

Annex A: Statutory Notice

To holders of:

Passenger SNRPs
Charter Passenger SNRPs
Passenger train licences
Station licences

From:

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Deputy Director, Consumers,
Railway Markets and Economics

which are listed at Annex C to this Notice

E-mail: CHP@orr.gov.uk

26 February 2019

Notice of statutory consultation on changes to modify the Complaints Handling condition in the licences and SNRPs listed in Annex C to this Notice

ORR hereby gives notice under Section 12(2) of the Railways Act 1993, and Regulation 13(2) of the Railway (Licensing of Railway Undertakings) Regulations 2005, of its proposals to modify the Complaints Handling condition in the licences and Statement of National Regulatory Provisions (“**SNRP**”) listed in Annex C to this Notice. The table in Annex C also sets out the condition number of each individual licence and SNRP that is to be modified. The purpose of the modifications is to require all passenger licence/SNRP holders and station licence holders to become members of an Alternative Dispute Resolution (“**ADR**”) scheme in the rail sector.

Proposed Modifications

The proposed modifications are contained in Annex B to this Notice. The proposed modifications will mean that all passenger licence/SNRP holders and station licence holders must be members of an ADR scheme.

We expect that the proposed modifications for franchise train operators, open access operators and Network Rail will be implemented as soon possible after **1 April 2019**.

For all other rail operators, the proposed modification will be implemented as soon as possible after **1 June 2019**.

Effect and reasons for proposed Modifications

A detailed explanation of the proposed modifications, the effects of those modifications and our reasons for proposing them is set out in our 26 February document “*The Rail*

Ombudsman – ORR proposals to modify licence conditions to require membership of an Alternative Dispute Resolution scheme”, to which this notice is annexed.

ORR has also discussed its proposals to implement an ADR scheme and to modify the licence/SNRP in detail through the following consultations with industry:

- Changes to Complaints Handling Guidance: Decision letter, dated 8 February 2018¹;
- Modification to Passenger Licence Condition 6 (Complaints Handling) a consultation, dated 26 July 2018²; and
- The Rail Ombudsman – ORR proposals to modify licence conditions to require membership of an Alternative Dispute Resolution scheme, dated 19 December 2018³.

Annexed to this notice is:

- Annex B:** containing the proposed modifications to the Complaints Handling condition of the passenger licence/SNRP and station licence. The proposed modification is set out in red; and
- Annex C:** containing a table of passenger licence/SNRP and station licence holders and showing the condition of their licence where the modification is to be inserted.

We request the consent of licence and SNRP holders in order to make the modifications. We would appreciate licence and SNRP holders sending their written consent to us by 26 March 2019 and that any representations on, objections, or modifications to ORR’s proposed changes to the licences listed in Annex C of this Notice should be sent by 26 March 2019 to: marcus.clements@orr.gov.uk or to CHP@orr.gov.uk.

If we do not receive the consent required, we will consider referring the matter to the Competition and Markets Authority under Section 13(1) of the Railways Act 1993 and/or Schedule 3 of the Railway (Licensing of Railway Undertakings) Regulations 2005, as appropriate.

This notice is also being published on our website.



STEPHANIE TOBYN

¹ https://orr.gov.uk/data/assets/pdf_file/0005/26699/consultation-on-changes-to-complaints-handling-guidance-decision-letter-2018-02-08.pdf

² https://orr.gov.uk/data/assets/pdf_file/0006/28419/2018-07-26-consultation-on-licence-condition-6-complaints-handling-modification.pdf

³ https://orr.gov.uk/data/assets/pdf_file/0013/40036/response-to-adr-consultation-and-draft-wording-for-licence-modification-2018-12-19.pdf

**FOR AND ON BEHALF OF
THE OFFICE OF RAIL AND ROAD**

Dated 26 February 2019

Information provided to us may be subject to publication or disclosure in accordance with the access to information regimes. Any personal data you provide will be used for the purposes of this statutory consultation and will be handled in accordance with our [privacy notice](#) which sets out how we comply with the General Data Protection Regulation and Data Protection Act 2018.

If you wish any information you provide to be treated as confidential, please explain why. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR

If you prefer to make a response in confidence, please annex any confidential information, or provide a non-confidential summary, so that we can publish the non-confidential aspects of your response.

So that we are able to apply web standards to content on our website, we would prefer that you email us your response either in Microsoft Word format or the OpenDocument Text (.odt) format.

Annex B: Proposed Modification to licences/SNRPs listed at Annex C

We propose that the wording below in red be added to the end of the Complaints Handling condition. The location of the Complaints Handling condition is set out in the table at Annex C to this Notice for each of the licences/SNRPs affected.

- [5 or 7]. (a) The [SNRP] or [licence] holder shall become and thereafter remain, a member of the Relevant ADR Scheme;
- (b) The [SNRP] or [licence] holder shall comply with its obligations under the Relevant ADR Scheme; and
- (c) If the Relevant ADR Scheme, at any time, ceases to be Compliant, the [SNRP] or [licence] holder must:
- (i) within 14 days after becoming aware that the Relevant ADR Scheme is no longer Compliant, notify ORR of that fact;
 - (ii) within no more than 28 days after becoming aware that the Relevant ADR Scheme is no longer Compliant, notify ORR of the arrangements it has put in place to ensure that the interests of passengers are not adversely affected and must, if so directed by ORR at any time, revise those arrangements to take account of any concerns ORR reasonably raises about the protection of passenger interests; and
 - (iii) if the Relevant ADR Scheme continues to be non-Compliant for more than 6 months:
 - take all such steps as are reasonably practicable, including working together with other members of the Relevant ADR Scheme, and Rail Delivery Group, as appropriate, to identify another alternative dispute resolution scheme which is Compliant; and
 - notify such scheme to ORR within not more than 12 months (or such longer period as ORR may agree) after the date on which the Relevant ADR Scheme ceased to be Compliant

[6 or 8]. For the purposes of this Condition:

“Relevant ADR Scheme” means:

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

“Successor Scheme” means:

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

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

- that the scheme is approved by the Designated Competent Authority and meets the requirements of ORR’s Guidance in respect of an alternative dispute resolution scheme.

“Designated Competent Authority” means:

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

“ORR’s Guidance” means:

- ORR’s Guidance on the Complaints Handling Procedures as amended from time to time.

Annex C:
Affected Licence/SNRP Holders and Licence Condition to be Modified

Passenger licence and passenger SNRP holders (including charter operators)

Operator	Licence/SNRP number	Condition number to be modified	Operator	Licence/SNRP number	Condition number to be modified
Abellio East Anglia Ltd	UK 02 2016 0003	6	London Underground Ltd	UK 03 2015 0004	6
Abellio ScotRail Ltd	UK 02 2015 0003	6	Merseyrail Electrics 2002 Ltd	UK 03 2003 0011	6
Arriva Rail London Ltd	UK 03 2016 0007	6	Merseyside Passenger Transport Services Ltd	UK 03 2014 0004	6
Arriva Rail North Ltd	UK 02 2016 2002	6	MTR Corporation (Crossrail) Ltd	UK 02 2015 0004	6
The Chiltern Railway Company Ltd	UK 02 2005 0019	6	North Yorkshire Moors Railway Enterprises plc	UK 03 2007 0002	6
DfT OLR2 Ltd	UK 02 2005 0023	6	Pre Metro Operations Ltd	UK 03 2003 0004	6
Direct Rail Services Ltd	UK 02 2005 0024	6	Rail for London Ltd	UK 02 2007 0008	6
East Midlands Trains Ltd	UK 02 2007 2009	6	Rail Operations (UK) Ltd	UK 02 2016 0011	6
EM Trains Ltd (formerly OQS Rail Ltd)	UK 02 2006 0011	6	Serco Caledonian Sleepers Ltd	UK 02 2015 0001	6
First Greater Western Ltd	UK 02 2006 0002	6	SOLR1 Ltd	UK 02 2007 0006	6
First MTR South Western Trains Ltd	UK 02 2017 0002	6	SOLR2 Ltd	UK 02 2007 0007	6
First TransPennine Express Ltd	UK 02 2016 0001	6	South Yorkshire Supertram Ltd	UK 03 2018 0001	6
GB Railfreight Ltd	UK 02 2009 0001	6	Thameslink Ltd (formerly Golding's Rail Ltd)	UK 02 2006 0008	6
Govia Thameslink Railway Ltd	UK 02 2014 2002	6	Transpennine Express Ltd	UK 02 2006 0013	6
Grand Central Railway Company Ltd	UK 02 2007 0003	6	Trenitalia c2c Ltd (Formerly NXET Trains Ltd)	UK 02 2014 0003	6
Heathrow Express Operating Co Ltd	UK 02 2014 0001	6	Tyne and Wear Passenger Transport Executive	UK 03 2002 0002	6

Hull Trains Company Ltd	UK 02 2005 0055	6
Keolis Amey Operations/ Gweithrediadau Keolis Amey Ltd	UK 02 2017 0001	6
Locomotive Services (TOC) Ltd	UK 02 2007 0011	6
London Midland Trains Ltd	UK 02 2006 0011	6
London North Eastern Railway Ltd	UK 02 2006 0012	6
London and South Eastern Railway Ltd	UK 02 2006 0003	6

Vintage Trains Ltd	UK 02 2018 0001	6
West Coast Main Line Company Ltd	UK 02 2006 0007	6
West Coast Railway Company Ltd	UK 02 2005 0079	6
West Coast Trains Ltd (Virgin Trains)	UK 02 2005 0083	6
West Midlands Trains Ltd	UK 02 2017 0003	6
XC Trains Ltd	UK 02 2007 0010	6

Station licence holders

Abellio East Anglia Ltd	UK 03 2016 0005	6
Abellio ScotRail Ltd	UK 03 2015 0003	6
Arriva Rail London Ltd	UK 03 2016 0003	6
Arriva Rail North Ltd	UK 03 2016 0009	6
The Chiltern Railway Company Ltd	UK 03 1995 0015	6
DFT OLR2 Ltd (formerly Cross Country Trains Ltd)	UK 03 2018 0009	6
East Midlands Trains Ltd	UK 03 2007 0019	6
First Greater Western Ltd	UK 03 2006 0002	6
First MTR South Western Trains Ltd	UK 03 2017 0001	6
First TransPennine Express Ltd	UK 03 2016 0002	6
Glasgow Prestwick International Airport Ltd	UK 03 1994 0006	6
Govia Thameslink Railway Ltd	UK 03 2014 0008	6
Keolis Amey Operations/ Gweithrediadau Keolis Amey Ltd	UK 03 2018 0005	6
London North Eastern Railway Ltd	UK 03 2014 0003	6
London North Eastern Railway Ltd	UK 02 2006 0012	6

London and South Eastern Railway Ltd	UK 03 2006 0005	6
London Underground Ltd	UK 03 2004 0009	5
Merseyrail Electrics (2002) Ltd	UK 03 2005 0086	6
Merseyrail Electrics (2002) Ltd (Liverpool parkway station)	UK 03 2005 0086	6
Merseyside Passenger Transport Services Ltd	UK 03 2014 0005	6
Mitie Technical Facilities Management Ltd	UK 03 2013 0001	6
MTR Corporation (Crossrail) Ltd	UK 03 2015 0005	6
Network Rail Infrastructure Ltd	UK 03 1994 0004	5
Rail for London Ltd	UK 03 2007 0017	6
Stobart Rail Ltd	UK 03 2011 0001	6
South Yorkshire Supertram Ltd	UK 03 2018 0002	6
Trenitalia c2c Ltd (Formerly NXET Trains Ltd)	UK 03 2014 0011	6
Tyne and Wear Passenger Transport Executive	UK 03 2002 0003	6
West Coast Trains Ltd (Virgin Trains)	UK 03 1995 0013	6
West Midlands Trains Ltd	UK 03 2017 0004	6