when there are exceptionally high volumes.
- It is essential there are key principles for complaints involving multiple TOCs and that a clear process is defined by ORR. This is required to ensure consistency for customers in terms of setting (and communicating) expectations and their subsequent experience.

● *Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?*

*"Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy **where a response or resolution is explicitly or implicitly expected**"*

Abellio broadly support the revised definition and confirm this is in line with the existing complaints handling approach of all Abellio TOCs. We recommend amended wording to clarify the detail of the 'expected response or resolution' for example, to be clear that a simple acknowledgement of receipt would not suffice. Perhaps "…where a response **and** resolution…". Most importantly, Abellio need ORR to define exactly what they mean by the term "implicitly expected" as this is subjective and therefore risks an inconsistent approach. A recommendation would be to have a selection box on the form for the complainant to tick if they expect a response.

We especially have concerns in relation to social media contacts where in many cases, such insight about customer expectations will not be obvious. Abellio would ask ORR to at least provide some examples and guidance e.g. "the train is late again", "why are there never any staff around?" and other similar venting we regularly receive. Our understanding would be that social media requirements will not be mandated in which case the appropriate interpretation of this definition needs further guidance.

Consultation questions: Provision 1: Information for passengers

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

In general, we believe they are. However, a few detailed points / queries for further consideration:

- There are space constraints in terms of displaying posters at stations, particularly where stations are served / managed by multiple operators and / or Network Rail and multiple posters are likely to cause customer confusion e.g. Glasgow Central where high level is managed by NR, low level by ScotRail and multiple operators use the station or Liverpool Lime Street with a similar multi-operator setup. Guidance is needed on the expectation of

such circumstances, and we would propose the preference is to refer customers online with posters 'where possible' or 'where space is available'. This could also perhaps be addressed with the use of a generic complaints poster to inform customers who they need to contact.

- Also, in relation to posters, more detail is welcome on the specific expectation. If adaptation of existing 'welcome posters' (in the case of Greater Anglia) would be required, this could import significant cost. On this point we would ask that the timing of compliance is carefully considered to ensure cost implications are minimised i.e. not enforcing Day 1 compliance but allowing changes in line with SQR regimes and station PGI intervals.

- With reference to 3.3, we request further clarity of the expectation in terms of information being 'prominently displayed…on social media' or 'at stations' noting this will not be practical on some platforms.

- Further clarity is needed on the ORR's expectation in terms of providing a paper version of the code. What, specifically, would and would not be considered acceptable? Taking into practicality and customer expectations we would recommend referring customers to our websites where a printable version would be available for customer self-service.

Consultation questions: Provision 2: Receiving complaints

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

Abellio welcome the removal of the 'specific expectation for complaints forms to be made available at the request of passengers' from the future code referenced in 3.19, this not only makes the industry more financially sustainable but environmentally too.

Whilst we agree it is essential to ensure customers can easily access a complaints page including full details of the CHP and an easily accessible way to claim, we do not believe this is needed on our homepage. We have concerns that the inclusion of the word complaint gives a negative message on a site that is primarily for encouraging customers to purchase a ticket and travel with us. We would propose this information is instead included in the 'contact us' page where those wishing to complain would be likely to go and in line with the approach used by other consumer companies. Where not already the case, TOCs could also ensure the search function appropriately directs customers who search words such as 'complaint', 'complaining', 'complaints' etc.

As reference above, we are not clear about the expectation regarding the need to provide paper forms and would ask ORR to provide further clarity. Paper now accounts for less than 10% of complaints and Abellio would welcome a more environmentally friendly, low cost, practical solution regarding paper but note that the removal of the need to provide paper forms is not consistent with compensation form policy. We would welcome guidance from ORR on both policies that meets the objectives listed and minimises customer confusion.

Consultation questions: Social media

● *Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?*

Abellio do not support this proposal and believe implementation without further consideration could be detrimental to customer experience, with customers unclear about expectations and left feeling disappointed in the way their complaint was handled. We would ask ORR to better define the detail of this to ensure the expectation across all TOCs is proportionate, feasible and clear to both TOCs and customers, also taking into account GDPR requirements regarding personal data.

At the meeting held on 14th September, ORR clarified that they are not proposing social media channels are mandated as a channel for complaints. Should this be mandated significant cost would likely be incurred as the current structures mean the Social Media teams operate separately to the Customer Relations teams in our TOCs. In the case of complaints via social media these are either dealt with there and then (like face-to-face staff interactions) or the customer is referred to the complaints section of the website.

Should TOCs be expected to report of complaints made via social media, ORR would need to provide specific guidance on how each interaction should be categorised and we do not foresee a robust way to achieve this given the varied nature of interactions. As per the comment above, this is often a similar interaction to those made face-to-face with staff, something which is not reported on and similarly, would be very difficult to robustly report on. We would recommend reporting on the proportion of customers who have been signposted to Customer Relations.

We would ask ORR to note that a lot of the contact that comes our way on social media is toxic and suited to an anonymous channel i.e. customers do not want to be identified. It comes from hostile customers, with no names attached to accounts, and there is no way they could be considered for recording complaints. Often the way to stop a conversation with an anonymous account, intent on being abusive, is to encourage them to contact customer relations.

We would also ask ORR to note that at times, e.g. major disruption, the inbox can be flooded with hundreds of messages per hour. Most of these are archived without being answered, as it is not feasible to go through them individually. This would again be impossible to measure, and we'd have no way of knowing how many complaints there had been. In these circumstances it is also important to note that this is often during incidents unrelated to the TOC's own delivery to customers and wholly outside of the TOCs control e.g. infrastructure failure.

Whilst circumstances in 2020-21 have been challenging there may be some good practices and evolving technologies which TOCs can share to prepare us as an industry to set out a road map for improving how social media contacts could be better brought within the complaints handling framework. We ask that the ORR works with the industry on an appropriate way forward and we believe a Forum for best practice sharing etc could help facilitate this. Ensuring changes are proportionate, feasible and based on the experience of TOCs and ideally also that of other industries where fragmentation poses a challenge of consistency. More generally, we believe that the way the industry uses social media currently is the same as many other industries and further research is needed across all industries.

● Q7. To industry:

– *What social media channels do you currently operate (e.g., Twitter, webchat, other?)*

A variety of media channels are operated across our TOCs with various systems and setups and in some cases it is a simple framework for providing business insights but is not linked to the CRM function.

	Twitter	Facebook	LinkedIn	WhatsApp	Webchat	Instagram
East Midlands Railway	Y	Y			Y	
West Midlands Trains	Y	Y	Y			Y
Greater Anglia	Y*	Y			Y	
Merseyrail						

ScotRail	Y	Y	Y	Y		

*Small team who do not have access to the CRM system provided by and utilised by Abellio Group's Shared Service Centre.

Abellio would like to raise that the channels operated by a TOC would be likely to have an impact on the KPIs of complaints handling via social media given customer preferences and different types of interactions. As a result the customer satisfaction metric being partly based on complaints per 100k journeys would need review.

– *Do you have the ability to record and respond to complaints raised on your social media channels?*

No, none of Abellio's TOCs can do this. They do however assist customers in making complaints via their social media channels, either signposting them or doing it for them (within hours of operation).

If not, what are the practical barriers to doing so, and how could they be overcome in the future?

The fundamental issue is there is no integration between the social platforms and the CRM systems. Whether provided by in-house teams or Abellio's Shared Service centre, those handling complaints are specially trained to do so. Social media teams are not trained to deal with complaints and the systems are not linked. Therefore, implementing the ability to record and / or respond via social media would require investment, likely significant, with system integration, resources and training all to be considered. We would ask ORR to note the significant cost to the taxpayer of implementing this with minimal financial return (revenue). Where TOCs have revenue risk e.g. Merseyrail, the funding would not be available and where there is no revenue risk, ORR would need to engage closely with those incurring any costs (e.g. DfT).

– *What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data?*

If "any expression of dissatisfaction" was to be defined as a complaint and social media contacts mandated as in-scope for on-the-spot resolution, complaint volumes would significantly increase. Assuming this (and subject to clarity of definition) we estimate a 200%-400% increase in the number of customers complaints, noting we suspect many customers would not follow up after contact. Resources would need to be significantly increased to meet the needs of "on-the-spot" resolutions with other cost implications therefore also needing to be considered such as office space, training, equipment etc.

The nature of Twitter means it is often used for throw-away comments and negative hostility. Therefore, we would anticipate complaint handling times would also be likely to rise due to the need for several interactions to reach resolution. Generally, we request ORR provides more clarity in this area and considers the approaches (and outcomes) within other comparable industries.

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

No. Manual processes are in place to tag message in line with ORR category level 1 in some TOCs but generally this would not be achievable. For example, ScotRail received 9,493 in a recent 7 days and there is no way of robustly automatically categorising and retaining the necessary detail to address the issue raised (often just venting anonymously).

Consultation questions: Provision 3: Recording complaints

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

This is considered clear and proportionate in the main although should future amendments be required cost could be incurred. Monitoring quality may not be possible until renewal of existing contracts as some TOCs outsource and do not have access to the complaint system (and hence monitoring). Specifically, in current systems the 'basis of complaint' is only visible if it has been closed due to deadlock. Further guidance from ORR welcome on the specific expectation in relation to suppliers providing more information for monitoring purposes and important to note this could incur additional cost.

Consultation questions: Provision 4: Responding to and investigating complaints

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

In general, we support this and TOC processes already align, noting in exceptional circumstances we would notify the ORR and Ombudsman for exemptions and how best to meet the needs of customers. Areas where we would like further consideration:

- We support the notion of clarifying what the complainant wants at the outset although welcome further guidance from ORR on how TOCs should respond when the complainant's expectations are unreasonable. This is needed for consistency and to ensure the experience is positive and not reputationally damaging e.g. if they request financial compensation when they are not eligible.
- The expected content for auto-acknowledgments. Our experience suggests most customers do not read the information provided in auto-acknowledgements and we believe this would be exacerbated by adding even more. Also, in some TOCs this is a standard reply, not just applicable to complaints.
- Some TOCs would not be able to segregate signposting of complainants to ADR during delay or failed timescales because it depends on the complexity of the matter. If the suggestion is that signposting happens before the 40-day period then we can demonstrate that as a TOC we routinely signpost and deadlock ahead of the 40-day period, however given the customer and complaint numbers in the last 2 two years and changes which a post-COVID travel industry will look like we would prefer to see some of this element open to a review at a later period.
- Reporting of failures to adhere to the required timescales for signposting complainants to ADR should not be extended to the failure to adhere to licence holders' own internal targets for responding to complaints, as these may differ between TOCs and change with best practice.

Consultation questions: Provision 5: Resolving complaints

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

In general, we believe these requirements are clear and proportionate and Abellio TOCs either already meet them or could make small changes to meet them. We have some concerns about a rigid and visible escalation process preventing TOCs seeking resolution via alternative reasonable

means (for example, meeting with a specific area of the business to discuss) that the customer is happy with. Some flexibility of approach by case and TOC is needed and from we believe this is in the best interest of the customer.

Consultation questions: Provision 6: ADR

● *Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?*

Abellio feel this could cause customer confusion and if implemented we would welcome clear wording from ORR to be included across all TOCs for clarity and consistency, ensuring customers follow the processes in the appropriate order. We also have concerns that acknowledgements already contain a lot of information for customers to digest.

● *Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?*

Yes.

Consultation questions: Reducing the 40 working day timescale

● *Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?*

In principle this will be a positive step, both improving customer experience and potentially reducing the number of follow-up complaints. However, we do not believe now is an appropriate time due to the industry reform that will impact significantly on ways of working and the current uncertainty of the Rail Ombudsman scheme. For example, what will future Ombudsman policy be in cases where customers fail to respond back to TOCs or fail to provide the information required? Mechanisms would be required to ensure TOCs are not punished for non-responsive customers. Several worked examples (based on TOC experience) would need to be established to thoroughly test any such proposals and we would advise ORR to leave the timings as they are and retain 'stop the clock' until future ways of working are better established.

● *Q14. If yes, do you believe that the time limit should be reduced: (i) to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner) or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?*

Abellio believes this is something that should be further considered when we return to more certain times following the Covid pandemic. The reduced rail travel since early 2020 with considerable uncertainty about future rail demand makes it difficult to inform this view e.g. numbers of customer contacts and likely complaint handling times. At such time this is more appropriate we would anticipate 30 days would be most appropriate, still providing some time beyond the 20-day resolution period. However, we note there is significant variation between TOCs and those who have the most customer contacts are best placed to advise.

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

Abellio feel there are too many unknowns to advise on this at the current time and especially considering the timescales of this consultation (to April 2023) in which time a lot of industry change will be implemented. We would welcome further discussion with ORR on this as industry reform evolves, including Ombudsman procurement.

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

Not applicable, see above.

Consultation questions: Provision 7 Reporting

● *Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?*

– *Percentage of complaints resolved within 20 working days*

Yes

– *Percentage of complaints resolved within 10 working days*

Some clarity about the intended outcome of this requirement would be helpful noting many TOCs have a commitment to respond within 7 working days.

– *Average response time for resolving complaints*

We would ask for clarity of how regularly this reporting would be required noting it is currently produced biannually. Can ORR provide clarity on how they anticipate this would impact on signposting to DRO? As it stands currently, the proposal to remove "stop the clock" would also have a significant impact on response time figures (although we disagree with this proposal).

● *Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)*

Yes, for transparency this would be appropriate. It would also allow station operators and train operators the ability to understand common themes in complaints to ultimately provide a better holistic service to customers.

● *Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?*

We request further clarity of the ask here and the intended outcome. These are two different measures and Abellio believe both are needed to provide a complete view.

Consultation questions: Continuous improvement

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

Can ORR please provide clarity on what is in scope for 'continuous improvement activities'? Is this in relation to complaints handling processes or does it also include business improvements designed to reduce the number of complaints in the first place?

Without prejudice to PRO regulations which require this information to be published annually, Abellio would welcome ORR information on the expected customer value of providing continuous improvement activity information. Have Focus Groups etc been undertaken to establish the benefit and help define the content / regularity that would improve customer perceptions.

There is also a challenge on the quality of information published and we have concerns this will vary in quality across the industry, especially with the differing contractual regimes and hence priorities.

Abellio note that the existing publications are almost identical each year and therefore we would welcome the requirement being redefined to be of more value to informing improvements.

We would also welcome a review of the existing Critical Review Research which in our view is of limited value as it does not capture the nuances of different TOCs and their respective customers' wants and needs.

Consultation questions: Quality in complaints handling

● *Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?*

Quality is most important and should be a metric that has more focus. However, to ensure consistency, more work would be required to define 'quality' with an outcome focus. We would recommend ORR work closely with the industry on this and it will be essential that the differences between TOCs and the markets and customers they serve is a key consideration i.e. it is unlikely consistency will equates to a simple 'one-size-fits all' approach.

● *Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?*

Abellio's Shared Services have their own internal quality management programme which focuses on calls and cases for complaint and delay repay. These are measures on internally agreed metrics and include things like tone of voice, accuracy, GDPR compliance, soft skills etc.

Others include Wavelength, mystery shoppers, YouGov and UKCSI (although these differ from ORR results and would therefore need to be normalised).

Consultation questions: Driving wider learning from complaints

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

Semi-annual reviews of the Code of Practice, chaired by ORR, would be helpful to bring the industry together

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

● *Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?*

Abellio believe this should be outputs based, so determined based on several factors and not a defined interval. The key item for consideration would be quality monitoring results with new policy for ad-hoc training and the number of new-starters also being considered. Abellio would support further sharing of training material across the industry to drive efficiency, coordinated by ORR.

● *Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?*

Abellio request more insight into what the ORR expects in this area noting that without further clarity in some areas of the consultation this is impossible to determine (i.e. expectations regarding social media). We seek clarity from ORR about the expectations in terms of TOCs having to managing this in either an in-house or outsourced scenario with significant cost implications to quickly scale up resources (due to finite business accommodation, IT provision and staffing at any one time)?

Consultation questions: Licence condition

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

Abellio support this proposal generally and agree it is a positive step for the industry and customers. We would welcome more information on the methodology for transitioning and whether there will be any review periods built in as part of this transition?

To: The ORR

From: Arriva UK Trains (includes CrossCountry Trains, Chiltern Railways and Grand Central Trains)

Re: Complaints Code of Practice Consultation

Consultation questions: the Complaints Code of Practice

●Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

We have no issues and would want to comply with best practice wherever possible and practical, ORR involvement in this process is beneficial. We would welcome more clarity on how this transition to a Code of Practice will be amanged.

As we Grand Central is an 'Open Access' operator we would welcome confirmation from the ORR if is their intention to include "Open Access" operators within scope?

●Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaint handling procedure that should be included?

The proposals put forward appear sufficiently comprehensive.

Clarity of expectations regarding complaints involving multi-TOCs would be beneficial.

●Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

We think that understanding and communicating the definition of a complaint is valuable however there could still be some ambiguity from a customer's point of view, so making this clear to all is needed.
We support the addition of a response being expected, however there are still some discrepancies around what a complaint is. There may be expressions of dissatisfaction where the customer explicitly says, 'this is not a complaint but…' and a resolution may still be required. Additionally, claims for delay compensation may be seen as dissatisfaction and a response is still required (with compensation) but this is not a complaint.

Also, this proposal doesn't specify the expectations, standards, or content of responses. More guidance from the ORR is required.

Consultation questions: Provision 1: Information for passengers

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

We do not have any issues; we would not respond to complainants in any other language other than English and we would make this clear in our CHP.

Where there are multi TOCs operating out of one station the requirements to have posters from all TOCs displaying their complaints processes could cause customer confusion. Therefore, there should

Arriva UK Trains Ltd – response to the Complaints Code of Practice Consultation, 23 September 2021

be caveats to this proposal which states 'where possible' or 'where space is available', we feel that signposting customers online where the full information is detailed is the better option.

Consultation questions: Provision 2: Receiving complaints

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

We do not feel that including the term 'complaints' on our website homepages is helpful or positive, it may be seen as a negative experience, undermining confidence in each TOC. Instead, the use of 'Help', 'Advice' or 'Contact Us' would be our preferred solution.

We would like clarification as to whether one click needs to be to a page where customers can find information on how to make a complaint or, one click to a page where customers can physically make a complaint?

We have one click to a page where customers can find more information about the CHP and we also have one click to a contact hub where customers can navigate to all contact channels; FAQS, Social Media, Complaints, Delay Compensation and Live Chat. This needs to be clearer as to which is expected.

Having to provide paper complaints forms on trains and at stations is not always practical e.g., some of our trains are unstaffed as are some stations. Making announcements at stations and on trains where possible during disruptions or delays advising customers how to make contact in the event of a complaint is more practical.

Does the ORR have a mandatory minimum opening hours (per para 3.15) requirement, notwithstanding the caveat contained in para 3.17?

Consultation questions: social media

●Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

We don't believe Social Media is the appropriate medium for complaints to be investigated and resolved. Social Media is a "live" service which predominantly deals with events as they happen providing information and direction for customers who need an immediate response. Most complaints need further investigation to ensure a full and comprehensive response is provided and this would not always be the case through Social Media.

We want to provide a consistent, effective, and efficient complaints handling service. However, we would counsel strongly against this proposal as there are considerable challenges standing in the way of making social media a formal method for complaint management

Social Media is often handled in non-Customer Relations type environments (Control or Marketing) and therefore may not be equipped or suitably trained to handle complaints. Complaints should be handled by the Complaints department only.

Additionally, the rise in complaints numbers will be disproportionate. Many customers use social media as a knee jerk reaction to express their dissatisfaction; social media are unique channels of communication that allow customers to vent or be vexatious in complete anonymity often losing focus as other users join the conversation. This will therefore increase complaint levels significantly.

There is also an expectation that responses will be received quickly (as they are real time channels) which would severely limit the time that TOCs have to investigate complaints properly.

Customers also expect fully detailed responses to complaints, and this may not be possible on a social media platform where there is limitation on the number of characters to use in your response (Twitter for example).

If a customer using Social Media wants to make a complaint, their details are taken and where possible a case is created within our CRM systems, and the complaint is handed off to Customer Relations. Customers will receive an automated acknowledgement with complaint handling times and "what happens next". Alternatively, the customer is provided with the Customer Relations teams contact details and a link to the appropriate TOC website.

●Q7. To industry: – What social media channels do you currently operate (e.g., Twitter, webchat, other?)

Twitter, Webchat, Facebook, Instagram.

– Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?

Chiltern tags social media conversations to highlight they are a complaint; however, this is not integrated with Chiltern' current complaints system. The Social Media reporting suite is also not configured or able to report on some of the ORR periodic reports data that our Complaints system is and Chiltern would therefore need to work with their supplier to create new reporting suites or explore new suppliers to be able to supply the data required for ORR complaints reporting.

Complaints are not recorded on CrossCountry's Social Media system, but sentiments and tags can be used for reporting purposes, although these are not comprehensive and not integrated with their CRM system. Like Chiltern the reporting facility is also not set up to report on some of the ORR periodic reports data that our Complaints system is and XC would need to work with their supplier to create new reporting suites or explore new suppliers to supply the data required for ORR complaints reporting.

As at CrossCountry, GC have sentiments and tags but noting more sophisticated and not integrated with their complaints management system. Any such aspiration would be costly and time consuming to deliver.

– What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Complaint numbers would rise significantly due to the nature of how customers use Social Media (typically to express dissatisfaction). Our individual TOCs may need to upskill team members and it is highly likely we would need to increase the number of staff using Social Media in each TOC to provide a full complaints service via these channels. Any increase in headcount would require

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funding and would need to be agreed with the DfT (and funded by them) as per the conditions of our ERMAs and future National Rail contract.   Our channels do not provide automated recording, and this would be a very manual process for our team, potentially increasing the response times to customers. It could also have a knock-on effect of the information/guidance service provided to customers via Social Media.

To use the comparison with Train-crew, why is it considered necessary to think of Social Media as a complaints channel but not, other operational communication staff such as on-board or at-stations?

Consultation questions: Provision 3: Recording complaints

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

Nothing further to add.

If there were to be any other amendments, or future changes imposed, this may introduce additional cost.

Consultation questions: Provision 4: Responding to and investigating complaints

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

We do not have any issues with informing ORR when it is likely we will experience a widespread failure to adhere to signposting timescales to ADR, similar to how we would if we were to have widespread failure of responding to complainants within ORR timescales. This should only apply to industry rules and not our own internal targets.

Consultation questions: Provision 5: Resolving complaints

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

Yes

However, an escalation process setting out all the remedies we offer may prevent resolution via alternative means, It may encourage customers to bypass initial stages rather than allowing early resolution of complaints.

Consultation questions: Provision 6: ADR

●Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

No issues but conditional upon who and how the new ADR body and scheme will operate, if it should change going forward?

●Q12. Are our signposting requirements clear, proportionate, and reflective of current ADR practice?

Yes, no issues.

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Consultation questions: Reducing the 40 working day timescale

●Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

There could be some scope for timescales to be reduced, however this should not be to detriment of the service provided, e.g., fully investigating the complaint.
There may be delays in customers responding to our correspondence and during busy periods, this may cause a referral to ADR after only one response, not giving the TOC sufficient opportunity to resolve the complaint directly with the consumer. 40 days gives us a good opportunity to resolve directly with the customer but also allows us to refer the customer to ADR earlier if required using the Deadlock response.

A referral to ADR before we have had sufficient opportunity to resolve the complaint will give a negative impression to the customer, as it may appear that we are trying to push the complaint elsewhere rather than dealing with it ourselves.

We would like to understand why the ORR are suggesting the removal of 'stop the clock' in cases where we require and request additional information from customers to enable us to proceed with our investigation as we do not have any control over the length of time taken by customers to respond. If all customers have the right to go to the Ombudsman after 20 days – regardless of 'the clock', this may encourage customers not to engage with TOCs and simply wait 20 days and then contact the Ombudsman. This would drive up costs for the TOC, the DfT and the taxpayer.

●Q14. If yes, do you believe that the time limit should be reduced:(i)   to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner) or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

Though it is not our preference for there to be a reduction in the time limit, 35 or 3 days could be a good compromise - i.e., option (ii), as this allows TOCs in a period with a lot of disruption where response times may lengthen slightly at the 20-day measure to resolve more complaints without relying on ADR unnecessarily

It should be acknowledged that we do receive complex complaints that do take considerably longer to resolve, even though we resolve many complaints within 20 days.

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

No less than 30.
A phased approach to reducing complaint handling times would be deemed sensible, gradually reducing from 40 to 35 and ultimately 30.

We do not have reliable historical data currently as since March 2020 due to the Covid-19 pandemic we cannot rely on our data. It may therefore be sensible to leave timescales as they are until travel patterns stabilise and we understand the landscape better.

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

We have little data available on this on this as we refer very few cases to ADR

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Consultation questions: response times

●Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below? – Percentage of complaints resolved within 20 working days – Percentage of complaints resolved within 10 working days – Average response time for resolving complaints

Yes.

No issue with the 20/10 working day measures. While we would be happy to introduce an average response time measure, this is not within our current suite of metrics, and we would have to ask our systems provider to implement this. The system we use required custom adjustments to ensure time to first resolution was measured for complaints as per ORR requirements and adding additional reporting metrics may conflict with this. Additionally, would the average response time measure use a mean average or a median average? On occasion we have complainants who respond to us several months after a request for information, and it's possible a mean average could skew an average response time in this case, particularly in a low volume period.

●Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

Yes, for full transparency.

Any removal of 'stop the clock' would; have a significant impact on response time figures. The time taken for customers to respond to TOCS should not ebb include in measuring TOC performance.

●Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

No, we are comfortable with this.

However, we would like clarity on 'stop the clock' cases. If a customer fails to respond we would like to be able to close the case within an agreed timeframe.

Consultation questions: continuous improvement

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

No issue with the requirement to publish data on continuous improvement activities, though are there any specifics about what data needs published? Is this up to the TOC, or is there a basic requirement (e.g., top X complaint categories with explanations on how these are being tackled?)

Consultation questions: quality in complaints handling

●Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

We agree with the approach, though are somewhat concerned about the potential for over-surveying customers, especially where TOCs may already have post-complaint survey tools which already run.

We would also like to work with the ORR to agree what the revised metrics should be.

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●Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

The Wavelength survey, UK Customer Satisfaction Index, mystery shopping.

Consultation questions: Driving wider learning from complaints

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

Nothing more we can identify

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

●Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

Refresher training, to consolidate quality should be as required identifying individual needs.

Regular quality monitoring of both correspondence and call handling can be used to provide individual feedback in one to ones.

Any new processes or procedures are communicated in Team Meetings and weekly updates regarding any new information coming from RDG/ORR are sent out.

●Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

Under current industry arrangements with the Department for Transport, we are restricted with budgeted spend. Amending any resources will need to be approved by the Department for Transport and may not be accepted. It is therefore requested that this is not a condition that TOCs are tied to unless it is also agreed with the Department for Transport.

Consideration should be given to the fact that we have finite resources in terms of accommodation, IT provision etc.

We would like to hear if this entails anything specific other than a general commitment.

Consultation questions: licence condition

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

We request that all feedback is considered, and further consultation is carried out before changes are implemented.

Trenitalia c2c
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EC3A 7BR

28 September 2021

Dear ORR Complaints policy team,

This letter sets out Trenitalia c2c's response to the consultation on updating the Complaints Code of Practice. As an organisation, we have contributed to the drafting of the Rail Delivery Group's collective response to this consultation, and we fully endorse the contents of that response. This letter is submitted in addition to that response, to provide additional information and insight on a handful of points that we consider to be particularly important.

First of all, I wish to underline the importance we place on providing a helpful, effective and timely response when our customers do encounter issues. As the ORR will be aware, there have been occasions in recent years when c2c has struggled to handle spikes in customer complaints, which at times led to unacceptable waiting times for customers. Addressing these issues subsequently required significant cost and management resources; as a result we have learned a lot, and it means we have in-house experience of delivering customer relations in both a times of crisis, as well as in a more usual day-to-day environment.

We are broadly supportive of the principles that lead the ORR's proposals, and many of the practical details. However, there are some isolated points that we wish to highlight, because of potential unintended consequences:

- **Website information provision**

Paragraph 3.12 proposes that a direct link to a complaints page must be displayed on the website homepage, "*...which clearly contains the word 'complaint' or 'complaints'*."

We agree that easy access to help and support from the homepage of the website, including how to make a complaint, is important. However, we consider that making the word "complaint" mandatory is unnecessary and unhelpful, and also risks wider unintended consequences for the industry.

At c2c, we want to encourage customers to make a complaint by our website if they do have an issue they wish to resolve. This is the quickest and cheapest way for us to receive the customer's complaint, and for the customer to receive a response. Below is a screengrab of c2c's homepage. This has four primary buttons along the top of the homepage:
- Tickets and fares;
- Travel updates;
- Destinations and offers;
- Help and feedback.

When the customer hovers over the relevant title a drop-down menu appears (without needing to click), with relevant options. "Contact us" is immediately visible – along with other options that may be more helpful, like our help centre which provides FAQs and guidance that resolve the most common issues that our customers raise. Likewise, the Delay Repay function – which is managed separately to customer complaints – is given equal prominence so customers are not misdirected. This approach is not intended to avoid customer complaints, but instead to resolve them through the quickest and simplest method possible.
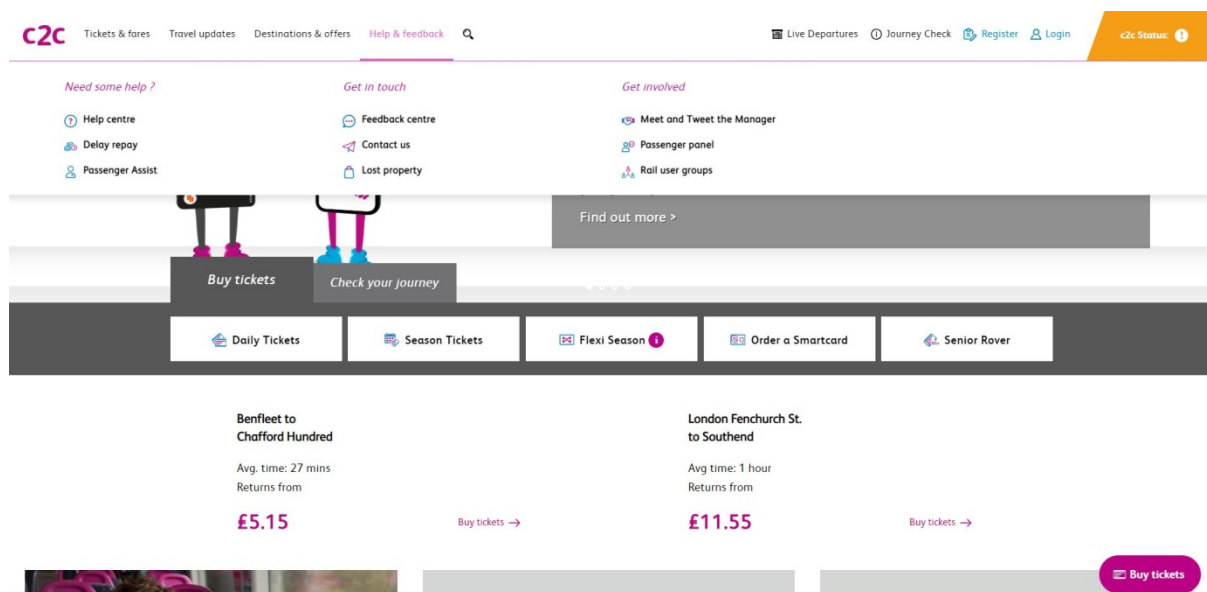
We ask if any research has been undertaken by the ORR to identify whether customers are currently confused about where to go when they are on the homepage of an operators website if they do wish to make a complaint? We do not use the word "complain" at any of these stages, but it would appear to be clear and obvious to a customer how to navigate to our complaints page if that is the information they require.

Furthermore, it would appear that other service providers in other industries do not use the word "complain" on their websites either. A quick survey of the various household suppliers that I personally use reveals the following options on their respective website homepages:

- SSE use "get in touch"
- Sky use "Help"
- BT uses "Help"
- Thames Water uses "Help and Advice"
- EE uses "Contact EE"

Many of these suppliers work in highly-regulated industries, and some have to deal with high numbers of customer complaints. However, none of these suppliers are mandated to use the word "complain" on their website homepage.

There is an important principle that lies behind our objection. In the current climate, the rail industry needs to work harder than ever to attract our customers, given our main competitors – working from home and travelling by car – have both risen in comparative popularity since the onset of the pandemic. The overwhelming majority of passengers who travel with us have a positive journey and do not wish to complain. Mandating the word "complaint" on our homepage, and in effect giving it equal billing with ticket buying, is unduly negative. This negative perception risks putting would-be passengers off travelling by rail – to the detriment of the taxpayer, who now picks up the burden of costs that aren't covered by ticket sales.

- **Complaints raised through social media**

We echo and endorse the response from the RDG's collective submission on this point. In addition to those points, we wish to emphasise the importance of understanding the different nature of interactions that take place on different channels.

Our experience of social media is that when customers wish to complain or express negative views of their service, they primarily use it informally and often "in the heat of the moment". Our team will try and address the issue where they can, or advise it is taken "off-line" through our customer relations department if it is more complicated or serious.

These exchanges are comparable with customers complaining to members of staff at our station – indeed, there is often more vehemence aimed at our team who staff social media than at our colleagues who work at stations. When this happens, there is no doubt that a customer has had a negative experience and wishes to express it. However, that doesn't mean that they wish this to be considered a formal complaint that receives a formal response up to 20 working days later. By their very nature, these exchanges are different – and if customers do wish to take the latter route, our social media team provide them advice on how to do so.

In addition, the proposals indicate that at times of high levels of traffic such as significant disruption, then the same formal process would not be followed. While there is sense to this, given the demand on resources, it also undoes the benefits that would have been gained from this approach. By definition, we would only be recording a partial view – and not the times that our customers are unhappiest. We put a lot of faith into robust and effective reporting of customer complaints, and what we can learn from assessing this data. Introducing all social media complaints is clearly impractical, but introducing a partial window from social media risks undermining the quality of the data we already record.

As highlighted above, the rail industry is now heavily subsidised by the taxpayer because of the significant fall in passenger numbers and revenue. Adding to the administrative burden of how we handle social media complaints will inevitably increase costs during this time of cost pressure – and the taxpayer would pick up this additional bill. It is not clear that there is benefit to this extra cost,

given customers are already generally aware of how to complain – and if not, our social media team are happy to advise them.

Finally, it is worth considering the experience of other industries. Our understanding is that Ofcom allows formal complaints to be made by social media regarding TV programmes. As a result, a number of programmes have attracted tens of thousands of complaints as these complaints start to "trend" on social media. In media interviews, Ofcom executives seem to indicate that it was a mistake to count these as formal complaints. If it has not already done so, we recommend the ORR takes soundings from their colleagues in broadcast regulation about their experiences.

- **Stop the clock counter**

Finally, at various points the consultation document makes reference to removing the "stop the clock" approach to measuring complaint time. It is not clear what the motivation is behind this, except for the observation that not all TOCs take the same approach in this area.

We feel it is important to understand that "stop the clock" is crucial to the principle of fairness and transparency. c2c uses "stop the clock" because it is a measure of how long we take to handle and resolve a customer's case. Our experience shows that many customers want to resolve their case as rapidly as possible, and often respond to us quickly. However other customers wish to take their time, whether that is because they wish to consider their position, consult others – or simply they have more important priorities. Whatever the reason, it is important that customers have the opportunity to take the time they wish to, before responding.

The benefit of "stop the clock" is it measures the time taken that is within our control, not the factors that are outside our control. The customer should not feel under time pressure to respond to our messages, and we have no right to put them under time pressure to respond. Therefore, the time the customer takes to respond should not be considered as a factor when measuring our performance.

In particular, the consequences of the combined proposal on "stop the clock" and reducing the waiting time before cases are escalated to the Ombudsman need to be considered. In some cases, this would provide an incentive to some customers to delay engagement with us in the belief that they can benefit from this time pressure. It would also likely increase the number of cases that are escalated to the Ombudsman – something that we consider a failure, as we want to resolve all cases effectively ourselves. An increase in Ombudsman cases would also increase costs to operators – which as highlighted previously means extra cost for the taxpayer.

We hope this response is useful and demonstrates our commitment to improving the service we offer to our customers when they do have cause to complain, while contributing to the ORR's understanding of some of the implications of the specific details within these proposals.

With best wishes,

EUROSTAR™

Office of Rail and Road
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By email: chp@orr.gov.uk

8 October 2021

Dear Sir or Madam,

Consultation on a draft Complaints Code of Practice

Eurostar is a commercial, open access international-only high-speed passenger rail service operating between London and destinations in mainland Europe. We do not operate any UK-only routes. Travel on Eurostar services is by allocated seat booking only, meaning that travel is typically booked in advance of the customer's arrival at our London station, St Pancras International. We compete in a multi-modal market which includes other forms of transport, such as airlines.

We welcome the opportunity to respond to the consultation on this important topic. We agree that it is key that complaints processes are focused on customers, are accessible and effective. We pride ourselves on our existing complaint handling provision and strive to deliver an effective complaints handling process with dedicated resources that delivers the best outcomes for our customers ensuring we learn and improve our services as a result of customers' feedback.

There are a number of areas where Eurostar, as an international operator of services, has obligations and/or differences in its service that we would welcome the opportunity to discuss with the ORR as part of the process of shaping these new requirements.

Thank you for confirming at the Q&A session that we attended, that respondents would be granted an extension to 8 October to reply to the consultation.
We respond to the questions from the consultation below and look forward to hearing from you in respect of a discussion.

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?
We broadly support this proposal. We agree with the principles of good complaints handling and continuous improvement as outlined by the ORR in the code.
We consider it important to recall that we operate in a relatively complex environment with multiple stakeholders in multiple countries, such as international infrastructure managers, and of course external bodies such as border teams. The code of practice and its application needs to be sensitive to, and capable of

being adapted to this environment to be successful for international passenger rail customers and services. We have sought to outline below key areas where we think this is particularly relevant.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?
The key principles and organisational culture have been captured in the consultation document.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?
We are of the view that the ORR's current definition of a complaint works, and that our teams are able to identify where a contact meeting this definition expects a response. However, the proposed revision would work equally as well.

Provision 1: Information for passengers
Q4. Are the provisions on information requirements clear and proportionate?
Our customers often book their international travel in advance of arriving at our London station in order to board our service. Therefore, in terms of proportionality, we believe the emphasis placed on display information at a station as opposed to other touchpoints should take into account the nature of use of the station, the service in question, and the customer journey through the station.
We do display information about how to and to whom customers can make a complaint, but expect that in the vast majority of cases concerning pre-booked international travel this information is actually accessed and required before or after a customer journey, rather than at the station. This is available from us at touchpoints such as our telephone contact centre and on our website. This is an example of where emphasis for our service differs from, for example, display at an unstaffed station location with a self-serve ticketing machine.
We also note that, for organisations that operate in listed buildings (such as ours), there are additional requirements that relate to the use of those buildings. We have discussions about the amount of posters and signage we are able to display, and it's location. This information displayed must include information required for the journey such as essential operational information and border processes.
In our view, international services may be distinguished here and be permitted to demonstrate that they meet the information requirement via a number of means appropriate to the international customer's journey.
We have discussed this previously with the ORR, and request that these elements continue to be borne in mind in crafting the updated code. As noted above, we are happy to discuss this and any other aspect of our service to assist with this process.
We agree that the information should be clearly indicated and be easily accessible on our website which is already the case (labelled as 'Complaints handling procedure').

Provision 2: Receiving complaints
Q5. Do you have any comments on our proposals regarding websites and other access routes?
We strongly support the recommendation to remove the requirement for operators to make complaints forms available to customers. Not only are there practical considerations to facilitate this method of communication, there are also very important environmental impacts of requiring forms to be printed and available. We continue to accept written complaints from customers who choose to contact us in writing although this method is now in significant decline as is indicated in the report.
We think the requirement to train all customer facing staff in stations to receive and pass on complaints is onerous, and less workable for our service if the intention of 'pass on' is that every station staff member or contractor must record the complaint alongside the contact details of the complainant. We have a number of customer facing staff / contactors that perform security and safety critical roles, as well as delivering other contractor uniformed services such as catering services to our trains, which mean that it would not necessarily be possible for them to record all of the details required, including customer contact details, in order that we would be able to address a complaint. We suggest this be clarified as a requirement to train staff with a customer facing role and also to signpost complaints to appropriate resources in the station (for us, this might be our dedicated customer service staff who are available and clearly visible at our station during the hours we operate).

Social media
Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

Whilst we live in a society that is increasingly connected through social channels, we have reservations about the practicalities and implications of this approach as well as the limitations of social media as an effective channel for complaints resolution.

On social media, the distinction between a question and a complaint is not always clear-cut. We are concerned that this option, if mandated, could lead to less efficiency and increased contact in order to first establish that a complaint was being raised. The alternative to such a communication appears to be that some complaints may be missed, while other contacts may be mis-categorised as complaints. This, in turn, can be expected to affect the reporting of such activity which would lead to different reporting standards and statistics among TOCs.

In addition, making this a requirement goes beyond requirements in other industries with commercial operators – they are instead permitted to signpost their complaints process on social media.

The limitations of social media mean that it may not be the appropriate channel in which to properly address a complaint. We are also concerned that, in times of disruption with very high levels of social media activity, this is not workable for any organisation. In such cases, one effective means of interacting with customers is to broadcast a response and signpost to appropriate alternative channels.

For all of these reasons, this should be optional rather than a required and monitored channel of complaint.

Q7. To industry: – What social media channels do you currently operate (e.g. Twitter, webchat, other?) – Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future? – What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

We currently engage with customers through Twitter and Facebook. [ ] We note that, in recent years and as can be expected in future, social media can be expected to evolve in a manner that it is not possible to anticipate now and suggest that to enable to code to remain up to date and to remain relevant to its customer base and allocate its resources effectively, it is crucial that commercial international operators remain able to decide which social media channels they can service, noting also that popularity for different formats exists in different countries.

Recording comments and complaints on social media channels would be difficult, [ ] which would impose additional cost and complexity. In our case, this would be significantly increased if there were a requirement to do this, for example, across all of our languages of operation and multiple social channels. We would also have significant difficulty in allocating where a complaint originated from the UK or another jurisdiction. In addition to increasing costs as noted in our response above, any process such as this would be expected to necessarily remove resource, human and financial, that would otherwise be available to respond to customer complaints.

Provision 3: Recording complaints
Q8. Is the list of requirements on recording complaints clear and proportionate? Are there any elements that have been overlooked?

We currently record information regarding a customer's complaint and the resolution thereof,[ ] . This approach works well and allows good customer relationship management. However, we do have some concerns about the complexity and proportionality of the proposed reporting requirements. The nature of some of the information categories listed in the requirements for recording complaints implies, in addition, the expectation of centrally gathering data and certain information with the ability to interrogate and analyse such recorded data. If the requirement is indeed to centrally record all customer complaint data and / or have the ability to interrogate all recorded complaint data, we consider this to be onerous due to the increased resources and costs this would imply to develop and maintain.

Provision 4: Responding to and investigating complaints
Q9. Do you have a view on the proposed requirements in relation to responding to and investigating complaints – including the requirement to inform ORR when licence holders are likely to experience a widespread failure to adhere to the required timescales for signposting complainants to ADR? Should this requirement extend to a failure to adhere to licence holders' own internal targets for responding to complaints?

We do not believe that the requirement to inform the ORR should extend to a failure to adhere to internal targets for responding to complaints. We are concerned that such a requirement this could operate to dampen innovation and the setting of 'stretch' targets within organisations which, in turn, would not benefit customers. Eurostar may from time to time receive complaints relating to the activities of third parties specific to its international service, [ ]. These clearly do not relate to our service and nor is how they are dealt with by the authority concerned within our control. They cannot be categorised as 'suppliers' to our company. We mention so that the ORR may confirm that such complaints are not to be included in this category. More generally, we deal with a number of authorities and organisations in a number of countries. They are not regulated by the ORR, or subject to the rules that apply within the UK. Despite best efforts, there are situations where it is not possible to obtain information to progress a complaint within a UK set timeframe. Eurostar would welcome the opportunity to discuss with the ORR how it may meet its obligations while recognising that the imposition of UK designed timescales can be expected, purely by virtue of the nature of its service, to disproportionately affect its reporting and perception of its position in any published data. It is not operating in the same environment as UK-only TOCs , it exists in an environment where infrastructure and operators are subject to the requirements of a number of different authorities. This needs to be recognised in any monitoring and reporting activities.

Provision 5: Resolving complaints
Q10. Are the requirements on resolving complaints clear and proportionate?

Please refer to our response to Q 9 above in respect of the environment in which we provide international services, which is equally relevant here.

In addition, we are strongly of the view that, other than the compensation available to customers under Passenger Rights Regulations, operators should have the option to choose what further information they may provide, if any. It is our strong belief that the act of formally publishing the possible remedies available to customers risks raising customers' expectations or worse misleading them. The end effect is that it is likely to prolong the complaints handling process and cause customer frustration and disappointment in situations where claims have been handled legitimately and fairly. As well as impacting complainants, this, in turn may impact perception of the brand negatively and disproportionately for reasons which are not justified.

Provision 6: ADR

Please refer to our comments on Annex B below. Eurostar, as an international only passenger operator, is a member of a relevant ADR scheme which is independent and handles complaints in both English and French languages. There are a number of consumer advantages of this service, not least that that complainants can be assured of an ADR service which treats all complainants equally, as well as one that examines on a whole route basis. The ORR has examined and approved Eurostar's ADR provision in this area. However, this does not appear to have been picked up in this consultation. It will be possible to reflect this specific situation that meets the criteria of offering an independent, rail industry experienced ADR solution in Eurostar's licence condition by referring to 'a relevant ADR service' rather than 'the' service.

Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

We signpost ADR at the point their complaint has exhausted the process with us. This is fair on both sides – it allows the operator to investigate the complaint and respond, and sets out a clear process for the customer if they are dissatisfied with the response to their complaint.
Signposting ADR earlier in the process will, we expect, lead to multiple instances of the same complaint being raised with ADR and operators, could operate as a signal to complainants that they should move straight to ADR or, worse, risks creating an inadvertent impression that ADR may be necessary to have a complaint fairly heard. Therefore, we think this approach would not allow operators a fair opportunity to consider and respond

to the issue being raised, and could create more work for complainants than otherwise would be required to resolve complaints.

In the vast majority of complaints, there is resolution prior to the clear path to the ADR process This is effective, and also efficient – any change to this process that leads to greater ADR claims that could otherwise have been successfully resolved by the operator will lead to unnecessary cost and complexity in achieving outcomes. Importantly, in the case of commercial operators such as ourselves, this increase in cost could need to be reflected in the prices consumers pay and it would also affect our competitiveness in the multimodal market in which we operate. In particular, we note that our competitors are not required to do this and so this requirement would disproportionately impact our service[1].

Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice? Reducing the 40 working day timescale
Please refer to our response to Q13 below.

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?
Please refer to our comments in respect of the international environment in which we operate, which is equally relevant here. We have concerns that this will impact the quality of outcomes for international service customers and unnecessarily increase costs for services such as ours. A reduction in timescales can only be expected to increase the overall time and steps that a complaint takes to reach resolution, whereas if a reasonable time were allowed for international service complaints it may be solved without recourse to ADR.

Q14. If yes, do you believe that the time limit should be reduced: (i) to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner), or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?
We do not think that this timeframe should be reduced for international passenger services operating in a multi modal market. We rely on information from a number of sources, including international ones, working to their own accepted timeframes in order to handle complaints.

Q15. What would be an appropriate lead time to implement each of the options in Q14?
It would be helpful if licence holders will provide evidence to support their answers to Q13-15.
We are concerned about the proposal to bring forward ADR in the complaints process. We do not think that this will lead to optimal and efficient outcomes for customers or operators. The tools for redress exist, and should continue to be signposted at an appropriate moment in the complaints process.

Provision 7: Reporting Response times
Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below? – Percentage of complaints resolved within 20 working days – Percentage of complaints resolved within 10 working days – Average response time for resolving complaints
As a commercial open access provider of services, we consider that the quarterly reporting requirement is onerous and it will noticeably impact us in cost and resource terms.

Quarterly reporting should be reserved for situations where there are grave concerns about an operator's complaints handling process overall, rather than a base requirement for all. We believe the costs of this process are not justified, especially for open access operators competing in broader international markets.

We are of the view that a requirement for reporting of average response times is likely to be misleading, as periods of major disruption (for example, external shocks) can be expected to adversely affect complaint levels and result in data that is skewed with sharp deteriorations or improvements driven by external factors which are not linked to the way that operators are handing complaints or running services overall. We do not

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[1] The CAA states "If you have been dissatisfied with the response of an airline or airport to your complaint, you should be sent information on whether ADR is available in the airline/airport's final response." Source: https://www.caa.co.uk/passengers/resolving-travel-problems/how-the-caa-can-help/alternative-dispute-resolution/ , accessed 6 October 2021

believe this will indicate quality of process to the ORR, and instead may well be detrimental as it could drive the industry to a timescales focused approach to complaint handling.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)
Not applicable to Eurostar.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?
Our intention is clearly to resolve complaints as quickly as possible for customers but there are occasions when there is inherent complexity meaning that it could take longer as we investigate and potentially await further information whether that's internally, from a supplier or from the customer. We take customer complaints seriously and need to ensure that there is sufficient time to give due care and attention to thoroughly investigate and ensure a quality outcome.
Please refer to our response to Q13 which is also relevant here.

Continuous improvement
Q19. Do you have any comments on our approach regarding continuous improvement, and the requirement that all licence holders publish data on their continuous improvement activities? Quality in complaints handling
We welcome the intention to encourage an internal culture focused on continuous improvement which we already aim to foster. As a commercial open access provider of services, we consider that a proportion of information derived from continuous improvement activities is likely to be commercially sensitive. A fact which must be borne in mind to preserve confidentiality and competitiveness in multi-modal markets.
Please refer to our further comments in Q22 below which are also relevant here.

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?
Please refer to our response to Question 16, which is also relevant here.
We are concerned that, in respect of our international services in particular, benchmarking response times will operate to inhibit the development of innovation in complaint handling and response systems, and in the case of operators such as ourselves would seem to be asking us to work with competitors in other modes of transport? This would be of concern if so.
More generally, we believe that this requirement will not be meaningful in the sense that response times can be expected to be correlated with the volume of complaints received, which can be negatively impacted by a range of factors, a number of which are outside of the operator's control (for example, international infrastructure, third parties, strikes in countries outside of the UK). We are concerned that average response times are not informative or helpful as an indicator of quality of response / future performance.

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above? Driving wider learning from complaints
We do not believe that there are. In respect of driving wider learning from complaints, please see our response to Q22 below.

Q22. Are the existing fora sufficient to best facilitate continuous improvement and learning from complaints across industry? If not, what further measures would you like to see, and how can ORR best play a role in facilitating them?
As an open access operator, we are committed to providing an excellent service to our customers and to efficiently and effectively responding to their complaints where these may arise. We consider this a key element of our overall service offer. Indeed, as an open access operator, we are very aware that if our customers are unhappy they can be expected to choose the services of one of our competitors.

We welcome continuous improvement and learning, but would also like to highlight that any initiative and participation in this space should be voluntary, and request that the ORR remain alive to appropriate considerations confidentiality in commercial and competitive markets. [ ]

We would like to make specific comment on the proposed requirement for operators to inform complainants that they could be contacted by the ORR for the purposes of research by means of a 'tick-box opt out'. Given that the intention is for customers to have the choice of making a complaint across a number of different channels, we consider this an onerous requirement for operators to establish a multi-channel process to inform customers and record their permissions. Otherwise, it means ultimately channelling everyone down the same route to be able to capture this data effectively and efficiently which is surely counter-productive given the spirit and intention of this code of practice.

Provision 8: Training, resourcing, and quality assurance
Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?
We believe this is best determined by the train operator, taking a number of factors into account including the experience and mix of employees that it has working on refresher training.
We consider quality assurance to be an ongoing matter, and certainly it is one way of us to identify whether we are meeting the standards we expect to achieve.

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?
We have noted above that, as a commercial operator in a competitive market, we are always looking to please our customers and consider our complaints handling has an important role.
We believe it is for the operator to determine how to organise its resources and its complaints handling procedure in a manner that meets the ORR's requirements. This will, we believe, allow the ORR to take action where it believes that its requirements are not being met, while permitting operators in the open access space the freedom to organise resources efficiently and effectively bearing in mind the needs and requirements of their customer base.

Annex B – draft obligation on licence holders
Q25. Do you have any comments on our proposals to amend the complaints handling licence condition?
We note that the replacement is also intended to lead to a change to a provision in the SNRP, and draft wording is set out in Annex B.
As currently drafted, this does not capture the ADR scheme that Eurostar, as an international operator, is a part of. The ORR has examined and approved this scheme in respect of our current CHP, and we intend to continue with this provision which is independent and capable of hearing cases in English and French. We believe that this can easily be captured in the wording of 'Relevant ADR Scheme' by adding words 'or alternative scheme' in this section. To require us to participate in two parallel ADR schemes for the same journey on the same route could lead to confusion for users. It would also disproportionately affect us from a cost perspective.

Yours faithfully,

cc Eurostar

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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

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

Our specific comments are given below, in response to the relevant consultation questions.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?

We do not think so, the proposals appear sufficiently comprehensive in this regard.

However, we note that the emphasis of the consultation document is more towards the logging, process and timing elements of complaints handling, with relatively little emphasis on the content and quality of the complaint resolutions themselves. We believe that the best measure of successful complaint handling is how well the complaints we receive are resolved for our customers. We hope, therefore, to see ORR's approach continue to evolve in this direction.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

We agree with ORR's proposal to make the expectation of a response clearer in the definition of a complaint.

We recognise there are still decisions that operators need to make about the categorisation of individual communications, and exactly where to draw the line between an enquiry and a complaint, etc., but are happy that this is working well in practice, and we intend to keep this under review as the Code of Practice is finalised and as part of our continuous improvement.

Provision 1: Information for passengers

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

Yes.

Provision 2: Receiving complaints

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

No comments.

Social media

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

Social media platforms and usage

The term "social media" is not defined in any great detail in the consultation document. We take it to include the current major third-party platforms (such as Twitter, Facebook, Instagram) both those that are in common use today and future platforms that might come into existence while the Code of Practice is in operation. For the purposes of this response we also include communication facilities such as "instant chat" that operators might offer via their websites within the definition.

Social media is not a single homogenous channel, rather it is a collection of different platforms each with their own rules, evolving rapidly, and some more suitable for effective complaints handling than others.

In general, however, social media platforms tend to put an emphasis on the informal and group / "social" elements of communication, which we believe make them less appropriate for more formal bilateral processes such as making and resolving a complaint.

Furthermore, operators (and we believe our customers) actually value the informality of many social media channels and want to protect the informal nature of these exchanges. As a result, we do see a significant risk that using social media channels as a formal mechanism for complaints handling undermines this informality, with negative impacts on other elements of, and perceptions of, the overall customer experience.

One consequence could be that these requirements stifle operators' ability to innovate through social media, in terms of the specific platforms used, types of communication supported, technology deployed, etc. For example, we would

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certainly want to avoid generating a lot of public message traffic relating to specific complaints that channel subscribers or other users of that social media platform will not be interested in or find disengaging. This would be counterproductive to operators' use of social media platforms in the longer-term.

For these reasons, we believe there is good cause to be cautious with the adoption of social media platforms as complaints handling channels and decisions to do so should be taken with the broader impact on the customer experience in mind. Targeting specific social media platforms and channels where complaints handling is offered is likely to be more effective than a more scattergun approach.

Circumstances for complainants to use social media channels

Our operators are clear that there are some complaints scenarios that are unlikely ever to be appropriate for management over social media channels, particularly those that involve potentially sensitive personal information or are complex so will take longer to resolve.

For these complaints, the challenge for operators is to identify them early in the process to direct the complaint through a different channel, in order to avoid having to do so later in the process where it will be both more frustrating for the complainant and more difficult to manage for the operator.

Difficulty of managing sensitive personal information

Concerns around potentially sensitive personal information can relate both to the complainant's data, and to the content of the complaint (for example if it is about a specific member of staff). In the former case, we understand that it might be the complainant's preference to use a particular social media channel, but there will inevitably be other factors to consider. For example, additional risk of fraud (for example, if it is more difficult to establish the complainant's identity) and/or other risk of inadvertently exposing data when working through an additional social media intermediary. Customers would need to provide personal information to log their complaint, which can typically be accomplished via private message, but sometimes customers may (perhaps unintentionally) provide this over public channels, allowing others to capture their details. In the latter case, covering staff complaints, our operators would not typically consider social media channels to be appropriate for this sensitive content and would redirect complainants to the other available channels.

Complex complaints and expectations for complaint response times

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One other important feature of many social media channels is the expectation that responses be received quickly. This can limit the level of investigation that can be undertaken to address a complaint. Additional hand-offs of responsibility for responding to complaints received through these channels, between social media and complaints handling teams, could also lead to slower, rather than faster, response times than existing channels. We would expect this to be explained in the CHP.

Operators want to provide a consistent, effective and efficient complaints handling service, so while there is opportunity for complaints avoidance and triage through social media channels, fundamentally operators want complaints handling to be managed by complaints handling specialists rather than social media specialists.

The difficulty for operators, therefore, is that while there is likely to be a customer expectation of an immediate response to complaints received over social media, there is no requirement that the complainant responds immediately to a social media conversation. From a process management perspective, operators will be looking to manage complaints either as:

a. a managed, formal process, where each response is treated as a different activity in the complaint handler's workflow, or,

b. a conversation-style approach where a complaint handler is having repeated rapid interactions with the customer as a single activity, such as through "instant chat".

The social media model, where there is an expectation but not a requirement for quick responses, confounds a clear categorisation one way or the other, at least for some social media channels. The conversation-style interaction is much more feasible to deliver through "instant chat" functionality, where this exists, to make it clearer to the complainant that a handler is waiting for a reply to each message in the conversation. Clearly "instant chat" features can be provided by operators directly, without reliance on specific third-party social media platforms, and the direct approach should have additional benefits in terms of privacy and security.

Impact on operator incentives to innovate with social media

We note the "should" wording, consistent with the Code of Practice setting out good practice and what a good CHP "should" contain or achieve, rather than an absolute requirement for accepting complaints via social media channels.

However, if complaint volumes received via social media are to be published publicly and as part of ORR data reporting, meaning TOCs were in effect benchmarked against each other, then we would like to be clear about what channels constitute "social media" for these purposes, and the level of discretion that operators have for determining which social media channels are acceptable for receiving complaints. This is because not every TOC

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utilises the same social media channels, and therefore total complaints recorded could be significantly affected by both the definition and by operators' individual operating and complaints-handling practices.

The impact is potentially significant because complaints volumes are an important KPI for operators' businesses, and are likely to be used to assess their performance and/or for operator target setting.

In particular, this may create a perverse incentive on operators not to innovate with social media. This is because it could adversely affect those TOCs which have adopted emerging / new social media channels in the spirit of delivering great customer service, but as a consequence have more channels within their social media mix, more customer communications, and more pressure to adapt whatever purpose the channel is seeking to serve to incorporate complaints handling – potentially undermining its original intent or benefits.

Our operators therefore fear a longer-term adverse effect on their ability to continuously improve and innovate for their customers' benefit; their ability to apply their discretion in determining which channels are eligible for complaint reporting is critical to avoid this.

Accepting social media complaints where it is proportionate to do so

As we have laid out above, complaints handling through social media channels raises issues of systems and process complexity, as well as challenges from combining social media team / complaint handler expertise. The risk is that the complaints handling experience is negatively impacted for customers, for example by extending complaint response and resolution times. Combined with the fact that each social media channel is only going to be of interest to the users of that channel, and not all complainants, operators will have to take this all into account when determining whether servicing a complaint on that social media channel is feasible and practical.

As standard good practice, first contact resolution is what we aim for; there is little to be gained from a customer experience point of view doing anything else. However, where there are staff complaints, where we know there is a complex case, where there is a case that requires more detailed investigation than can be managed in-the-moment, or where inbound volume is significantly higher than usual (for instance in periods of disruption), we will signpost people to contact our customer relations team (mainly by providing them with a webform link or an email address).

Overall, in principle, we agree with the proposal that complainants should in future be given the option of having their complaint responded to via social media where servicing the complaint on social media remains feasible and practical, but we would not be in favour of any further strengthening of this requirement in terms of the obligations on operators to provide social media options, or be required to accept complaints through their social media channels. We would prefer the wording of any guidance to refer to "feasible,

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practical and proportionate" to reflect that the cost of complaint handling, even where feasible and practical, may not be proportionate through social media channels and might not represent good value for money. Perhaps ORR already intends that this sort of proportionality test is implied by its use of "feasible and practical"? We would prefer that this were explicit.

Please see our response to Q7 for further details on the current barriers to this being feasible and practical (and proportionate). As it stands our operators see "instant chat" as the social media channel with most potential for complaints handling, particularly in simple cases. Conversely, they do not believe that many or any of their other social media channels are likely to meet this hurdle in the short term, and that complaints received through these channels might be better redirected to the established channels, recognising that this is to be kept under review.

Q7. To industry:

– What social media channels do you currently operate (e.g. Twitter, webchat, other?)

Operator	Social media platform	Channel/handle	Description
AWC	Twitter	@avantiwestcoast	*[Redacted]*
	Facebook	Avantiwestcoast	*[Redacted]*
	Instagram	Avantiwestcoast	*[Redacted]*
GWR	Twitter	@GWRHelp	*[Redacted]*
	WhatsApp	07890 608043	*[Redacted]*
	Facebook	gwruk	*[Redacted]*
	Facebook Messenger	gwruk	*[Redacted]*
	Instagram	GWRUK	*[Redacted]*
SWR	Twitter	@SW_Help	*[Redacted]*
	WhatsApp	https://www.southwesternrailway.com/travelling-with-us/assisted-travel/assisted-boarding-point	*[Redacted]*

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	Facebook	SWRailway	*[Redacted]*
	Facebook Messenger	SWRailway	*[Redacted]*
	Instagram	sw_railway	*[Redacted]*
	Live Chat	https://www.southwesternrailway.com/plan-my-journey	*[Redacted]*
TPE	Twitter	@TPEAssist @TPExpress	*[Redacted]*
	WhatsApp	TPExpress (accessed via 07812 223 336)	*[Redacted]*
	Facebook	TPExpress	*[Redacted]*
	Instagram	TPExpress	*[Redacted]*
HT	Twitter	@Hull_Trains	*[Redacted]*
	Facebook	Love Hull Trains	*[Redacted]*
	Instagram	hulltrains_official	*[Redacted]*
Lumo	Twitter	@LumoTravel	*[Redacted]*
	Facebook	LumoTravel	*[Redacted]*
	Instagram	LumoTravel	*[Redacted]*

– Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?

Ability to manage complaints over social media channels

None of FirstGroup's operators currently have the ability to record and respond to complaints raised on our social media channels in the way that they do through their existing complaints channels. *[Redacted]*

The current approach adopted by our operators when customers complain via social media is typically a combination of:

- responding to customers - to try and resolve the issue informally,

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- If a further and more detailed response or investigation is required, our Social Media teams will *[Redacted]*, and

- Encouraging complaints to be submitted through the established channels such as the forms on our operator websites.

Current social media management software (SMMS) systems, and customer relationship management (CRM) systems, are as shown in the table below.

Operator	Social media management software	Comment	CRM system	Comment
AWC	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
GWR	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
SWR	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
TPE	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
HT	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
Lumo	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*

Our operators have a mix of different SMMSs because they tailor their social media strategies and channels to their customer bases. In addition to having different requirements some of our operators were earlier adopters than others, and technology is developing quickly so the available features have developed at different rates for different solutions. *[Redacted]*

Other practical barriers – Identifying and capturing the required information

One of the complexities of using social media channels is the need to capture the information needed to handle the complaint effectively. This includes data capture at the point the complaint is raised, which should be tailored where possible to ensure operators have the correct information they need to resolve the complaint first time round, where possible. Typically, this is where operators use webform templates to capture the data required. Social media channels with less heavily controlled data entry requirements will increase complaint handling times, because the information captured is less likely to be complete, or supplied in as consistent a format.

Overcoming practical barriers to complaints via social media

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All of the approaches that we consider reasonable have some process implications, and would introduce potential contact ownership transfer between our operators' social media and complaints handling teams. These processes would need to be developed, and colleagues consulted, as appropriate. We have identified a number of implications that would drive costs and activity in order for these barriers to be overcome.

1. *Identification of incoming social media contacts as complaints*

In all cases it seems to us that there would need to be an ongoing manual review of social media messages either to identify those meeting the complaints criteria, *[Redacted]*. While our operators do some of this manual categorisation and review currently, we envisage more effort and resource will be required to complete this to enable a level of reporting that is compliant against a new licence requirement.

Example resourcing requirement – TPE

TPE currently employs a social media team of *[Redacted]*, and this uplifts to *[Redacted]*. This additional *[Redacted]* is required purely to enable TPE to *[Redacted]*. This highlights that it only takes what can be perceived as a small expansion to the social media proposition to drive a significant change in the resources required to deliver it.

To ensure the accurate identification and logging of complaints by TPE's social media team, factoring in the current Twitter coverage times and to mitigate the impact of disruption events, it estimates that an additional *[Redacted]*. As this brings the overall team to *[Redacted]*, we would require *[Redacted]*.

[Redacted]

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2. *Initial development costs / additional costs of procurement replacement SMMSs [Redacted]*

[Redacted]

3. *Associated staff training costs in use of new system*

Training requirements depend to some degree on the revised expectations that would be placed on the social media team to handle complaints, vs. the additional data capture and entry required *[Redacted]*. Again, the total cost depends on the size of the teams involved and would require revisiting with suppliers.

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> 4. *Ongoing software licences and support*

[Redacted]

> 5. *Additional staff required to identify complaints, log and update them, and either handle them, request the customer to use a direct channel, or pass the request on to / interface with the resolutions team*

The is the incremental cost of the actual service provision for handling the resulting complaints, which again depends on the number of incremental complaints generated by accepting social media as a complaints channel. *[Redacted]*.

Overall, the costs and resourcing requirements could be significant. Much depends on the volume of activity and the preferences of customers to using the social media channels. We note that it would be possible for operators to trial elements of the solution, for example by not publicising that they were accepting claims via social media, but by offering this on an ad hoc basis to customers at the point that their complaint was received via a social media channel.

– What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Potential impact on complaint volumes

Potential impacts on complaints volumes and resourcing are difficult to estimate due to:

- accurate data not being collected today, so volumes are unknown; and

- difficulty in determining the difference between a complaint and a simple query, also leading to uncertainty about volumes.

We have attempted to estimate the number of potential on-the-spot resolutions *[Redacted]*, as shown in the table below.

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Operator	*[Redacted]*
SWR	*[Redacted]*
GWR	*[Redacted]*
AWC	*[Redacted]*
TPE	*[Redacted]*
HT	*[Redacted]*

[Redacted]

Using this approach the overall impact of classifying these on-the-spot resolutions as complaints, while highly uncertain, could be a significant volume of additional complaints, with the figures above being based largely on Twitter alone.

We have concerns about potentially harming the reputation of not just ourselves, but the wider industry, if complaints volumes are increased in this way, and the drivers of these definitional and reporting changes are not broadly understood and accepted.

Even if the increase in complaints is widely understood, if operators began reporting on, and being benchmarked against other TOCs for social media complaints, they would be placed in a position where they would seriously have to consider whether to discontinue some of their social media channels as a contact method for their customers, as well as the adoption of any new / emerging channels for customer contact purposes. This is because increasing the channel mix would only serve to increase the number of reported complaints, despite the motivations for operators wanting to use these social media channels likely being focused on other use cases (and with the best intentions of the customer in mind).

Reporting in this way will likely reduce the consistency with which complaints will be reported between operators, if they are applying discretion in determining which complaints qualify. The risk is that this reduces the comparability of results between TOCs, leaves some operators at risk of being asked to justify their complaints performance relative to other operators whose recording policies they do not understand. This could be mitigated to some degree by categorising complaints by channel / source / other non-standard or subjective metric where applied, and excluding the incomparable elements from any comparison exercises. It would, however, need clearer guidance from ORR about exactly what was required.

Resourcing implications for on-the-spot reporting

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Moving on to consider resourcing implications, *[Redacted]* reports that of the social media responses sent in recent periods, *[Redacted]* of these responses were provided within 15 minutes, but the average first response time was *[Redacted]* minutes. *[Redacted]*.

[Redacted]

Clearly the additional resourcing needed depends on exactly what logging capability might be required, and the extent to which this can be automated.

It is of course already the case that operators are getting insights from these interactions, in the same way that we do from all of our social media communications, for example with *[Redacted]*, and other insight – communications do not formally need to be regarded as complaints (or reported to ORR) in order for them to have value for insight purposes.

Given the proportion of social media contacts *[Redacted]* insight generation from this feedback is already a key focus of our operators' social media teams. Our operators typically already *[Redacted]*.

This allows our operators to target their resources and inform their business strategies. EMA, ERMA and NRC operators also already have a range of obligations and/or incentives to identify insights from their businesses and apply these to identify areas for improvement, to which this contributes.

There may also be an argument that praise received via social media is also not logged in a similar way and therefore positive feedback is also not being recorded officially in the ORR reporting.

So, we believe we are generating insight from this activity that is being fed back into our operators' businesses to inform their new initiative development. If we need to provide outputs in a consistent format, for example, then the amount of systems development work needed would be driven by that.

Potential for automation

As described above, the potential for automation, and its cost implications, depend on the level of reporting required. As discussed earlier, most of our operators have *[Redacted]*, which might be sufficient for ORR's requirements, but *[Redacted]*. More complex or substantive reporting would likely require *[Redacted]*, with very similar requirements as to those previously discussed in relation to accepting complaints via social media channels.

In addition, operators will need to consider whether it is appropriate to improve the capability of their on-the-spot resolution to provide compensation or other more substantive forms of redress for passengers. Associated system development would then be needed, (e.g., *[Redacted]*).

Focusing on the reporting aspects, in addition to the increases in resourcing discussed above, there would be additional training system costs,

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development and licences, as discussed in the earlier section on formally accepting, recording and responding to complaints raised via social media channels.

Provision 3: Recording complaints

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

No comments, it appears clear, proportionate, and complete.

Provision 4: Responding to and investigating complaints

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

Generally, we are supportive of the proposals although we are not in favour of extending this to cover internal targets and note that this appears to be out of line with ORR's thinking and rationale in paragraph 3.92 in relation to collecting that data.

Provision 5: Resolving complaints

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

Yes, although in relation to paragraphs 3.53 / 5.63 we are not clear if this is intended as a change to current practice for declaring complaints as vexatious/frivolous where operators have to get agreement from Transport Focus/London TravelWatch before doing so. It would be helpful if ORR could clarify.

Provision 6: ADR

Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

We are supportive of raising awareness of ADR on our website, and during the complaints process itself. Adding this information to the initial complaint

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acknowledgment adds some risk of distracting the customer from the other key points of the communication. However, our experience of signposting ADR in acknowledgement emails is that it has little impact on ultimate ADR referrals, is manageable, and may help with awareness, so we agree it can be an appropriate mechanism.

Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?

Yes.

Reducing the 40 working day timescale

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

We provide some evidence of the current position for our existing processes. Indicative average response times in working days:

Operator	Average complaint resolution time excluding "stop the clock" (working days)	Average complaint resulting time including "stop the clock" (working days)
SWR	*[Redacted]*	*[Redacted]*
AWC	*[Redacted]*	*[Redacted]*
GWR	*[Redacted]*	*[Redacted]*
TPE	*[Redacted]*	*[Redacted]*
HT	*[Redacted]*	*[Redacted]*

[Redacted]

The table below shows the percentage of complaints closed/resolved by the following working day deadlines:

Operator	20 days with "stop the clock"	20 days without "stop the clock"	40 days with "stop the clock"	40 days without "stop the clock"
SWR	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
AWC	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
GWR	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*

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TPE	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*
HT	*[Redacted]*	*[Redacted]*	*[Redacted]*	*[Redacted]*

[Redacted]

Overall, the challenge for operators is to get the right balance; customers want quick responses, but they also want a thorough response. If the timeframe is set too short, operators' performance will suffer as they will be forced to take short-cuts, or will require additional resources. The longer the window, the greater the operational flexibility that operators have, which is particularly useful at periods of peak demand. However, fast and high-quality complaint responses drive positive customer sentiment and satisfaction. Operators also need to consider their costs of processing complaints to ensure that these remain efficient and proportionate.

Our operators' experience suggests that some complainants *[Redacted]*. Repeat contacts or 'chasers' for complaints tend to materialize around the *[Redacted]* working day mark or later.

This would tend to suggest the 40 working day limit should be reduced. Current complaints resolution times suggest this should be achievable in the majority of cases.

Based on current volumes and our high response rates, 20 working days seems appropriate as an overall goal.

However, we are not clear about the rationale for removing "stop the clock" time. It seems reasonable to us that operators should be given a reasonable opportunity to consider the complaint and attempt to remedy any shortcomings before the complaint is escalated to ADR. That also appears efficient from an industry cost perspective for complaints management. The risk is that the period before ADR becomes too short for operators to complete their investigations and propose a resolution, not for a lack of willingness but due to complainant unresponsiveness, for example to requests for further information, resulting in ADR escalations that are premature. This would potentially apply particularly in periods of peak caseload and would heighten overall resourcing challenges to meet this demand, particularly in terms of senior resourcing for internal escalation in the more complex cases.

For example, the rolling average for first-contact resolution of complaints currently sits at *[Redacted]* across all its contact centre channels. This suggests that while most complaints are resolved relatively speedily there is a reasonable tail of complaints that take longer, and require more interaction between the complainant and the operator. The timing for these longer, more complex complaints is also therefore more under the control of the complainant.

Our concern is that if stop the clock is removed there could be those who wish to play the system and incur extra cost for the rail company, putting pressure

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on operators to settle prematurely or risk an Ombudsman referral, again at additional cost to the industry, that would otherwise be unwarranted.

If ORR could lay out its rationale, evidence and the driving factors behind this proposed change more clearly, it would be most welcome. As it stands, we would prefer a time limit that excluded stop-the-clock time and, as long as this is taken into account when setting that time limit, do not see any downside impact on our customers.

Q14. If yes, do you believe that the time limit should be reduced:

(i) to 20 working days or deadlock (whichever is sooner) or

(ii) to 30 working days or deadlock (whichever is sooner), or

(iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

While average complaint resolution timelines are typically shorter than 20 working days already, a step-change reduction from 40 to 20 would be a very significant change. Given the proposal to also exclude "stop-the-clock" time we would prefer a phased approach to allow operators to see the impact at each stage and plan their resources most effectively. As a result, option (iii) is the most attractive, although we note that the phased reduction in steps of two full working weeks each is still large and would prefer a larger number of smaller steps in the profile. We suggest a better approach might be an initial reduction to 30 working days and then a review to consider whether 20 or 25 days might be the most appropriate next step. In proposing this we recognise:

- that the industry should be seeking to continuously improve its response times and that 20 working days, while a reasonable overall goal, should not be the limit of our longer-term aspirations, and

- these time limits are always likely to be most significant for dealing with the more complex complaints and the majority of more straightforward complaints are already resolved within these deadlines.

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

It is not clear how much advance notice of these changes operators will be receiving, which has a significant bearing on the lead time. This is particularly relevant given the *[Redacted]*.

Notwithstanding the above, a reduction to 30 days from 1 April 2023 is likely deliverable. A further reduction from 1 April 2024 (potentially to 25 or 20, as above) would be possible but is more likely to drive some operator cost increases which would need to be budgeted for or otherwise funded, and the

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resources procured in advance of implementation. It therefore seems reasonable for operators to prepare for this during the 2023/24 rail year, to support the 1 April 2024 change. Allowing a year between the 1 April 2023 and 1 April 2024 changes would also provide sufficient time to allow a review of the impact of the initial reduction to 30 days and the industry's ability to support the further reduction to 20 or 25 days.

ORR may want to consider whether the planned change to the Rail Ombudsman, and ORR taking sponsorship responsibility, might cause any disruption to its delivery capacity. If so, it might be appropriate for ORR to review this schedule to avoid any increases in ADR referral volumes driven by a reduction in the time limits coinciding with this activity.

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

Our evidence is incorporated in our answers above, as requested.

Provision 7: Reporting

Response times

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?

– Percentage of complaints resolved within 20 working days

– Percentage of complaints resolved within 10 working days

– Average response time for resolving complaints

Yes, we agree with the minimum metrics, on the basis that "resolved" is as per the current definition (and as described in Provision 5 para 5.60: "by which we mean there are no outstanding actions required on the part of the licence holder").

We suggest that any published reporting metrics would benefit from allowing comparison between TOCs. So, for example, total number of complaints should use a consistent definition of complaint (as discussed earlier in relation to accepting complaints via social media channels) and be expressed per 100k journeys to allow for more direct comparison than would absolute complaints volumes alone.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required

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to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

No comments.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

We agree that this is a sensible approach.

Continuous improvement

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

No comments on the proposed approach.

Our operators have identified some areas of opportunity with PRO reporting, which we believe could be smoother to complete and more clearly laid out. As a result we suggest this as one area that could be looked with a view to reform.

Quality in complaints handling

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

In principle, yes, we agree with the approach. We note the comment in paragraph 3.107 that there was a desire amongst train operators to collaborate with ORR in coming up with revised standards and indicators, and agree that operators should be involved in this process of agreeing the revised suite of performance metrics.

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

Operators have access to a number of data sources that could be helpful with this process, and we would expect to draw on these as part of the engagement with ORR on the content, e.g., as referred to in paragraph 3.109.

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These data sources could include operators' own customer satisfaction and other survey results, Wavelength survey results, and mystery shopping / service quality regime results as appropriate.

Driving wider learning from complaints

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

We believe so. We understand that *[Redacted]*, and insight from customer complaints can continue to support these efforts.

Provision 8: Training, resourcing, and quality assurance

Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

In terms of our current training and refresher activity, *[Redacted]*.

[Redacted]

Given the above, particularly that: (a) there are different types of training covering different topics and with different drivers impacting the requirements and frequency for that training to be completed, and (b) at least some of the training is conducted on a needs-assessed basis by individual rather than to a fixed schedule, our view is that the "regular intervals" should be for the operator to determine and suggest that a maximum period of 24 months is reasonable. Naturally we expect that process/compliance/policy changes would need to be communicated ad hoc as they arise, and that 24 months serves principally as a backstop.

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

We are supportive of the requirements of Provision 8. We note, however, that resourcing for complaints handling is broader than just the staff managing complaints. In addition, there are technical/systems support, supplier relationship management and other activities required for operators to deliver their overall complaints management solutions.

Overall, resource requirements will need to be managed and reviewed very closely. The level of complaints handling resource for our operators is determined based on forecast complaints volumes developed by our operators for their businesses. This is not necessarily straightforward as peaks in

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complaints are not typically driven by planned activity in the business. Therefore, the requirement that resources be sufficient to handle complaints in a timely manner will need to be balanced with the likely unpredictability of exceptional spikes in demand. We agree that operators should be giving reasonable consideration to the contingency measures that may be required in these circumstances.

Annex B – draft obligation on licence holders

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

In paragraph 4.4 we agree with the shift of emphasis to put the onus onto operators to ensure that their CHPs satisfy the requirements of the Code of Practice. However, our operators find ORR involvement in the current approvals process to be valuable and a helpful source of feedback on the content of our CHPs, and we would not like to lose this input into the CHP development process. We hope that TOCs will continue to be able to benefit from this input by requesting ORR review of draft CHPs before publication. Can ORR confirm that this will be the case or otherwise clarify its intent? We note that paragraph 4.5 refers to operators continuing to be able to seek the views of Transport Focus and London TravelWatch, but it does not mention ORR.

In paragraph 4.4, the consultation document discusses the onus being on operators to satisfy the requirements of ORR's Code of Practice, "with ORR having ultimate recourse to take compliance action where necessary." We request that ORR clarify as to what such compliance action might comprise.

In Annex B 2(c) we note the requirement to notify ORR if the Relevant ADR Scheme ceases to be Compliant. This makes sense to us under the current industry structure, but less so if ORR itself has responsibility for sponsorship of the Rail Ombudsman as described in paragraph 1.22. Is there an alternative formulation of the requirement that might be more accommodating of this expected change to the industry structure? Similarly, Annex B 2(c)(iii) refers to Rail Delivery Group and there may be a form of words that gives more longevity to the relevance of this obligation.

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

No additional comments.

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

From:
Sent: 30 September 2021 11:45
To: ORR CHP <CHP@orr.gov.uk>
Subject: [EXTERNAL] Re: Consultation on a new Complaints Code of Practice

Dear ORR colleagues

Thank you for details of your proposed new Code of Practice (CoP) for operator's Complaints Handling Procedures (CHP), and the following is Glasgow Prestwick Airport's response to your consultation questions, which I have been authorised to send to you on their behalf. We write as a small station operator on the rail network, owning and operating a single station known as Prestwick International, and which is directly linked to Glasgow Prestwick Airport (GPA.) We are recognised by ORR as a small bespoke station operator, and historically our level of complaints is very low. Nonetheless, GPA does support the key principles set out in the proposed CoP for an effective CHP but believes the requirements of the process must be proportionate to the size and scope of its operation.
Our answers to your questions are as follows - for ease of reference your questions are shown in *italic*.

Complaints Code of Practice
Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?
No – GPA finds the proposed an improvement on the former guidelines.
Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?
No – we believe that the complaints policy should support the principles laid out.
Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?
No.
Provision 1: Information for passengers
Q4. Are the provisions on information requirements clear and proportionate?
Yes – GPA already meets these requirements.
Provision 2: Receiving complaints
Q5. Do you have any comments on our proposals regarding websites and other access routes?
We understand the reasons for websites referencing complaints, but we would ask that meeting this requirement is proportionate to the size and scope of our operation.
Social Media
Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?
Yes – GPA already does this.
Q7. - What social media channels do you currently operate (e.g. Twitter, webchat, other?) Facebook, Twitter, Linkedin and Instagram

> *- Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?*

Yes

> *- What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data. Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?*

GPA would record any rail sector complaint received by social media. The circumstances of train companies receiving a large number of tweets due to periods of train disruption etc., would not happen to a small single station operator, and we would have no further comment on this aspect.

Provision 3: Recording complaints

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

Yes – no further comment

Provision 4: Responding to and investigating complaints

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

No further view in regard to our requirements to respond to complaints, which are broadly in line with our current CHP.

Delays in Handling Complaints

In regard to widespread failure to adhere to timescales for response, as previously stated it is unlikely that the size and scope of our rail operation would lead to such a widespread failure that this question anticipates.

Provision 5: Resolving complaints

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

Yes

Provision 6: ADR

Q11 Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

No.

Q12 Are our signposting requirements clear, proportionate and reflective of current ADR practice? and

Q13 Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

Q14. If yes, do you believe that the time limit should be reduced:

(i) to 20 working days or deadlock (whichever is sooner) or

(ii) to 30 working days or deadlock (whichever is sooner), or

(iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

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

We have no practical experience of ADR to date, and therefore we are unable to comment on these questions.

Provision 7: Reporting

Response times

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?
Percentage of complaints resolved within 20 working days
Percentage of complaints resolved within 10 working days
Average response time for resolving complaints
No Comment (see Q17)
Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics?
As a bespoke single station only operator, GPA is required currently to report core data metrics on Assisted Travel issues every 6 months, along with the CHP metrics, and it is not a problem to report on our performance. Our rail industry complaints levels, however, are historically extremely low, and if any information is required, the metrics must be proportionate to the levels we are dealing with.
Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?
Although we have no experience of ADR, there is no problem in signposting to ADR at the appropriate number of days. Once again, it must be proportionate.
Continuous improvement
Q19. Do you have any comments on our approach regarding continuous improvement, and the requirement that all licence holders publish data on their continuous improvement activities?
GPA supports continuous improvement, but we are unable to comment further on the proposals due to the historically extremely low number of rail sector complaints received. Once again, the issue of proportionality arises.
Quality in complaints handling
Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?
We have no issue with the principle of improving quality, but any form of metrics to produce the required picture of quality must be relative to the level of complaints being handled. Once again, to a small station only operator, this must be proportionate.
Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?
No further comment.
Driving wider learning from complaints
Q22. Are the existing fora sufficient to best facilitate continuous improvement and learning from complaints across industry? If not, what further measures would you like to see, and how can ORR best play a role in facilitating them?
No further comment
Provision 8: Training, resourcing, and quality assurance
Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?
GPA will always ensure that those involved in complaints handling receive appropriate training and refresher training. As a small operator, difficult to define what constitutes regular intervals in this context.
Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?
No. GPA believes its resources for handling complaints is at a satisfactory level to handle its rail sector complaints.

I trust you find our responses satisfactory, and please do not hesitate to contact me if you wish to have any further detail on any response.

Kind regards

Glasgow Prestwick Airport

I

Govia Thameslink Railway response to ORR's consultation on a draft complaints code of practice.

From:
Sent: 08 October 2021 18:22
To: ORR CHP <CHP@orr.gov.uk>
Subject: [EXTERNAL] ORR Consultation on a draft Complaints Code of Practice

Dear Colleague

Thank you for the opportunity to respond to the ORR consultation on a draft complaints code of practice sent to TOCs on the 04th August 2021.

I am emailing on behalf of GTR and note that RDG will be similarly submitting a response on behalf of the industry. GTR have inputted our views into that document and fully support its content.

There is one area where we would like to present additional commentary and that is around the section covering social media (presumably just Twitter) and introducing this channel as a formal complaint method.

GTR have a mature and established Twitter offering which provides customers with an informal channel to ask for train running information, general advice and to discuss potential complaint issues. All contacts raised via Twitter are anonymous. It is impossible to respond to all mentions given the very high volumes incoming and there are many mentions that are purposefully not replied to as they may be vexatious rude, campaigning or individuals joining other chatter and sharing their opinion. Our current approach signposts bona fide complaints that cannot be handled in a public forum to the traditional Customer Relations channel. It is occasionally not in the customers best interest nor the industries to carry on with potentially reputationally damaging, sensitive or inappropriate issues in this channel.

Furthermore to commit to responding to tweets as a formal complaint channel would require a significant headcount uplift and inevitable technical development over to omni-channel functionality to track cases through from social into a CRM. I am not aware of the feasibility of this or likely costs but it would be high and no doubt technically challenging without any obvious customer benefit given that customers are currently satisfied and understand the purpose of the varied contact channels available.

If you require any further information, please don't hesitate to contact me, and again we thank the ORR for the opportunity to contribute.

Kind regards,

Govia Thameslink Railway

2nd Floor, Monument Place, 24 Monument Street, London, EC3R 8AJ

Response to ORR's Consultation on a Draft Complaints Code of Practice

October 2021

Introduction

Network Rail welcomes the opportunity to respond to Office of Rail and Road's (ORR) consultation on a Complaints Code of Practice, published 04 August 2021. We know that strong and reliable complaints handling processes are essential to good customer service, enabling us to put things right and continually improve the passenger experience which is key to realising our Putting Passengers First vision.

We recognise that the Williams-Shapps Plan for Rail will impact the industry's complaints handling processes but agree with ORR that it is important to bring existing practices up to date and continue to drive improvements. We have responded to this consultation based on the current industry structure and mechanisms but appreciate that a focus on culture and principles will provide a strong basis for the future of the industry.

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

Network Rail is supportive of ORR's proposal to focus on key principles of Complaints Handling through a Code of Practice, which enables rail operators to apply the principles to its own business values and operational models. A focus on culture aligns with Network Rail's own Putting Passengers First vision.

It is important for operators to have ownership of their own CHPs, so we support the shift from existing arrangements whereby the guidance sets out prescriptive content and presentational requirements to approve CHPs. Notwithstanding this, we expect to continue positive engagement with ORR on interpretation and application of the code of practice and would value feedback.

We believe that the flexibility to apply principles in the best way for each business, as well as increased ownership of CHPs, will drive innovation and improvement for the benefit of passengers.

In the draft code, we believe that paragraphs 5.20 and 5.21 make provision for ownership of a complaint, therefore paragraph 5.26 is unnecessary. As Network Rail's station licence does not relate to Network Rail as a 'supplier', we believe this is unnecessary and irrelevant to include in the code.

We do not agree, as set out in paragraph 5.31 in the draft code, that Board level view of metrics is necessary. Network Rail's Board is not accountable for the day to day running of the business so would not be accountable for identifying and addressing systemic issues. We recommend executive leadership level ownership of this, with proportionate assurance reporting to Board.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?

We support the key principles outlined in ORR's draft code of practice. In line with later paragraphs in the policy and ORR's consultation, we believe that metrics and insight are vital to inform continuous improvement, and therefore suggest that ORR could consider reflecting this as a key principle, or more explicitly within key principle (g); open and accountable.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

We agree with ORR's proposed updated definition.

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

The draft provisions on information requirements are clear and proportionate. We particularly support the proportionate provision of complaints handling information depending on the medium, reflecting the reality that we can practically provide more detail on our website than on a station poster or social media, for example. It will be important for operators to work together to display information clearly and consistently in stations with multiple operators. For example, being clear when customer should direct contact and complaints to Network Rail as station manager or train operators.

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

We agree that intuitive access to the complaints page of websites is important, and that this is not only defined by the number of clicks it takes to get to the page. Despite ORR recognising that the number of clicks is not the only way to define ease of access, the proposal in the consultation appears to be centred on being one click (or 'direct access') from the homepage. While we agree that there may be merit in direct access, it may not always be the most appropriate approach when considering the scope and volume of information provided via operators' websites, and specifically homepages. In the spirit of applying key principles in the best way for each operator, we do not think there is a need to be so prescriptive on this requirement.

Insight from feedback, enquiries and compliments is equally important to insight from complaints in improving our overall service to passengers. We therefore believe that the requirement to include the word 'complaints' on the homepage places undue emphasis on complaints, where 'contact us' is already clear and intuitive.

ORR's consultation references 'one particularly clear example' in its sample of websites. We would be interested in discussing any evidence ORR has that including the word 'complaint' on website homepages leads to a higher rate of satisfaction with the overall complaints handling process. This is not to say that we should not challenge ourselves to make our website as accessible and intuitive as possible, but again we do not agree that a prescriptive approach is aligned with ORR's proposed move to a principles-based code of practice.

Beyond the homepage considerations we have outlined above, we agree that, for Network Rail, it would be appropriate to provide a direct link to our CHP from the contact page of our website. However, it is important for individual operators to consider how their website works as a whole and the best way to present information. This is also relevant to ORR's proposals on signposting to ADR on websites.

We support removing the expectation to provide paper complaint forms (though clearly some operators may choose to provide them), and CHPs should clearly set out the information required if complaints are submitted in writing.

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

In principle, the complaints process should support the best option for the customer. However, servicing complaints via social media would often be impractical in line with the full investigation and response commitments of our CHP and would present resourcing and technological challenges (for example alignment between social media and complaints management systems). While some forms of social media are more established and used more widely across industry, additional costs may be introduced for new technology and resource solutions as social media is continually evolving. To be able to assess whether it is feasible and practical to respond to individual cases via social media, there would likely need to be blanket investment in solutions. In our experience, the majority of complaints cannot be fully investigated and responded to via social media. So, while we agree with the principle, we do not believe this is currently workable and there would be significant cost impact to industry to consider.

Q7. To industry:

- **– What social media channels do you currently operate (e.g. Twitter, webchat, other?)**

  Network Rail currently operates Facebook, Instagram, twitter and webchat.

- **– Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?**

  We have found that most current complaints on social media cannot be fully investigated and responded to through the same channels, so the complaint is transferred and responded to via another system to enable us to investigate, respond and record relevant details. Implementing technological solutions needed to enable full response via social media in line with our CHP commitments is a practical barrier.

  Determining whether contact via social media requires a direct response is also a practical barrier, particularly during times of disruption. This would impact our ability to meet the commitments in our CHP. This includes cases where multiple rail companies are referenced in social media contact and with limited information it could be challenging to determine which rail company should record the complaint.

- **What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?**

  There would be a considerable investment and resource requirement if on-the-spot resolution to social media contacts were recorded within complaints data, particularly during time of disruption. Current reporting includes several sub-categories including incoming volumes, categories and turnaround times. Our current system capability would

not be able to meet the full scope of reporting requirements therefore it is important to understand the purpose and breadth of reporting and consider the value that would be gained against the cost to the industry of merging social media with complaints systems.

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

The draft requirements are proportionate and consistent with the information we currently record.

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

The overall requirements are sensible and proportionate. However, we do not believe that it should be a requirement to inform ORR when there is a likelihood of failing to adhere to our own internal targets for responding to complaints during disruption. The additional burden of having to inform ORR when internal targets are at risk may discourage rail operators from setting stretching targets for themselves. From a practical perspective, the devolved nature of our business, which enables regional comparison and a competitive dynamic, means that each Network Rail region develops target ranges that reflect realistic and targeted improvements from their own historic performance. This would result in frequent and unduly burdensome communication with ORR.

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

The requirements are clear and proportionate while providing the flexibility to embed processes suitable for each business and provide customers with clear escalation and resolution options.

Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

We agree with the principle of increasing awareness of ADR. On websites, we believe a considered and proportionate approach is needed. This is particularly relevant for Network Rail for which only a small proportion of contact received (managed station complaints) would be within the scope of the code of practice. We have escalation routes available for other types of contact and want to ensure that we can present all routes in the clearest way for our customers without unintentionally directing out of scope contact towards the Rail Ombudsman. For both websites and acknowledgements, it would not provide confidence for customers to give the impression that our own processes will not successfully resolve their complaint, or inadvertently encourage them to contact the ADR provider in the first instance before we have had the opportunity to investigate and potentially resolve the complaint. We recognise that the ADR provider would not consider cases that operators have not yet had the opportunity to resolve, therefore this could cause further frustration for the customer as they would be informed they have to wait. Additionally, as the draft code includes a proposed requirement for acknowledgements to provide a link to CHPs which includes full detail on ADR, it would be duplicative to also provide information on ADR within the acknowledgement itself.

Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?

We agree that the proposed signposting requirements are clear and proportionate.

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

In principle, we agree that 8 weeks is a long period for customers to wait for referral to ADR, but the practical impact of reducing this should be considered. This would reduce the time available to potentially gather valuable information through follow-up and resolve complaints through our own internal escalation process.

As operators cannot control the time it takes customers to provide additional information or follow up, we believe the 'stop the clock' approach is still important to the complaints handling process. A blanket arrangement to refer complaints to ADR at 20 working days may reduce the opportunity for early resolution and potentially increase operator costs.

Q14. If yes, do you believe that the time limit should be reduced:

- **(i)** **to 20 working days or deadlock (whichever is sooner) or**
- **(ii)** **(ii) to 30 working days or deadlock (whichever is sooner) or**
- **(iii)** **(iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?**

Most complaints we receive are responded to within 20 working days, but for those that do take longer it may cause confusion for the customer if we have not provided a response yet but are referring them to ADR. This could be reputationally damaging, giving the impression that we are passing the complaint on without thoroughly investigating it and addressing any issues related to it.

ORR notes in the consultation that changes to these timescales may drive additional cost, which should be considered alongside the current financial challenges of the industry and an expected rise in complaints as passengers return to the railway.

ORR's consultation also recognises that speed should not always be emphasised over quality and doing so may result in more referrals to ADR because the investigation has not been as thorough as it would have been.

Considering the factors above, we would support a phased reduction to timescales for referral to ADR, as long as the industry is still able to prioritise the principles of quality investigation and clarity for customers, which would need to be reviewed at each phase.

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

Current uncertainty regarding passenger numbers makes it difficult to determine an appropriate lead time. We would therefore recommend using the remainder of 2021/22 to understand post-COVID complaint volumes and provide a baseline on which to improve.

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?

– **Percentage of complaints resolved within 20 working days**
– **Percentage of complaints resolved within 10 working days**
– **Average response time for resolving complaints**

We agree that these metrics will provide valuable insight into industry performance on complaints handling. However, all of these metrics cover complaints that have been closed. Network Rail also internally reports on the average age of open complaints to capture the full picture and understand good practice and areas for improvement across our whole complaints handling process.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

We agree that is it important to provide transparency across the industry. We recommend that the context for each operator is represented through public reporting to enable fair comparison across the industry. For example, managed station complaints, to which the code would apply for Network Rail, are a small proportion of all Network Rail's contacts. Peaks in contact across other categories would impact metrics across all contact, including managed station complaints.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

We believe that removing the regulatory target enables a focus on internal targets to drive continuous improvement rather than a focus on only the minimum regulatory requirement. A focus on process is likely to emphasise resolution before signposting which is positive. However, as noted previously in this response, we support phasing the reduction in timescales for referral. We also recognise that ORR may use several indicators to inform its approach to monitoring, and that there is still value in monitoring the percentage of complaints closed within 20 working days.

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

We support this approach and there are already forums in place for licence holders to share learning and drive continuous improvement across the industry. We believe that public reporting should also assess and report on any common improvements (or areas that still need more focus) across the industry, to bring together themes from the information published by each licence holder and show progress across the industry.

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

We agree that considering quality within metrics would give a rounded picture of complaints handling. However, there would need to be consideration of how these metrics would be embedded

and reported across the industry, noting different operating models and internal reporting arrangements, in order to present fair and reasonable comparison of quality metrics.

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

In addition to industry measures that are available (e.g. wavelength) Network Rail carries out its own quality checks. The results from these are considered across the full breadth of contact we receive, rather than just managed station complaints. We would welcome continued regular discussion with ORR on the more qualitative aspects of our learning and the actions identified.

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

Network Rail attends the existing RDG Redress & Support group which addresses industry complaints handling. We would support a continued sharing of experience and insight across the industry. We also recognise that ORR will be well placed to provide insight from CHPs and related data across the industry, which we would welcome regular engagement on.

Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

Training requirements should be dependent on how often individual colleagues deal with complaints as part of their day-to-day role. We would recommend refresher training at a minimum of once per year, with additional, focused training to address any shortcomings in process or behaviours or roll out newly identified good practice and share learning.

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

We agree with the proposed requirement but note the need for flexibility to consider changing circumstances, such as widespread disruption, peaks in contact or the recent changes to working arrangements driven by the pandemic (which required an agile approach to identifying and embedding IT and resource solutions).

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

Whilst the formal acceptance of proposed licence changes is a matter reserved for our Board, we support a simplified licence condition with certain requirements transposed into the code of practice. This gives ORR more flexibility to update the code as we understand how arrangements are working in practice. The proposed licence condition would form part of the Network Rail Station Licence, which relates to our Network Rail Managed Stations. While it is important for ORR and the industry to recognise the broader scope of contact Network Rail manages, it is not appropriate for the code to extend to lineside neighbours and user level crossings which do not come under the scope of the station licence and therefore ORR's code cannot be applied.

Nexus response
Complaints code of practice

Complaints Code of Practice

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

No comments

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?

No comments

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

No comments on this in principle, although the potential impact of this on social media is commented on later.

Provision 1: Information for passengers

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

No comments

Provision 2: Receiving complaints

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

No comments

Social media

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

Nexus' main comment on this proposal is around the "feasible and practical". Currently, for social media platforms that are monitored in real time (see response to question 7 for more information), a response is given to queries related to the service or other commonly asked items such as key policies e.g. where/when bicycles can be taken on Metro trains. Some complaints are given a response on the spot, however if the complainant is requesting more detailed information or the complaint is concerned with a detailed service area, they are directed to submit the complaint via email. This also applies to more detailed/specialist queries where the Customer Information Controller (responsible for monitoring social media in real time) does not have the detailed knowledge.

Q7. To industry: – What social media channels do you currently operate (e.g. Twitter, webchat, other?) – Do you have the ability to record and respond to complaints raised on your social media

channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future? – What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Nexus currently operates Twitter to provide real-time service information, with Twitter also monitored in real-time to respond to customer queries or complaints. Facebook and Instagram are also operated, however they are not used for real-time service information and are not monitored in real-time. Nexus does not have a webchat facility.

Nexus' ability to respond to complaints on social media is outlined above in question 6. No records are made of such responses; Nexus does not have any software that records/manages social media correspondence/complaints. Any recording would have to be done manually which would detract from the ability and speed of response to other queries (the responses are carried out by the Customer Information Controllers in the Control Room, who also monitor CCTV, make announcements at stations and respond to Help Point queries, so during periods of disruption they are extremely busy).

An alternative approach of having social media complaints responded to by Customer Relations (who respond to complaints made by web site/email, telephone and post) would rely on manual systems and therefore be vulnerable to queries being overlooked or the response time to customers suffering. For example a customer could make a complaint on a Saturday with the Customer Information Controller not responding due to it being a complaint, with Customer Relations then only responding on Monday (or later, depending on volume of correspondence at that time).

Nexus is not aware of any way of automating the management of social media correspondence within a CRM system and would be keen to learn from other TOCs. Implementation of any revised arrangement would be dependent on funding being available and procurement timescales.

In Nexus' experience the majority of social media correspondence tends to be frustrations expressed about a situation occurring at that time, and being able to give a prompt response to the immediate concern is important. If the customer then seeks further detail then directing to Customer Relations who have the capacity and skills to fully look into the item is felt to be the most appropriate course of action.

Provision 3: Recording complaints

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

No comments

Provision 4: Responding to and investigating complaints

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

Nexus does not currently acknowledge complaints made by post, as this is resource inefficient as a response could be sent one or two days later. As an improvement, an acknowledgement could be sent if response target timescales are likely to be exceeded.

Nexus does not consider that failure to adhere to internal targets should be notified to the ORR. This would already be reported internally within Nexus for action, and if the ORR started taking action on this basis then it could provide a perverse incentive to set internal targets at the same level as those in the Complaints Code of Practice.

Provision 5: Resolving complaints

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

No comments.

Provision 6: ADR

Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

No comments.

Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?

No comments.

Reducing the 40 working day timescale

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

Nexus agrees that the timescale should be reduced from the current 40 working days, however see comments in response to question 14.

Q14. If yes, do you believe that the time limit should be reduced: (i) to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner), or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

Nexus considers that 20 working days is appropriate but only if 'stop the clock' can be used within this. Given the time that can be taken for complainants to provide further information, if 'stop the clock' was not used then there may be insufficient time to respond.

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

No comments

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

Provision 7: Reporting Response times

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below? – Percentage of complaints resolved within 20 working days – Percentage of complaints resolved within 10 working days – Average response time for resolving complaints

No comments

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

No comments

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

No comments other than the 'stop the clock' response to question 14.

Continuous improvement

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

No comments

Quality in complaints handling

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

Nexus agrees that the quality of a complaint response is important and supports development of performance metrics that give cognisance to this.

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

No comments

Driving wider learning from complaints

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

The analysis of core data and publication of the analysis by the ORR along with any learning is valuable.

Provision 8: Training, resourcing, and quality assurance

Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

Every 1-2 years; there should be a degree of flexibility around this as it can prove challenging to both release employees and have the capacity for training due to factors such as complaints levels, sickness and other items.

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

The term "adequate resources" is almost meaningless as it is very subjective as to what is adequate.

Annex B – draft obligation on licence holders

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

Nexus has found the ORR's comments can add value, particularly in areas where other TOCs have encountered similar issues and there are solutions that the ORR is aware of. Nexus would be keen not to lose this, or for the capacity currently spent by the ORR on reviewing/approving CHPs to be used in promoting and sharing good practice.

NORTHERN

Northern Trains Ltd

Response to:
The ORR Consultation on a draft Complaints Code of Practice

Date:
27th September 2021

For enquires regarding this response please contact:

Introduction:

The following is the Northern Trains Ltd ("Northern") response to the consultation on a draft Complaints Code of Practice, dated 04 August 2021.

Consultation Questions: The Complaints Code of Practice

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

- **We have no specific comments on the proposal other than that we support the content.**
- We request that further clarity is provided on the expected transition process to the new Code of Practice following the conclusion of this consultation.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints' handling procedure that should be included?

- **Our view is that the proposal covers this area effectively.**
- We would welcome further clarity in relation to the managing of individual complaints relating to multiple Train Operating Companies.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

- **We support the proposed approach.**

Provision 1: Information for passengers

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

- **Yes, in the main these are clear and proportionate across the various channels.**

- **Requirement for posters displaying complaint process information:** we believe that this could potentially be confusing in cases where there are multiple TOCs (and perhaps also Network Rail) active at individual stations. We would therefore suggest that a caveat is added to this proposal which states, *'where possible' or 'where space available'*. In general we believe it would be more effective to highlight online resources to customers rather than having to place full details on a poster, whilst accommodating the small proportion of customers without internet access via the Customer Experience Centre.

- Northern already have in place station posters that display welcome messages or contact information. These could be adapted to reflect the consultation requirements. As a wholesale revision will present a significant cost, could ORR provide a timeline for compliance (rather than mandate this requirement Day One implementation)? Our preference would be to apply these changes as part of our ongoing station quality reviews and/or as part of our scheduled poster revision process in order to demonstrate cost efficiency.

- There is no reference to the display or provision of a paper version of the CoP at stations. Is there to be a requirement to provide a paper copy on customer request via our Customer Experience Centre and/or staffed stations, or would you consider a printable version available on our website to be sufficient?

Provision 2: Receiving complaints

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

- **We are generally supportive of the proposals.**

- **Website wording / signposting:** In line with our established approach to customer messaging we would request flexibility to use alternative wording to 'Complaints', which we believe is an overly negative indication of an offer of support, and too specific in the context of the wider support we offer to customers.

- Our preference would be to continue to use 'Help', as this covers multiple area of customer support (including the managing of complaints). The 'Help' link on our website takes customers to a page where a number of support topics are covered. We do not believe that this inhibits customers wishing to make a complaint in any way.

- We believe that, in the case of general customer service issues on train affecting all travelling customers, these are better managed through announcements outlining details of the prevailing issue(s) and how Northern can be contacted should the customer wish to complain. In such cases the distribution of paper forms may be impractical (such as on heavily loaded trains) and/or distract on-train staff from resolving the issue.

Consultation questions: Social Media

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

- **We agree in principle, with the following key considerations:**

- Social media is often utilised to air more general views of rail service provision, and not always by active customers. Comments that don't represent a specific complaint about service provision are important to note but require a different approach from that taken for complaints, and therefore require identification, categorisation and a discrete form of resolution.

- We would welcome guidelines that inform TOCs' classification of social media comments and complaints, assisting the correct identification of conversation, feedback and actual customer service complaints.

Q7. To industry:
What social media channels do you currently operate (e.g. Twitter, webchat, other?)

- Webchat (via our Customer Experience Centre)
- Facebook
- Twitter
- Instagram

Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?

- We currently manage this by referring complainants approaching us via social media to our complaint resolution processes, including reference to the Customer Experience Team where appropriate. **The Social Media and Customer Experience functions require different approaches and colleagues with different skillsets, so in our view customers are best managed by the Social Media team acting as a triage function for complaints, with the Customer Experience team dedicated to resolution.**

- We closely monitor volumes of both social media interactions and customer complaints, although the overlap between the two datasets is not straightforward to monitor due to their not (always) being an obvious link between a social media account and an e-mail address / postal address / phone number / customer name. **There is no obvious way of addressing this without adding further complexity / intrusion to the complaints process for customers, which we would prefer to avoid.**

What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

- See above – **a defined approach of classifying social media interactions would be required prior to indicating potential volumes that would / should be identified as complaints.**

- From a practical reporting perspective, Northern already apply automated and manual tagging of social media posts. This approach could support future categorisation.

Provision 3: Recording complaints

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

- **The list of requirements is clear, proportionate and comprehensive.**

Provision 4: Responding to and investigating complaints

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

- **We have no concerns with this requirement.**

- In relation to the question around meeting internal targets, we would suggest that ORR consider if this could result in less ambitious internal targets being set by TOCs in order to avoid breaches (and the reporting of such breaches to the ORR). This could apply to targets set that are beyond those specified in contractual agreements.

Provision 5: Resolving complaints

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

- **The requirements are both clear and proportionate**

Provision 5: ADR

Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

▪ **Our view is that the proposals fully reflect good practice.**

▪ There is an associated risk that by signposting ADR upfront that some customers may circumnavigate the complaints process and go directly to the Ombudsman, which would potentially lengthen resolution periods and the implementation of remedial action. This should be monitored closely by all involved parties.

Q12. Are our signposting requirements clear, proportionate, and reflective of current ADR practice?

▪ **The signposting requirements are clear, proportionate and reflective of current ADR practice.**

Reducing the 40 working day timescale

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

▪ **We would support this view.** To date we not yet reached a stage when we have had to issue a deadlock as result of hitting day 40 without resolution.

Q14. If yes, do you believe that the time limit should be reduced:

(i) to 20 working days or deadlock (whichever is sooner) or

(ii) to 30 working days or deadlock (whichever is sooner) or

(iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

▪ **(ii) would be our preferred option.** Only 1% of complaints we have received so far this rail year have remained ongoing for 30 days or longer, and when this *has* occurred this has been due to waiting for further supporting information from the customer (such as supplying ticket receipts).

▪ We would be comfortable with monitoring the impact of (ii) with a view to further reducing the time limit as part of a phased approach if real-world customer experience indicated that this was practical and realistic.

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

▪ We are conscious that the industry has been in a state of flux as a result of the pandemic, and it is therefore difficult to predict with any degree of certainty future customer numbers, loading levels, operational performance, and complaint handling times at this stage. **We therefore suggest that 40-day period in place until recovery strengthens and greater clarity on future demand emerges.**

▪ Notwithstanding the above, a phased approach from 40 to 30 days from 1 April 2022 could be deliverable. This would allow sufficient time to assess volume, resource and cost implications, all of which would need to be included in budget forecasts.

▪ A further reduction from 1 April 2023 could then be considered, based on the success of this initial phase.

Provision 7: Reporting

Response times

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?
– Percentage of complaints resolved within 20 working days
– Percentage of complaints resolved within 10 working days
– Average response time for resolving complaints

▪ **We agree with the minimum metrics provided it is intended purely to report the average response time.**

▪ We would request that any metrics made public would be presented in a manner that allows a comparative representation of TOCs, rather than just overall volume.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

- **Yes, licence holders should be included.**

- We agree that this would drive transparency and accountability. It would also provide the ability to understand common complaint themes and, in turn, provide a better service to customers.

- However, we reiterate that 'stop the clock' is an important principle and any proposal to remove this may have a significant impact on our response time figures. The customer should not feel pressured to respond to our messages, and we believe that we have no right to put them under pressure to respond and should not be inadvertently incentivised to do so.

- The time the customer takes to respond should not be included in measuring performance. We have no objection to publishing average time, proportion in 10 days and proportion within 20 days if "stop the clock" is included.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

- **We agree this is a sensible approach and are comfortable with either measure**.

- However, we would request further clarity on what ORR believe the improved outcome would be for customers, and if this new measure would reflect the number of complaints signposted *or* a metric such as *% of complaints sign posted within the determined 40/30/20 days*.

- If the proposed removal of 'stop the clock' is to be implemented could ORR provide clarity on what this would mean for cases where customers never respond despite the TOC encouraging a response? We would suggest a caveat should be included for instances where the customer does not respond within an agreed timeframe, permitting the case to be closed.

Continuous Improvement

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

- **We are comfortable with this proposal**, noting that it will be important to consider how this would be managed to ensure no duplication of information with PRO requirements.

- We would like to understand if any supporting work been undertaken with customers to find out if this is what they require.

Quality in complaints handling

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

- **We would support this approach.** However, the survey must be relevant, and ORR should also acknowledge that depending on the complaint (and mix of complaints that we receive) this will significantly impact the perception of the customers response. i.e. Industry Policy.

- However, this approach would need to take into consideration the importing of additional cost, different operating models, and technical and back-office arrangements. As noted in the consultation, there should be a requirement for TOCs and ORR to agree the detail of revised performance metrics and reporting mechanisms given that TOCs have differing quality regimes/measures.

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

- **There are a number of additional measures that could be considered.**

- These include the UK Customer Satisfaction Index, Wavelength, internal customer satisfaction surveys, mystery shopping and quality management programmes.

- When the results of these alternative measures are assessed the scores may differ from ORR surveys. Given this, there would be a need to establish an approach to verify and align these results in order to ensure transparent and clearly understood quality metrics.

Driving wider learning from complaints

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

- **The existing fora are sufficient to best facilitate continuous improvement and learning from complaints across the industry.**

Provision 8: Training, resourcing, and quality assurance

Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

- **We suggest every 12 months when a new data refresh and requirements are updated.**
- This would be in conjunction with our own internal quality assurance and continuous improvement programmes that occur daily.

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

- **We would welcome ORR's view as to how TOCs best manage this in either an in-house or outsourced manner given that there would be significant cost implications to rapidly scale-up resources.**

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

- **We have no comments on these proposals.**

ORR Consultation on a draft Complaints Code of Practice

Rail Ombudsman Response

Complaints Code of Practice

The establishment of the Rail Ombudsman was a manifesto pledge of both the Conservatives and the Liberal Democrats in 2017 and the importance of an Ombudsman in this sector was, and remains, a priority for Government who restated this objective in the Williams Shapps Plan for Rail in May 2021. The Rail Ombudsman opened its doors to rail passenger complaints against Rail Service Providers (RSPs) on 26 November 2018. In the past (almost) three years, the Rail Ombudsman has provided alternative dispute resolution (ADR) to the sector which it has also supported with insight, learning and training.

We read the consultation with interest and whilst there are several key sections which we will address specifically, more broadly ADR, and in particular an ombudsman, represents a strong means by which a consumer can access redress which is fair and proportionate to the issue at hand. Ombudsman represent the *gold-standard* of ADR provision, are accessible to all consumers and businesses benefit from the wider remit with access to additional services enabling them to enhance their performance and comply with their obligations in the law, with the assistance of training and advice. That said we also recognise (and strongly advocate), that a complaint is best dealt with between business and customer, and only when they are unresolvable and have escalated into a dispute, should the Ombudsman become involved. It should also be noted that an Ombudsman can help businesses informally to resolve complaints through advice and training thus preventing a complaint from turning into a dispute.

The Rail Ombudsman therefore advocates a principles-based approach to complaint handling such that the industry can carry out its own due diligence and be responsible to ensure its own compliance. This is in line with the approach taken by the ORR by placing "greater emphasis on good complaints handling culture and how this can be promoted, particularly by senior managers". Our engagement with senior stakeholders confirms that there is an appetite for this, which must be cascaded to well-trained and empowered customer-service teams. We refer specifically to FCA principle 6: *A firm must pay due regard to the interests of its customers and treat them fairly* and welcome the similar approach which is envisaged by the ORR.

Provision 6: ADR

● **Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?**

● **Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?**

Signposting to the Ombudsman and clear information about the process and consumer-journey, at the earliest possible time, is crucial in increasing consumer-confidence in the process. Promoting the importance of good complaint handling will also assist, keeping the consumer informed and empowering them to make an informed choice as to when the RSP's internal complaints process is genuinely exhausted, minimising early approaches to the Ombudsman (as to which see below). This approach ensures a level-playing field for service providers and consistent approach for consumers and is at work successfully in other sectors.

We welcome that this approach is being adopted in the Rail Sector where the Regulator has acknowledged that "there is more to do to support good signposting to ADR across the Rail Industry".

Currently the data shows a very inconsistent approach to issuing deadlock letters by RSPs which causes confusion in consumers and in some instances will be a barrier to them raising a dispute with the Ombudsman.

We therefore welcome an approach that sees basic information about the Rail Ombudsman and its role is included in the written complaint acknowledgement and further particulars included in the "ADR letter" at the appropriate time. Consideration should be given to other channels of communication such as telephone or face to face to ensure that all passengers have equal access to the relevant information. We still hear of anecdotal examples of inconsistent information being provided to consumers at stations by staff during disruption and advocate better awareness and training amongst staff to ensure this consistency is replicated across all aspects of the RSPs' business.

Reducing the 40 working day timescale
● Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?
● Q14. If yes, do you believe that the time limit should be reduced: (i) to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner), or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach? Q15. What would be an appropriate lead time to implement each of the options in Q14? 63 ● It would be helpful if licence holders will provide evidence to support their answers to Q13-15.

Our experience is that if RSPs are expedient in the way that they try to resolve complaints, this helps to preserve relationships between them and the consumer. Further, any potential challenge to this question can be overcome with good customer service communication which is identified via case-led intelligence and fed-back to businesses, thus leading to

improvements in future interactions. On average 22% of disputes are raised without an accompanying deadlock letter and are therefore closed as being raised too early. Of these, a significant number return upon the expiration of the current 40 working day timeframe. There is a danger therefore that these consumers are being forced to "watch the clock down" currently.

The table below indicates a spike in contact shortly after 40 working days have passed from the date of the initial complaint to the RSP. This would appear to indicate that consumers are awaiting the 40 working day deadline to bring their complaint to the Rail Ombudsman and do so at the earliest point. Of course, this pre-supposes a degree of active engagement, which is not represented in these figures and which is considered on a case by case basis as would be the case if the deadline were reduced to 20 working days.

Days from initial complaint to Ombudsman escalation
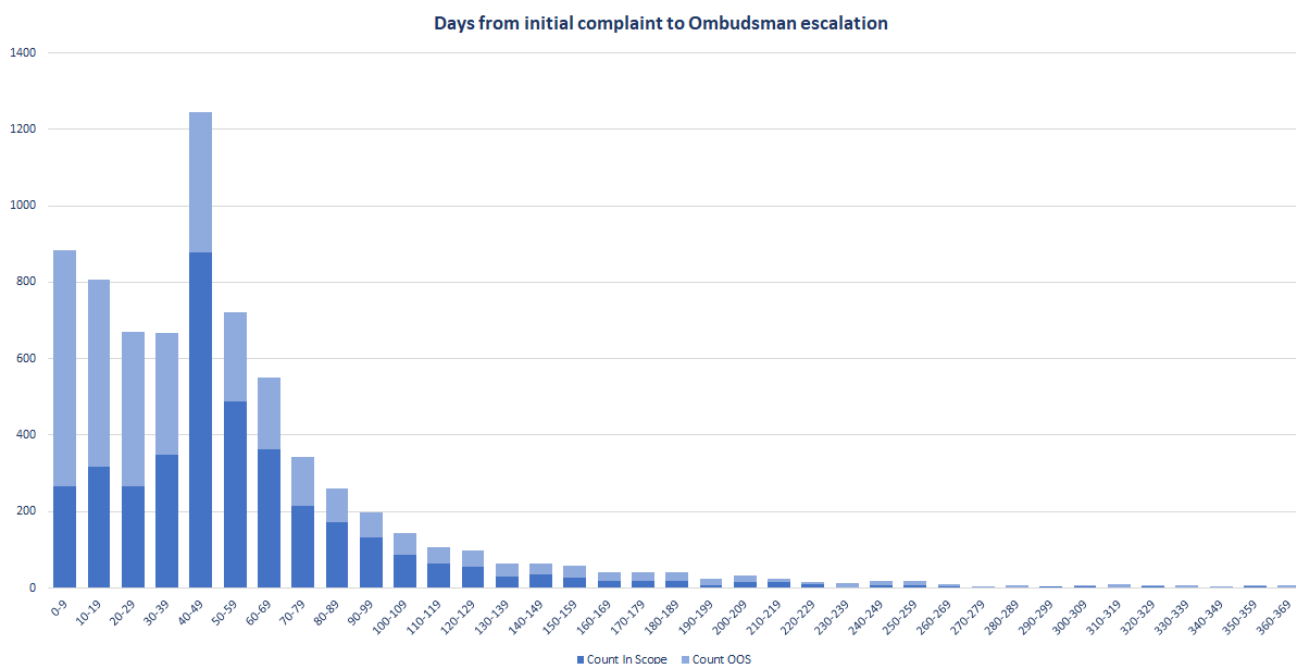
Pertinent to this discussion is the issue of signposting and general consumer awareness of the Ombudsman. We note the success of other information campaigns, such as "See it, say it sorted", or announcements reminding passengers to wear face coverings.

Providing information at stations, by way of announcements, posters onboard, information and leaflets can only serve to improve consumer confidence as the industry effectively advertises its commitment to do the right thing. Before go-live, the Rail Ombudsman produced leaflets which were delivered to every station to assist in raising awareness, however, use of these were sporadic and inconsistent and these leaflets were subsequently withdrawn. Recent discussions with the Competent Authority regarding the concurrent Reforming Competition and Consumer Policy consultation from the Department for Business, Energy and Industrial Strategy, focus on better promotion of ADR and we believe that the industry should take the lead to increase consumer confidence.

The Rail Ombudsman has made recommendations on the importance of signposting but has also highlighted the importance of good complaint handling in preventing the complaint turning into a dispute which could escalate to the Ombudsman. Examples include the manner of communication (for example avoiding jargon and using Plain English), ensuring all aspects of the complaint are acknowledged and responded to, and promoting a greater understanding of a consumer's individual circumstances and ensuring any goodwill gestures are made on that basis. In all cases, a consumer-centric approach which considers the needs of each individual will be crucial if the consumer is to be considered at the heart of the process.

RSPs need to be aware of the needs of consumers, with reference to those who might be vulnerable, recognising that an Ombudsman and a proper complaints policy is for their benefit as well as for their consumers. Enhanced signposting obligations, for example signposting vulnerable consumers sooner, could offer a solution to meaningfully deal with vulnerable people effectively recognising that the Ombudsman may be better equipped to do so.

In addition, the reduction in the timescale will be beneficial for potential claimants under the Equality Act 2010 which has a shorter limitation timescale for cases which may ultimately go to court and it is therefore in everyone's interests that the Rail Ombudsman process proceeds as expeditiously as possible.

Driving wider learning from complaints & training, resourcing, and quality assurance

The Rail Ombudsman supports that RSPs must have complaints handling training programmes and training plans in place for all staff, not just those in customer-service departments. We have seen incidents of senior management taking calls from consumers and with no processes in place to ensure proper recording or logging of the calls, thereby leading to consumer-confusion and lack of evidence when the case was escalated to the Rail Ombudsman. Recommendations have been made to ensure onboard staff know about the validity of certain rail cards and free-travel passes. We have also made recommendations about the logging of incidents at stations and staff training both on-train and at stations. These indicate that presently there are some significant gaps.

Since the scheme went-live, 1245 cases have been recorded where complaints handling was an ancillary issue to the main categorisation of the dispute. In addition, 20% of recommendations made by the Ombudsman have had a top level ORR category of 'Complaints handling' and 45% had 'Complaints handling' in the 'In Scope categories' field. This indicates the extent of the issue which can relate to customer service and the RSP's own policies and obligations. The Rail Ombudsman has also identified that knowledge about consumer's entitlement under the Consumer Rights Act 2015 and how this differs from the Industry Arrangements (such as Delay Repay) is inconsistent. This was the focus of the recommendations made by the Rail Ombudsman in its Annual Review for 2020: *Look through a broad lens; quite often cases are escalated to the Ombudsman because the initial consideration by the Rail Service Provider has focused on narrow issues, for example Delay Repay.*

If the broader consumer landscape, the Consumer Rights Act 2015, for instance, was considered sooner, we believe that not only would the consumer's entitlement be met, it would also improve customer service interactions.

Other recommendations related to the availability of evidence and we encouraged RSPs to listen to what the consumer is saying and think about the impact of goodwill. We have seen the effect of gestures which are not suitable to a consumer's particular circumstances for example, the provision of complimentary tickets when the consumer had a free-travel pass. Listening, empathising and providing appropriate and timely resolution, will be crucial as passengers return to the rail network, sometimes with a different purpose in mind to their pre-pandemic travel plans.

The Rail Ombudsman 2020 Annual Review can be found **here** or by visiting;
static.railombudsman.org/roweb/wp-content/uploads/2021/07/19145307/
Rail_Ombudsman_Annual_Review-2020-ISSUE1-r.pdf

The Rail Ombudsman Case Studies can be found **here** or by visiting;
railombudsman.org/resource-area/faq-3/case-studies/

The Rail Ombudsman has provided City & Guilds Accredited Consumer Law and Customer Service training to 60 delegates from 23 RSPs, with one RSP running internal programmes to support its customer-service team. This has been well received with 100% of delegates stating that they would recommend the training to colleagues. Whilst this is a good start, the Rail Ombudsman believes there is more to be done to encourage the take-up of training across the RSP's whole business and it should be noted that the training devised by the Rail Ombudsman, not only looks at the specific aspects of relevant law, but also provides training in soft-skills to ensure consumers are dealt with empathetically.

The Rail Ombudsman has also invited RSPs and other stakeholders to webinars and insight sessions to assist RSPs with their obligations to ensure staff are trained and empowered to deal with complaints effectively and with the consumer at the heart of all interactions.

Conclusion

The Rail Ombudsman looks forward to working with all stakeholders to ensure that the customer is at the heart of the implementation of the new Code of Practice.

Thank you for providing us with the opportunity to comment upon the consultation and we await the outcomes with interest.

The Rail Ombudsman

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Inspiring consumer confidence since 1992

Rail Operations Group response to ORR's consultation on a draft complaints code of practice.

Good Morning,
As per my telephone conversation with   , please find below our response to the above consultation document.

In general Rail Operations Group are fully supportive of the new draft Code of Practice for Complaints Handling Procedures and believe the balance to be about right.
We particularly welcome the revised definition of a complaint, to clarify the difference between a general expression of dissatisfaction and the expectation of a response, albeit that lessons can be learnt from both.
We understand that this Code of Practice has, quite rightly, been developed around the principle of providing protection for passengers on the mainline, timetabled rail network and the provisions contained therein are believed to be proportionate in that regard.
We also believe that there is enough flexibility in the guidance for the requirements to be scaled down for smaller Heritage operators of timetabled services.
For non-scheduled Operators of Charter Trains, however, the guidance as it stands does not take into account the sometimes significantly different operating and ticketing arrangements and the involvement of Third Parties providing an interface with passengers that are common with such operations and which may result in difficulty applying the guidelines in quite the same way they are written.
Areas of concern are as follows:
1. Ownership of Complaints - This section doesn't capture some of the arrangements experienced by Charter Operators, such as:
    a. Where the Railway Undertaking (RU) has been 'hired' to provide a train by a Third Party which undertakes all the Passenger interfaces such as marketing, sales, ticketing, etc, or where the Third Party is a hiring the train for a self-contained event such as Corporate Entertainment or Society event. In these scenarios, the RU's customer, is the Third Party and the likelihood is that that they would provide the interface for passenger complaints.
    We would suggest that, if the complaint(s) related to activities that were under the control of the RU (such as Safety, delays or condition of the train, for example) the Third Party would then raise a complaint with the RU which would be dealt with in accordance with the RU's CHP and respond to the Third Party as part of Contractual review processes. The Third party would then respond to the passenger(s).
    b. Where a RU utilises a Third Party 'Booking Agent' or Ticket Retailer as an interface with Passengers, there may be occasions where the passenger raises a complaint through that body. It would normally then get passed on to the RU by the Third Party for processing through the RU's CHP. In this scenario the RU would then correspond directly with the passenger to resolve any complaint.
2. Information for Passengers - The nature of bespoke Charters and the involvement of Third Parties as the RU's customer also changes the dynamics around provision of information to passengers in relation to Complaints Processes. Unlike scheduled services, each service is

'self-contained' and the information provided to the passengers may be generated by different parties.

For example:

   a. where a third party is engaged as a booking/ticketing agent - The RU would dictate and provide the Passenger Information in relation to that charter for distribution by the Booking Agent with the tickets. This would include ATP information and Complaints procedures.
   b. Where a third party has hired a train for a corporate or society event - the Third Party would provide the Passenger Information, albeit with the RU's guidance on certain aspects of same, and take on the responsibility for providing the interface for any complaints in line with their own procedures. As per 1a above, any complaints relating to activities under the control of the RU would be dealt with under Contract review processes

3. Social Media, Call Centres and Customer Relations Teams - Smaller Charter Operators are unlikely to have these sorts of provisions or a dedicated contact number for complaints. Again, this may be something that the Chartering organisation/Third Party might set up, provide or, in the case of Corporate Events could form part of their internal employee communications provisions. Can some consideration be given to amending these sections to recognise this reality and provide the leeway for Charter Operators to allow for a different approach, such as 1a above?

4. Recording and reporting Complaints - For smaller Charter Operators, customer satisfaction and complaints policies often have to cover different types of operations. For example, at Rail Operations Group our core customers are other Rail Industry organisations. As part of our commitments to customer satisfaction and continual improvement we record, act on and report all complaints from all sources and so clarification would be helpful as to the nature of the intended guidance from the ORR referred to in Clause 5.79

5. Training, Resourcing and Quality Assurance - The requirements contained within Provision 8 requiring training programmes and regular refresher training for all staff handling complaints including that of third parties assumes that the third party is contracted to the RU. In the case of Charter Operators the third party is usually the customer and therefore the RU is not in a position to dictate the training requirements of the customers employees. Can some consideration be given to amending these sections to recognise this reality and provide the leeway for Charter Operators to allow for a different approach, such as 1a above?

Hopefully the above provides some insight into the different operating environment of Charter Operators such as ourselves, but please do not hesitate to contact me to discuss further if you have any questions

Kind Regards

Rail
Operations
Group

Rail Delivery Group

Response to:

The ORR Consultation on a draft Complaints Code of Practice

Date: 04 October 2021

For enquiries regarding this consultation response, please contact:

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About the organisation

The Rail Delivery Group (RDG) brings together the companies that run Britain's railways, including Network Rail and HS2 Ltd, with the aim of delivering a successful railway that ensures value for money and benefits customers, taxpayers and the wider economy. We give a voice to freight and passenger operators, as well as delivering important national ticketing, information and reservation services for passengers and staff on behalf of member companies. This response is on behalf of independent owning groups and their operators.

Introduction

1. The Rail Delivery Group (RDG) welcomes the opportunity to respond to the Office of Rail and Road's (ORR) consultation on a Complaints Code of Practice, published on 4 August 2021.

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 proposal for an Industry Complaints Code of Practice (CoP).

3. The industry believes that proper complaints handling is an essential part of the service that train and station operators provide to customers and want to ensure if a journey does not go as planned that there are effective means for customers to submit complaints, and for TOCs to have the ability to address these issues and put things right.

4. To ensure customers know what they can expect and guarantee consistency across the 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 so that customers can be confident industry is listening and addressing any concerns.

5. 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,

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

6. TOCs agree that a lot has changed since the current guidance was issued in 2015 and support licence holder Complaints Handling Procedures (CHPs) being more closely aligned.

7. TOCs also believe ORR involvement in this process is beneficial and would welcome more clarity on how this transition to a CoP will be managed.

8. It would also be of benefit to continue receiving ORR feedback on draft CHPs before publication. This would ensure they reflect consistency in both the CHPs and the continuous improvement to the customer experience that TOCs work towards.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaint handling procedure that should be included?

9. The proposals put forward appear sufficiently comprehensive. However, clarity of expectations regarding complaints involving multi-TOCs, or complaint management during extended periods of disruption, would be beneficial to ensure transparency for customers.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

10. TOCs support the proposed new definition of a complaint. However, it may not be constructive to limit the definition of a complaint only to those from a "customer or potential customer" and exclude complaints that may come from other avenues, such as noise concerns or other areas of dissatisfaction. We would prefer that all complaints requiring a response be captured within the definition of a complaint put forward by the ORR.

11. Further, this proposal does not specify the expectations, standards or content of responses. We would welcome additional ORR guidance in this area.

Provision 1: Information for passengers

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

12. TOCs believe that the requirements have been well communicated and welcome the recognition that there are challenges at stations in terms of space for displaying posters.

13. A requirement for posters displaying complaint process information could potentially be confusing in cases where, for instance, different TOCs and Network Rail operate out of the same station. In such cases there would be at least three separate displays required with differing complaint details. As such, TOCs believe it would be appropriate to have a caveat to this proposal which states "where possible" or "where space available", while referring customers to online channels instead.

14. TOCs may have station posters that display welcome messages or contact information which could be adapted to reflect the consultation requirements. However, updating these to meet the aforementioned requirements could import significant cost. Consequently, TOCs would welcome clarity on whether this will be mandated from Day One or alternatively for ORR to provide a timeline for compliance. TOCs would prefer this be implemented in line with station quality reviews or poster updating intervals to ensure cost efficiency.

15. ORR have not referenced a paper version of the CoP to be displayed or made available to customers. As the ORR is aware, many TOCs are moving away from printed material where possible and making it available upon request. TOC would welcome clarity on whether the ORR would deem it acceptable for a TOC to provide a paper copy upon customer request via their Customer Relations function and/or manned stations, or whether they would deem a printable version on the website for customer self-serve as sufficient.

Provision 2: Receiving complaints

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

16. TOCs agree it should be easy for customers to contact them with a complaint. However, to include the word "*complaint*" on homepages is viewed as unduly negative. This risks undermining confidence in the rail network, possibly turning potential customers off travelling by rail.

17. It should be noted that TOCs, in collaboration with Transport Focus and London TravelWatch, developed a Good Practice Guide and agreed clear and effective signposting to the Ombudsman on TOC websites which has been well received.

18. Many regulated industries provide contact channels for customers. From an initial review of these channels, none devote space on their homepage to the word "*complaint*s". Instead words such as "*Help*", "*Get in Touch*", "*Help and Advice*" or "*Contact Us*" are used for this purpose.

19. Unless the ORR has evidence that this provides a barrier to customers who want to make a complaint, TOCs would prefer using a word with a less negative inference such as "*Contact us*" or "*Find help*". This would allow customers who may want to make a complaint to identify this as the right link, with industry following the same protocols as other regulated industries.

20. While some TOCs may wish to provide paper complaint forms on trains or at stations, this is unwieldy and impractical to guarantee universally. Indeed, many stations and trains are unstaffed or partly staffed and it would thus be impossible to make forms available at all times. Instead, making announcements during disruptions or delays, informing customers of how to make contact should they wish to file a complaint is deemed more practical.

Consultation questions: Social media

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

21. TOCs want to provide a consistent, effective and efficient complaints handling service. However, we would counsel strongly against this proposal as there are considerable challenges standing in the way of making social media a formal method for complaint management.

22. Social media is a unique channel of communication which, while often helpful in identifying customer complaints and addressing these at speed, can also see complaints communicated anonymously and in a way that can be deemed unconstructive, while resulting in a loss of focus due to other social media users interceding. As such, social media should not be considered for the purpose of recording complaints.

23. TOC Social Media Teams always do their best to resolve concerns and to provide first point resolution. However, there are some complaints that are inappropriate to resolve over social media, particularly those that are complex or involve potentially sensitive personal information.

24. Further, with social media there is an expectation that responses will be received quickly. This can limit the time TOCs have to properly investigate claims.

25. Additionally, the technical requirements to respond in line with proposed CHP obligations cannot be underestimated as social media and Customer Relations departments do not have the same systems or omni channel functions. These would be prohibitively expensive to deliver.

Q7. To industry: What social media channels do you currently operate (e.g., Twitter, webchat, other?)

26. The four most common social media channels used by TOCs are Twitter, Facebook, WhatsApp and LinkedIn, with some also using Instagram and Webchat.

Do you have the ability to record and respond to complaints raised on your social media channels?

27. TOCs do not currently have the ability to record complaints raised via their social media channels.

If not, what are the practical barriers to doing so, and how could they be overcome in the future?

28. The main barrier is that there is no integration between social media platforms and CRM systems. This would require investment and additional resource. Moreover, the potential volume of contacts dealt with on any one day, particularly during disruption, would make this impractical.

What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data?

29. Potential impacts on complaints volumes and resourcing are difficult to estimate as this information is not currently being collected. However, we would expect complaint volumes reported formally to

rise and an increased financial impact due to the need to integrate this reporting into CRM systems. Complaint handling times would also rise without increased resourcing as there would most likely need to be several interactions to enable a successful resolution.

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

30. Trying to navigate through the volume of contacts received via social media to identify which are complaints and record them would be difficult to achieve as this is currently a manual process. To be able to automate this would require significant funding. TOCs may be able to provide the number of social media customers signposted to Customer Relations teams; however, this would need to be explored in further detail to determine resource and cost implications.

31. It should also be noted that the number of people who have a social media account, but not an email account, is likely to be extremely small. These customers would also be comparatively tech-savvy, so no "barrier to entry" should be assumed.

Provision 3: Recording complaints

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

32. The list of requirements appear clear and proportionate. However, if there were to be any other amendments, or future changes imposed, this may introduce additional cost.

Provision 4: Responding to and investigating complaints

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

33. Many TOCs include a link in the acknowledgement to provide handling time targets. If there is a backlog, this message is updated. Additionally, when timescales may be at risk, TOCs actively engage with the ORR, the Department for Transport and other key stakeholders, including customers, to manage expectations. To update average response times more frequently could send the wrong message to customers who may have complex complaints that require thorough investigation to reach a suitable resolution.

34. While asking at the outset what outcome a customer is looking for may be viewed as a positive approach, engaging with the customer first and investigating the complaint is a better customer experience. If it is not clear once investigated, TOCs could then ask the customer about the outcome they are seeking. Asking what outcome a customer desires from the outset, could encourage monetary claims from those who deemed ineligible for compensation, unnecessarily leading to escalation or financial detriment.

35. It would be helpful if the ORR could provide further guidance on how TOCs should best respond if the customer's expectations may be deemed as unreasonable. This is needed for consistency and to ensure the experience is positive and not reputationally damaging in instances where a customer may request financial compensation when they are not eligible.

36. Reporting failure to adhere to the required timescales for signposting complainants to ADR should not be extended to the failure to adhere to licence holders' own internal targets for responding to complaints. These may differ between TOCs and change with best practice as TOCs look to continually improve and provide the best service possible.

Provision 5: Resolving complaints

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

37. The requirements are deemed to be clear and proportionate. However, an escalation process setting out all the remedies offered may prevent resolution via alternative means. This may also encourage customers to bypass initial stages of the full complaints process, rather than enabling early resolution. These processes would also differ between TOCs and may be required to change on a case-by-case basis to ensure the correct resolution is attained for the customer.

38. Further, it may not always be appropriate to signpost customers to ADR schemes where doing so may risk abuse of TOC employees or aggravate a customer further.

Provision 6: ADR

Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?

39. TOCs are supportive of raising awareness of the ADR scheme during the complaint process and on websites. However, RDG would caution against any provision to give the ADR scheme equivalent exposure on websites as the CHP. This may lead to unclear information or create the impression customers will be disappointed with TOCs' initial reply. In turn, this may encourage customers to contact the ADR provider at first instance and not allow TOCs the opportunity to remedy the issue.

40. We note the ORR had previously recognised that TOC homepages already contain an abundance of information within one click which enables clear access to complaints forms.

41. Further, adding this to the auto acknowledgement may lead to customers trying to circumvent the complaint process and contact the ADR provider before being signposted to them. This could also distract customers from other key themes within the communication. However, RDG believes this is manageable and may support raising awareness, so agrees it can be an appropriate mechanism.

Q12. Are signposting requirements clear, proportionate, and reflective of current ADR practice?

42. The signposting requirements are clear, proportionate, and reflective of current ADR practice.

Reducing the 40 working day timescale

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

43. A reduced time limit to access ADR may be seen as a better overall customer experience and indeed could assist TOCs in reducing follow-up complaints. However, it is important to ensure that TOCs are provided an appropriate amount of time to consider any complaint and seek a resolution that provides the opportunity to maintain the relationship with the customer.

44. Providing too short a timeframe could have reputational implications due to customers not addressing follow-up enquires within specified timescales. TOCs would like to understand the ORR's reasoning for suggesting removal of "stop the clock" in cases where TOCs are requesting additional information so a claim can be verified. The time it takes for a customer to respond is not something TOCs have control over. Should the ORR propose that that all customers have the right to go to the Ombudsman after 20 working days have elapsed, irrespective of the clock, this may encourage customers not to engage and may lead to increased costs for the TOC and taxpayer.

Q14. If yes, do you believe that the time limit should be reduced: (i) to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner) or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

45. It is important to recognise that while most complaints are closed well within a 20-working day period, there are cases that do take longer to close due to the complexity of the case. This, in tandem with the proposal to remove the "stop the clock", would suggest that a phased approach would be appropriate to ensure successful implementation.

46. RDG would propose initially going from 40 to 35 days and evaluating progress prior to potentially moving to 30 days. A review should then take place, including a financial impact assessment, to consider whether a further reduction towards 20-working days would be appropriate.

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

47. RDG is mindful that post-COVID, TOCs do not have the usual historical data to understand what complaint handling times and customer numbers are likely to be. As such, it may be prudent to leave the 40-day period in place until there is greater understanding in these areas.

48. Additionally, the timescales for implementation would need to be workable for all TOCs with some having significantly higher customer contacts than others.

49. Nevertheless, if this proposal was to be implemented, a phased approach from 40 towards 30 days from 1 April 2022 at the earliest may be deliverable. This would allow the industry to properly assess volume, resource and cost implications which would need to be included in budget forecasts.

50. A further reduction from 1 April 2023 could then be considered, based on the success of this initial phase.

Provision 7: Reporting

Response times

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?

- **Percentage of complaints resolved within 20 working days**

- **Percentage of complaints resolved within 10 working days**

- **Average response time for resolving complaints**

51. TOCs agree with the minimum metrics, provided it is purely to report the average response time.

52. RDG would request that any metrics made public would be presented in a manner that allows a comparative representation of TOCs, rather than just overall volume.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

53. TOCs agree this would drive transparency and accountability. It would also provide the ability to understand common complaint themes and, in turn, a better service to customers.

54. However, RDG would like to reiterate that "stop the clock" is an important principle and any proposal to remove this may have a significant impact on TOCs response time figures. The customer should not feel pressured to respond to TOC staff messages.

55. The time the customer takes to respond should not be included in measuring performance. TOCs have no objection to publishing average time, proportion in 10 days and proportion within 20 days if "stop the clock" is included.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

56. TOCs agree this is a sensible approach and are comfortable with either measure. However, they would like more clarity on what the ORR believe the improved outcome would be for customers and whether this new measure is based on the number of complaints signposted or a metric like '% of complaints signposted within the determined 40/30/20 days.

57. If the proposed removal of "stop the clock" was implemented, RDG would welcome the ORR providing clarity on what this would mean for cases where customers simply never responds despite TOCs encouraging a response. TOCs would like to ensure that a caveat is included whereby if the customer does not respond within an agreed timeframe, the case can be closed.

Continuous improvement

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

58. TOCs are happy with this proposal, understanding that it would also be important to consider how this would be managed to ensure no duplication of information with PRO requirements.

59. TOCs would also like to understand if any work been undertaken with focus groups to identify whether customers would find value in this information being available and what impact this may have on customer perception of the rail Industry.

60. Additionally, it has been suggested that the ORR should showcase the great work TOCs carry out in response to customer insight to counter the more obvious negativity around complaint handling.

Quality in complaints handling

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

61. In principle, TOCs agree that quality should be a metric that has more focus. However, this approach would need to take into consideration the importing of additional cost, different operating models and technical back-office arrangements. As noted in the consultation, there should be a requirement for TOCs and the ORR to agree what the revised performance metrics and reporting mechanism would look like when TOCs have different quality regimes/measures.

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

62. There are a number of measures that could be drawn upon such as the UK Customer Satisfaction Index, Wavelength, internal customer satisfaction surveys, mystery shopping and quality management programmes. However, when comparing the results of these, the scores may be different from ORR surveys. With this in mind, there would need to be an agreed approach to verifying and aligning these results to ensure transparent and clearly understood quality metrics.

Driving wider learning from complaints

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

63. TOCs are best placed to understand how their customers feel and any external influence may unwittingly import additional cost. However, semi-annual reviews of TOC CHPs chaired by ORR would be helpful in ensuring alignment in process and an overall improved customer experience.

Provision 8: Training, resourcing, and quality assurance

Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

64. TOCs support regular interval training based on an annual review as a minimum. This would coincide with a combination of local, ad-hoc and new starter training along with continual quality check processes already in place to drive continuous improvement.

65. With all contact centres using different operating models TOCs are best placed to know what works for their specific TOC and are able to identify issues on an individual basis. Additionally, new information is shared as policies or processes change. TOCs feel this fluid approach is more reflective of the quick pace of change within the industry, including but not limited to Customer Experience, Accessibility, Fares and Retailing.

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

66. Resourcing for complaints handling goes beyond just staff managing complaints. Consideration must be given to the limited business accommodation, finite IT provision and other activities required for TOCs to deliver successful complaint handling solutions.

67. TOCs would welcome more insight into how the ORR would expect Operators to manage this in either an in-house or outsourced manner given that there would be significant cost implications to quickly scale up resources.

Annex B – draft obligation on licence holders

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

68. In general, TOCs are happy with the proposed amended licence condition and agree this represents a positive step forward. However, further clarity on the approach for transitioning and whether any review periods will be built in to ensure successful implementation would be encouraged.

Rail Safety and Standards Board (RSSB) response to ORR's consultation on a draft complaints code of practice.

From:
Sent: 29 September 2021 10:26
To: ORR CHP <CHP@orr.gov.uk>
Subject: [EXTERNAL] RSSB comment on consultation on a draft Complaints Code of Practice

Hello

RSSB considered this consultation and have a general comment to make.
Suggest that the minimum requirement is for all complaints to be dealt with appropriately.
Perhaps there should be something on looking for the good as well as the bad as an opportunity to improve and this could potentially be done by replacing the word 'complaint' with 'feedback'. The word 'complaint' could limit the potential for feedback that could help the railway to improve, for example it may elicit feedback on safety related and other matters that would not necessarily be a complaint from which the railway might benefit.

Regards.

RSSB, The Helicon, One South Place, London EC2M 2RB

RSSB and the University of Birmingham are proud to be hosting the 13th World Congress on Railway Research

6-10 June 2022 | www.wcrr2022.co.uk

Office of Rail and Road
25 Cabot Square
London
E14 4QZ

Emailed to: chp@orr.gov.uk

30th September 2021

RE: ORR Consultation on a draft Complaints Code of Practice

Dear Sir or Madam,

Thank you for the opportunity to respond to the ORR consultation on a draft complaints code of practice sent on the 04th August 2021.

I am writing on behalf of London & South Eastern Railway Limited. We note that RDG will be submitting a response on behalf of the industry which I have inputted our views into and fully support, but the only comment we would like to extend our views on is around the section covering social media.

Southeastern view our social media contacts as a way to provide quick, live and informative information. Not all tweets are responded to, so unless we were to increase our head count by a large number we would not be able to commit to advertising this channel as a formal complaints handling channel.

At present if the social media team enters into a conversation with one of our passengers and is unable to help, the social media team would then enter the details of the passenger directly into our CRM. We at Customer Relations are then able to investigate further and contact the passenger. We feel this way of handling of any tweets where we are unable to provide a full response is the best approach for passengers. We feel this method of response would be better suited to the code of practice, rather than committing to responding to each interaction.

In terms of any changes proposed to working days, signposting and stop the clock all these measures would need to also be reviewed inline with the ORR Core Data report to ensure all TOC's have the time to make the changes, required to our CRM's to enable the reporting to be accurate and also seek budget approval.

If you require any further information, please don't hesitate to contact me.

Kind regards,

Southeastern

southeastern
2nd Floor, 4 More London, Riverside, London SE1 2AU
southeasternrailway.co.uk

London & South Eastern Railway Limited trading as Southeastern Registered in England No. 04860660
Registered Office: 3rd Floor, 41-51 Grey Street, Newcastle upon Tyne, NE1 6EE

Transport for Greater Manchester (TfGM) response to ORR's consultation on a draft complaints code of practice.

From:
Sent: 29 September 2021 11:59
To: ORR CHP <CHP@orr.gov.uk>
Cc: Subject: [EXTERNAL] FW: Complaints Handling Consultation Response.

Good Morning Complaints Handling Policy Team

I hope you are well.

I am just writing to you to confirm that TFGM have reviewed the consultation proposals for the replacement of the existing complaints handling guidance with a new Complaints Code of Practice.

Having reviewed the consultation notes and attended the drop in session, I can confirm that TFGM are happy with the proposals and have no further comments or amendments to make.

Kind Regards

Transport for Greater Manchester

2 Picadilly Place
Manchester
M1 3BG

Transport for London (TfL) response to the Office of Rail and Road's (ORR) Consultation on a draft Complaints Code of Practice

Date: 4 October 2021

Complaints Code of Practice

● **Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?**

TfL does not have any specific comments on the proposal to replace the current guidance with a new Complaints Code of Practice with which licence holders must comply.

It is important to note at this point however that TfL is not currently a licence holder or a member of the Alternative Dispute Resolution (ADR) scheme. We will need to establish a clear timeframe as to when we will be part of the ADR and as part of this, we will add this to our customer complaints policy and website page and signpost customers on all correspondence.

● **Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaint handling procedure that should be included?**

Nothing further to add.

● **Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?**

Nothing further to add.

Provision 1: Information for passengers

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

Yes – we feel that the provision on information requirements are clear and proportionate for passengers.

Provision 2: Receiving complaints

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

Nothing further to add.

Social media

● Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

Although we agree in principle with providing customers with alternative options, our current method for handling complaints does not allow us to process complaints in a formal way through our social media platform. As it stands, if we receive a complaint through social media, we reply to the customer apologising for their experience and then send them a link to our customer complaints form so we can gather as much information as possible and investigate the complaint fully through our complaints management system. This process has worked well for us as an organisation and streamlines all complaints into one Customer Relationship Management system (CRM). This also allows us to provide detailed reporting on all complaint contacts from all channels.

● Q7. To industry: – What social media channels do you currently operate (e.g. Twitter, webchat, other?)

TfL operates most social media channels, such as Twitter, Facebook and Instagram. However, most complaint contacts are channelled through Twitter.

– Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?

Please see response to Q6

– What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

We don't have the resources to be able to review all social media feedback as well as what we currently review through our CRM system.

To progress any complaints through 'on the spot' resolutions in social media would require considerable additional resources and considerable development work to our CRM system – given our current financial climate, this is not something we could progress at this stage (and based on current assumptions not for many years to come)

Provision 3: Recording complaints

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

Yes, the list of requirements on recording complaints are clear proportionate.

Provision 4: Responding to and investigating complaints

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

TfL regularly publishes complaints data, including response times through its regular reporting to the TfL Board. TfL is fully accountable to its own internal targets and would expect that to continue as is. TfL would be supportive to informing the ORR in the instance of a widespread failure in signposting complainants to the ADR.

It is important to note however as per our response to Q1, that TfL is not currently a member of the Alternative Dispute Resolution (ADR) scheme although we are in the process of onboarding. We would however be supportive of the requirement to inform the ORR of any widespread failure in compliance under their specific handling procedures.

Provision 5: Resolving complaints

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

Yes, the requirements on resolving complaints are clear and proportionate.

Provision 6: ADR

● **Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements?**

TfL does not have any views on the ORR proposals to increase awareness of ADR on our websites. We would recommend our current approach of sticking to our own internal acknowledgment for complaints.

An alternative approach could be to signpost customers to the ADR scheme once a formal response to their complaint has been issued. To note, we already have procedures in place where we signpost customers to independent groups such as London Travelwatch and this is something our customers are familiar with. Adding another layer could cause duplication of work and/or confusion for customers.

● **Q12. Are our signposting requirements clear, proportionate and reflective of current ADR practice?**

The signposting requirements are clear, please see our response for Q11 regarding proportionality.

Reducing the 40 working day timescale

● Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

TfL agrees in principle that the time passengers must wait before accessing ADR could be reduced to 30 days. This feels like a more appropriate and realistic timeframe.

TfL would recommend trialling the 30 days' timeframe for 12 months, to get a feel for this and then reviewing whether any further reduction may be needed.

● Q14. If yes, do you believe that the time limit should be reduced:
(i) to 20 working days or deadlock (whichever is sooner) or

(ii) to 30 working days or deadlock (whichever is sooner), or

(iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?

Please see response to Q13 which covers this off.

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

TfL feels that an appropriate lead time to implement any option from Q14 would be to introduce it as part of a new financial year in order to keep reporting consistent and comparable (e.g. 2022/2023.

Provision 7: Reporting

Response times

● Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?

– Percentage of complaints resolved within 20 working days

– Percentage of complaints resolved within 10 working days

– Average response time for resolving complaints

TfL agrees with the above minimum metrics on complaints handling response times along with the periodic reporting to the ORR to publish. For consistency, TfL feels that publishing should sit with the ORR and not individual TOC's.

TfL feels that any additional reporting to be carried out by individual TOC's would have cost implications and would require additional resource which is something TfL would is unable to commit to in the current climate.

● **Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)**

For consistency and clear transparency TfL feels that the ORR should publish this report/suite of metrics.

● **Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?**

Nothing further to add

Continuous improvement

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

TfL feels that the ORR should continue to publish the report as they can provide a holistic view for the industry.

Quality in complaints handling

● **Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?**

TfL agrees to the approach however, this should be on the basis that the ORR should continue to publish the report themselves. The ORR should also provide clear and detailed guidelines on performance quality metrics

● **Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?**

Yes. TfL feels that a review of the categorisation (section A of ORR periodic report) should be completed.

Driving wider learning from complaints

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

TfL feels it would be beneficial for more industry trend analysis to help us improve as an industry and take a more holistic approach to this. TfL feels it is vitally important to share the research with all TOC's. For example, an annual meeting with TOC's to review this to understand more and share insights/best practice etc. By doing this, it will create more consistency across the industry too.

Provision 8: Training, resourcing, and quality assurance

● **Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?**

TfL feels this should be carried out annually. TfL would ensure that any new starters receive appropriate training in line with their internal established procedures.

● **Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?**

TfL has limited resources and funding available and given the current climate would have to use our current resource, funding, and CRM system for complaints handling. TfL does however feel that this system is well established and works well. We would therefore not propose any changes to our own internal complaints handling system.

Annex B – draft obligation on licence holders

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

TfL has no additional comments on the ORR proposals to amend the complaints handling licence condition

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

TfL has concerns over some of the research undertaken by the ORR. Comparisons between other regulated bodies but not with large travel organisations, other than one small company in Australia, does the ORR believe that this research is adequately comparable? Should such significant research include other travel or more comparable organisations.

Transport Focus and London TravelWatch response to the ORR consultation on a draft Complaints Code of Practice

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.

We note that the rail reform programme has the potential to change the complaints process significantly. For the avoidance of doubt, we do not address these issues here, our response below focuses *only* on the existing regulatory regime rather than any new structures that may emerge. The latter will be dealt with as part of the reform programme.

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' Complaint Handling Procedures (CHPs) must comply?

We support the principle of moving away from 'signing-off' individual complaint handling procedures (CHPs), with the onus shifting to operators ensuring that their CHPs are compliant with the code. We believe that focusing effort and resources (of Transport Focus/London TravelWatch as well as ORR) on what is actually delivered rather than on the 'drafting', could bring benefits for passengers.

It will be crucial, however, that there is a well refined process for identifying and acting upon non-compliance, and clarity in terms of who assesses compliance/non-compliance.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?

We note, and support, the expectation in para 2.16 that ORR would expect licence holders to go further than the proposed Code. It will be essential that the Code is seen as a baseline to be exceeded.

Equally, we agree that where licence holders' practices currently go further than the proposed Code, that these practices should continue. It will be important that the new guidance/process isn't seen as a way of watering down previous commitments.

One particular area that we view as important is learning from complaints. They must not just be seen as a cost, but as something that can add real value to the business. We see this as an important cultural point – complaints can also create opportunities. To help emphasise this point it would be useful for operators to include a commentary on what they have learnt from complaints / what they are doing with them – a form of 'you said…we did' report. This could be part of an existing reporting mechanism or be posted on their website.

Another cultural point regards the quality of responses – CHPs must not just be assessed according to process (e.g. how many days to respond) but on how well complaints are answered and how satisfied passengers were with the response. To this end we think there is a case for the guidance to set a minimum expectation or target to be achieved and/or a requirement to gather/publish an operator's own satisfaction survey results.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

We support the revised definition: "Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy *where a response or resolution is explicitly or implicitly expected*"

We also agree with para 2.28 which makes it good practice for licence holders to include in their CHPs details on the availability of redress when passenger assistance has not been delivered as booked.   A lack of awareness of passenger rights is a key barrier to passengers exercising these rights.

We note the decision that a redress claim for booked assistance failure need only be logged as a complaint if in making the claim the claimant expresses dissatisfaction as per the new complaint definition. To some extent this brings it in line with delay repay compensation. However, it will be important that the claim process gives passengers adequate opportunity to express dissatisfaction while claiming. It is unrealistic for someone to claim and then have to submit a separate complaint – especially if they are seeking additional compensation for the experience.

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

We agree with the new requirements for CHPs to include details on response targets and on what languages (other than English) can be used.

Clarity about who to complain to is important. While it won't be feasible to cover every permutation, we think there could be value in setting out some of the main scenarios that could cause confusion. For example, who do you go to if you have a complaint regarding a multi-modal ticket, or about the act of interchanging between modes at a station.

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

We welcome the increased emphasis on website accessibility. We agree that passengers must be able to find relevant information simply and easily. It will also be important that this information is well maintained and up to date – indeed, there is value in the CHP committing to regular reviews/audits of the information provided to ensure that this is the case.

We note the suggestion in para 3.19 that the specific obligation to provide complaints forms on request may be removed in future versions of the Code. We agree with ORR that it will be essential for the complaints process to remain accessible to all. Passengers must still have the option of a 'non-digital' means of complaining.

We also agree with the equality and diversity statement in para 3.20. Licence holders must ensure they make appropriate and proportionate provision for passengers who need assistance in accessing and using the complaints process.

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

We agree. Social media has become the communication method of choice for many people, so it is important that the complaints guidance acknowledges and facilitates this. However, it is equally clear that not all complaints can be adequately dealt with in this format.

Hence, we agree with ORR's attempt to find a balance: "complainants should be provided with the option of having their complaint dealt with via social media, where that is their preferred mode of contact, and where it is practical and feasible to do.

Where not practical, we agree that there is scope to raise the complaint on the complainants' behalf or signpost people towards the complaint process.

We also agree with the aspiration from ORR that complaints via social media are recorded.

Q7. N/A - directed at the industry

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

We think there could also be value in recording the outcome of the complaint (i.e. compensation, apology, explanation etc). This could also be published.

We would also ask whether there are any opportunities to highlight specific categories of complaint – for example, about accessibility, safety related complaints (as mentioned later in the code), or potentially even 'hate crime'? Collating and reporting such issues could help facilitate improvements.

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

We agree with the proposals. It is important to alert ORR where a licence holder is likely to experience a widespread failure to adhere to required response timescales. This effectively compels an operator to be transparent and removes any temptation to try and 'brush problems under a carpet'. We have seen spikes in complaints in the past when there have been significant operational/customer service changes.

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

We agree with the broad list of requirements listed, particularly the requirement to

address all the issues raised, one of the common forms of complaint received from passengers.

To prevent passengers reaching out to other bodies when there is significant delay or failure to respond, the licence holders should send out standard updates to all those waiting to have their complaint heard. Previously, delays have been explained on auto acknowledgements with an anticipated response time. However, this response time has not always been adhered to and the passenger has not heard anything further, prompting them to reach out to other industry bodies.

Escalated complaints should also have an estimated response time and a way for the passenger to contact the licence holder if this is not met. If the 40/20 days has passed the passenger should have the right to take their complaint to ADR rather than wait for the escalation process to complete.

We understand the aim behind giving licence holders the ability to phone someone even if the original contact was in writing. However, this will need to take into account the feelings/wishes of the complainant – they should have the right to insist on a written reply if they prefer, or if the timing of the phone call is not convenient. It can't be a case that a 'missed-call' allows the licence holder to close a case.

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

We agree that it is important that consumers are aware of ADR and with the conclusion of the Red Quadrant research (para 3.59), that passengers be made aware that ADR exists when they first make a complaint. We feel that a better general awareness of ADR will help passengers pursue cases with the licence holder.

We also agree on the need for more consistent signposting to ADR at the point of deadlock

Passengers must have absolute clarity about when they can take a complaint to a licence holder. This will help prevent contact being made to the ADR provider at an inappropriate time causing the provider to signpost back to the license holder which, in turn, causes additional frustrations.

Q13. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock?

Yes. We agree that a 40-day timeframe increases the risk of passengers dropping out of the process.

Q14. If yes, do you believe that the time limit should be reduced:
(i) to 20 working days or deadlock (whichever is sooner) or
(ii) to 30 working days or deadlock (whichever is sooner), or
(iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach?
Q15. What would be an appropriate lead time to implement each of the options in Q14?

As passenger representatives, it will come as no surprise that Transport Focus and London TravelWatch prefer the lower time limit of 20 working days. The quicker that passengers can resolve their complaint the better it is for them.

As the consultation makes clear, around 95 per cent of complaints are resolved within 20 working days. It feels reasonable, therefore, for the escalatory mechanism to reflect this rather than allowing a further month. Timescales should not be dictated by the minority of 'hard to resolve' cases.

We would not favour a phased reduction. We agree that this risks adding a degree of confusion for consumers. We also accept that a move straight to 20 working days may require a longer lead time to implement than a phased approach.

We appreciate that there will be times when a delay in the passenger providing additional information impinges on the 20 working day timescales. However, we feel that para 3.78 – giving passengers the ability to stick with the operator rather than going straight to ADR – provides an option. If a passenger has, for instance, taken three weeks to respond to an information request, there is no reason why the licence holder cannot offer to follow through with their investigation and respond, even though it has passed the ADR 'window'.

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?
– Percentage of complaints resolved within 20 working days
– Percentage of complaints resolved within 10 working days

– Average response time for resolving complaints

Yes. We have long supported the use of average response times, believing this allows for a better comparison/benchmarking of performance.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

In principle, there is an argument for all licence holders to have consistent targets and obligations. However, it will be important for the information provided to be meaningful. If the volume of cases is so low that it makes the above data meaningless then there may be a case for a more proportionate response. To some extent this requires a better understanding of volumes.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

Yes – subject to the new target actually being 20 working days. If the conclusion is to stay at 40 or move to 30 then removing the '95% in 20' target could slow down responses to passengers.

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

We agree that licence holders should take responsibility for learning from complaints – as mentioned above, they should see this as valuable management information in its own right rather than something they are required to do. A move towards self-publishing – rather than sending to ORR - could help embed this culture.

However, it is possible that such information could just be hidden away on a website – there is certainly little publicity to date given to the (EC) No 1371/2007 regulation on rail passengers' rights and obligations (PRO) concerning the annual service quality report (of which learning from complaints would be part).

Until or unless licence holders demonstrate that they are entering into the spirit of this requirement then we are uneasy at moving to unregulated self-publication. There is a value in having an easy to find record of continuous learning.

So, if we are to move towards self-publication, it will be important to build in a review period after which both compliance, and the spirit of compliance, can be assessed. If all is good then there are no issues, but there needs to be the ability to issue an improvement notice if not.

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

We agree with the move to develop a revised suite of performance metrics looking at quality as distinct from speed of resolution.

These metrics need to be easy to understand (from a non-industry perspective) and made publicly available.

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

We note the impact of the rail reform programme and the role envisaged for Transport Focus in monitoring complaint volumes and themes. However, we feel it is too early to form a view on what shape/form this may take.

● Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

There is certainly a need for a comprehensive training regime for new recruits and where failings have been identified.

It is harder to be specific when it comes to other staff – however, it feels reasonable for there to be annual refresher training on some important issues, such as accessibility/equalities requirements.

There is also a case for training to recognise vulnerable complainants. Training is carried out to provide assistance and reassurance for front line staff but there is little evidence of this applying to those handling complaints.

● Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

We agree with the new emphasis on contingency measures. It is unreasonable for licence holders to be permanently resourced to deal with exceptional spikes in demand. But it is not unreasonable to expect that they have well thought out contingency measures for those circumstances.

These contingency plans must also reflect instances where staff are prevented from entering premises – as seen during the peak of the covid pandemic.

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

It will be important that CHPs remain primarily focused on the nuts and bolts of complaints handling rather than straying into more general marketing and promotion – e.g. talking about the introduction of new trains. Anyone who needs to refer to a CHP should be able to find the key information (what, when, how) quickly and easily.

Transport Focus and London TravelWatch
September 2021

Draft Complaints Code of Practice (CCP)

Q1. Do you have any comments on our proposal to replace our current guidance with a new Complaints Code of Practice with which licence holders' CHPs must comply?

Response – Given the time which has passed since the last update (2015) to the complaints handling terms for licence holders, it is reasonable to expect the Complaints Code of Practice (CCP) to be updated to align it with current standards seen across other industries and public services.

As stated by the ORR it is important that the improvements being suggested have been considered from an operational sense, that they improve the process for customers and that they are deliverable.

It is expected that the proposed new structure, whereby the ORR sets the terms of what must be included in a Complaints Handling Procedure (CHP), with onus on the licence holder to ensure compliance, will streamline the process. If as suggested, this leads to reduced time and staff resourcing required during the CHP development phase and allow for more adaptive change throughout its lifecycle, TS agrees that would be beneficial.

From the TS perspective, this appears to be a reasonable approach to removing some of the administrative hurdles for licence holders. However, as suggested it is vital that the ORR review CHPs at some stage to ensure compliance is being upheld and that standards do not slip.

The Scottish Public Service Ombudsman (SPSO)[1] functions include the "*final stage for complaints about most devolved public services in Scotland*". A new public sector operator ScotRail Trains Ltd, replacing Abellio ScotRail, is due to go live on the Scotland route in April 2022. Certain criteria will determine the status of the new entity which, depending on how it is categorised, could place it close to the ambit of the SPSO (especially so if a Rail Ombudsman were not already to exist). TS is of the view however that from an operational perspective ScotRail Trains Ltd will continue to be part of the Rail Ombudsman Scheme. From a policy perspective too, this seems appropriate given the specialised service and knowledge that the Scheme offers for the Rail Sector.

There may be instances where members of the public opt to take a rail related complaint to the SPSO. It would be for the SPSO to consider whether to adjudicate on such a complaint. Provided this flexibility exists, and does not cause confusion, this seems a reasonable arrangement. TS is able to liaise with ORR further on this matter as necessary.

Finally, and as highlighted in other responses from TS to the current ORR consultations, any change for the Scotland route with regards to Complaints Handling should take account of Scottish Ministers' interests and not rely solely on

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[1] We are Scotland's Ombudsman | SPSO

proposals stemming from the Williams-Shapps review which ultimately may prove inappropriate in Scotland. (Paras 1.21 – 1.23 of the Consultation refers.)

TS recognises that ORR has conducted an Equality Impact Assessment in respect of the proposals.

Q2. Are there any additional areas of organisational culture or the key principles that underpin a good complaints handling procedure that should be included?

Response - It is important that when considering Scottish Ministers' contracted services that the CHP is aligned with the good practice outlined by the Scottish Public Service Ombudsman's (SPSO) - Complaints Standards Authority | SPSO.

Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?

Response – TS agrees that the revised definition more accurately reflects a complaint. However, TS would wish the ORR to consider what impact the revised definition of a complaint will have if applied in particular to social media posts.

The term *"where a response or resolution is explicitly or implicitly expected"* is broad and answering every social media post which meets (or might meet) this description or standard would be very resource intensive for operators.

Social media is not currently seen as a formal mode of communication and whilst we recognise this may change, the practical implications should then also be considered.

Volumes of complaints if defined in this way could regularly overwhelm the volume of staff available to respond, and likely to be prohibitive in terms of aiming to provide individual replies to an acceptable standard within the agree timescales. We acknowledge, however, that having a separate definition of complaints for social media and other forms of communication may lead to confusion for customers.

In practical terms, if, as suggested, a flexible approach is to be deployed for social media then how, for instance, would complaints be upheld?; would the licence holder be expected to uphold the spirit – as well as the letter - of the CHP?; and how will it be defined on the CCP/CHP?

See also Q.6 below.

Provision 1: Information for passengers

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

Response – Transport Scotland believes that the provisions on information requirements are clear and proportionate as a whole.

It is helpful that licence holders' complaints procedures must make clear how a complaint can be made, to whom it should be sent, and what the essential information is that a complainant needs to provide. It is also agreed that the complaints procedure must set out the licence holder's own target timescales for responding to complaints.

However, the requirement to display complaints information i.e. where and to whom to complain could be difficult at some stations. As in the rest of GB, some stations in Scotland are run by Network Rail and others by the operator, and more than one TOC providing services at certain stations. This would make it challenging to display the correct information to the customer via the limited means of a poster for example. There can be cost and practical implications for smaller operators with relatively few services, hence the need for proportionality.

Provision 2: Receiving complaints

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

Response – TS is content that the proposed changes and the flexibility offered under this provision would be a welcome change for customers and TOCs alike.

With regards to websites, a clear requirement to have a "complaint" tab on the home page should allow customers to register a complaint and removes any ambiguity around existing "contact us" tabs.

As for paper complaints, TS agrees that the complaints process must remain accessible to all. As suggested, as long as licence holders are required to respond to written letters by post and continue to provide details on this on request we have no major concerns over a requirement for physical paper complaints forms.

There will likely be particular considerations in respect of the Public Sector Equality Duty (in Scotland) regarding this topic and, while noting the EIA carried out by the ORR, TS would welcome information from the ORR on how this is being met in respect of websites and other access routes.

Social media

Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?

Response – Please see response for **Q3** above.

Q7. To industry:
– What social media channels do you currently operate (e.g. Twitter, webchat, other?)

Response – NA

– Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?

Response – NA

– What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on "on-the-spot" resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Response - NA

Provision 3: Recording complaints

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

Response - Yes these seem clear and proportionate. However, one requirement which the ORR set out as "*the ability to retain complaints records for an appropriate period of time to allow complaints to be reopened, if necessary*" will need to be considered in the context of GDPR.

It may be helpful if this "*period*" is defined or as a minimum it may be a requirement that customers are informed of how long this period will be before information will be deleted (and that they may wish to keep a copy for their own records).

Provision 4: Responding to and investigating complaints

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

Response – TS agrees with most elements under this provision. In most cases "*what outcome the customer wants*" will be either an explanation, compensation or/and an apology. In some other cases it may be for an issue to be rectified in another way. This will normally be clear in an individual's complaint.

However, asking licence holders *"if it is not clear"* to *"clarify at the outset what outcome the customer wants"* is likely to require careful handling.

TS agrees it would be reasonable to ask for clarification but there is a risk that seeking further clarification may antagonise the complainant further as they may feel that their complaint is already clear. It may also add time to the process. This

element will likely need to be discussed / reviewed with licence holders, and proposed solutions may require time to bed in.
Provision 5: Resolving complaints
Q10. Are the requirements on resolving complaints clear and proportionate? **Response –** Yes, all elements of provision appear clear and proportionate.
Provision 6: ADR
Q11. Do you have any views on our proposals to increase awareness of ADR on websites and in complaints acknowledgements? **Response –** No concerns **Q12.** Are our signposting requirements clear, proportionate and reflective of current ADR practice? **Response –** Yes these are clear. **Reducing the 40 working day timescale** **Q13**. Do you agree, in principle, that the time passengers must wait before accessing ADR should be reduced from the current 40 working days or deadlock? **Response –** Yes. With the vast majority of any complaints now being digital, there should be an expectation that they can be resolved quicker and where they cannot, that access to ADR is available earlier too. **Q14**. If yes, do you believe that the time limit should be reduced: (i) to 20 working days or deadlock (whichever is sooner) or (ii) to 30 working days or deadlock (whichever is sooner), or (iii) from 40, to 30, to 20 working days or deadlock (whichever is sooner), via a phased approach? **Response –** TS is happy to be led by industry here and are therefore open to discussion. Any reduction should be meaningful, 30 days may be a sensible option considering that 94-95% are currently resolved within 20 days. **Q15.** What would be an appropriate lead time to implement each of the options in Q14? It would be helpful if licence holders will provide evidence to support their answers to Q13-15. **Response –** To be led by industry, though within 12 months does appear reasonable.
Provision 7: Reporting

Response times

Q16. Do you agree with the minimum metrics on complaints handling response time that we propose to require licence holders to collect and report on, as set out below?
– Percentage of complaints resolved within 20 working days
– Percentage of complaints resolved within 10 working days
– Average response time for resolving complaints

Response – This appears appropriate for TOCs to deliver. TS considers it appropriate for the industry to lead on this matter.

Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

Response – This would be appropriate for consistency and transparency.

Q18. Do you have any comments on our proposal to replace the regulatory requirement to respond to 95% of complaints within 20 working days with a new requirement on signposting to ADR at 40/30/20 working days?

Response – Transport Scotland believes maintaining the 95% target is more appropriate as it encourages a timely response in the first instance.

Continuous improvement

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

Response – TS believes the resourcing element of this must be considered, if annual reporting meets the needs / expectations of customers then it will be of little value to report on a more frequent basis. With 94-95% of complaints resolved within 20 days more reporting is unlikely to increase significantly resolution time. Therefore, on balance annual reporting should be sufficient.

Quality in complaints handling

Q20. Do you agree with our approach to developing a revised suite of performance metrics that give appropriate consideration to quality?

Response – Yes, quality of response is the most important. It would be beneficial to have insight into the average quality of responses. This could be through a customer survey once a complaint has been considered resolved (i.e. a Likert Scale ranging from very satisfied to very unsatisfied for example).

Q21. In addition to our ongoing survey of passenger satisfaction with complaints handling, are there other measures of quality with the complaints handling process that we could consider and draw on, and that are not discussed above?

Response – Transport Scotland has no further suggestions.

Driving wider learning from complaints

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

Response – If as proposed CHPs will no longer be reviewed by the ORR then it may be reasonable for a forum on an annual basis to discuss CHPs to facilitate continuous improvement.

Provision 8: Training, resourcing, and quality assurance

Q23. Do you have a view on what should constitute "regular intervals" in relation to the frequency of refresher training?

Response – Led by industry

Q24. Do you have any comments on our requirement to ensure that adequate resources are provided for complaints handling?

Response – Adequate resources should be allocated for complaints handling.

Annex B – draft obligation on licence holders

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

Response - From TS's perspective the text seems appropriate, however we assume that there are no devolved pieces of legislation which are pertinent here. It would be helpful if the ORR could confirm this.

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

Response – TS has no further comments.

West Coast Railway Company Ltd response to ORR's consultation on a draft complaints code of practice.

From:
Sent: 13 September 2021 13:03
To: ORR CHP <CHP@orr.gov.uk>
Subject: RE: [EXTERNAL] complaints code of practice

Complaints code of practice, thank you for the opportunity to comment.
West Coast Railway Company Ltd comments as follows;

Complaints via social media - this clause could potentially dilute our ability to respond appropriately to genuine complaints and would impose an unnecessary financial burden on charter operators.

Charter train operators attract a huge number of comments related to all aspects of train operations via social media, many posted by enthusiasts commenting on diverse aspects of the train operations, even so far as comments about a particular livery which may not match an individual's historic preference.

The comments are largely inseparable between comment or complaint.

Our current website shows a clear route to our complaints process which is monitored and managed and has a direct reference to our membership of the Rail Ombudsman service.

Thanks
Kind regards