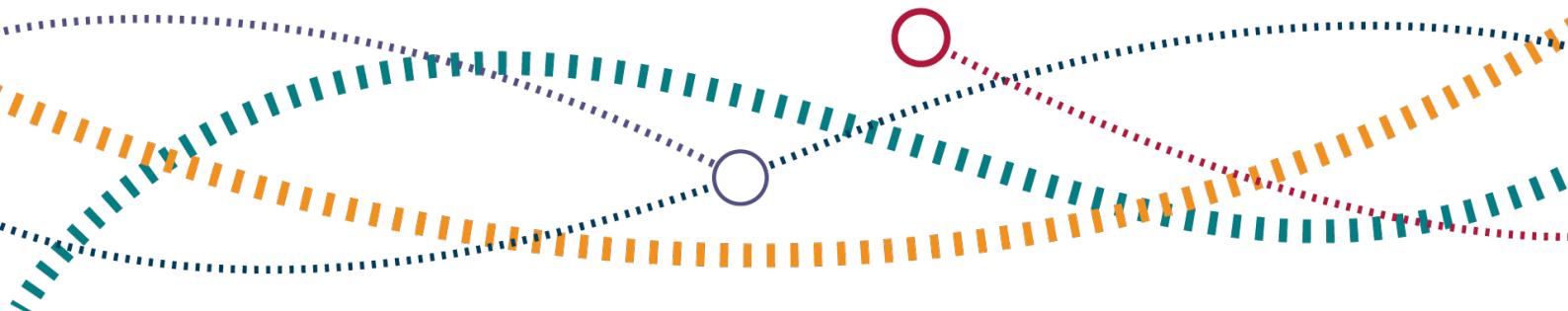




Complaints Code of Practice Consultation response and second consultation

28 June 2022



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Executive summary

1. Good complaints handling is an essential part of the service that train and station operators provide to their passengers. When things go wrong, it is important that there are effective means for passengers to submit complaints, and for operators to put things right. Learning from complaints should be used by operators to drive continuous improvement in passengers' experience of rail.
2. Under their current licences, train and station operators must establish and comply with a complaints handling procedure (CHP) that is approved by the Office of Rail and Road (ORR). Our [guidance](#) on complaints handling procedures for licence holders sets out what we will look for when carrying out our approvals role and when monitoring for continuing compliance.
3. Last summer [we consulted](#) on updating our guidance to ensure it continues to reflect good practice in complaints handling and has kept pace with passengers' needs and expectations. We proposed to replace our current guidance with a new Complaints Code of Practice (the Code) with which licence holders' complaints handling procedures must comply. We also sought stakeholders' views on reducing the time that passengers must wait before accessing Alternative Dispute Resolution (ADR) through the Rail Ombudsman.
4. This document sets out a high-level summary of the views submitted by respondents to our consultation, our comments on those responses, and the changes we propose to make.
5. Many changes to the proposed Code are clarifications and refinements made in light of stakeholder comments, including substantive changes to our proposals in relation to social media. We have also strengthened some aspects of the Code and made it clearer which aspects are minimum requirements that operators must deliver, and which aspects are good practice for operators to consider. We set out further detail on these changes below.
6. We are now seeking the views of stakeholders on the wording of the revised Code, and on the draft licence condition, both of which we are publishing alongside this document.
7. **Please provide any comments you have on the text of the Code and on the draft licence condition by 5pm on Friday 5 August 2022. You can provide your comments via:**

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- Email to: chp@orr.gov.uk

OR

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

8. **Where possible we would prefer to receive responses by email.**
9. We have actively considered accessibility needs when producing this document in PDF format. Individuals and organisations can use free Adobe Reader accessibility features or screen readers to read the contents of this document.
10. If you need this document in a different format such as large print, easy read, audio recording or braille, please contact our Public Correspondence Team via:
 - email: webteam@orr.gov.uk
 - telephone: 020 7282 2000 (select option 3)
 - Post to: ORR Complaints Code of Practice, Office of Rail and Road, 25 Cabot Square London E14 4QZ.
11. We will consider your request and will endeavour to get back to you with the accessible format within 20 working days.
12. We plan to publish all responses to this consultation on our website. Should you wish for any information that you provide to be treated as confidential, please be aware that this may be subject to publication, or release to other parties or to disclosure, in accordance with the access to information regimes. These regimes are primarily the Freedom of Information Act 2000 (FOIA), the General Data Protection Regulation (GDPR,) the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004.
13. Under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, if you are seeking confidentiality for information you are providing, please explain why. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR.

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

1. Background and objectives

- 1.1 Effective management of complaints is one of the ways in which train and station operators deliver protection for consumers and gain insight into how their business is working from the perspective of those who use their services. Good complaints handling builds consumer trust and confidence and should be at the heart of a culture of continuous improvement, whereby the insight from complaints is used to learn from what's gone wrong and make improvements.
- 1.2 In the five years before the Coronavirus (COVID-19) pandemic there were, on average, over half a million passenger rail service complaints made to franchised and non-franchised train operators in Great Britain each year. Reduced passenger demand impacted complaint volumes, with just over 133,000 complaints recorded by train operators between 1 April 2020 and 31 March 2021. Passenger numbers, and complaints, have increased as restrictions have been lifted but both remain below pre-pandemic levels. Regardless of the future trends in complaint volumes, it is important that train and station operators have a clear framework for handling complaints in an effective way.
- 1.3 Our [2020 Annual Rail Consumer Report](#) set out our intent to undertake a review of our current complaints handling guidance to licence holders. The introduction of a [Rail Ombudsman](#) in 2018 means that our current guidance needs bringing up to date to reflect the current appeals process. We also want to ensure that our guidance supports train and station operators in delivering good outcomes for passengers and drives performance in the areas that have the most impact on passenger satisfaction with complaints handling – namely quality, and timeliness, with the latter meaning both speed of response and keeping passengers informed.
- 1.4 On [4 August 2021](#) we published proposals to replace our current guidance with a new Complaints Code of Practice. The Code defines good practice principles and core minimum requirements that all operators must deliver through their CHP, as well as drawing attention to wider good practice that they should consider.
- 1.5 Our proposals included:
 - strengthened and expanded requirements regarding the information operators' websites must display about the complaints handling process to promote awareness amongst passengers

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- a new definition of a complaint, to bring it into line with good practice elsewhere and to set clearer expectations for operators and passengers on when a response will be required
- proposals in relation to the handling and recording of complaints including on social media and the treatment in future of paper complaints forms
- information that must be recorded as a minimum to support good record-keeping
- new requirements on the information operators must include when acknowledging complaints to ensure good practice and a level playing field across industry, and guidance on what a good complaint handling response should consider
- requirements and expectations on operators in relation to training, resourcing, and quality assurance
- a new suite of metrics to promote transparent reporting of complaints handling performance to cover the key areas of timeliness, quality, and continuous improvement
- requirements for train and station operators to publish more of their own complaints data, to incentivise greater ownership over their complaints handling activities and performance.

- 1.6 We also sought views on proposals to amend the complaints handling licence condition to require operators' CHPs to comply with the Code, and to remove the current requirement on operators to seek approval of their CHP from ORR.
- 1.7 We also sought views on options to reduce the time that passengers must wait before having the right to access ADR via the Rail Ombudsman.
- 1.8 We received 20 written responses to our consultation. The majority of responses came from train and station operators. We also received responses from the Rail Delivery Group, whose response was prepared on behalf of, and with input from, train operating companies, along with further responses from the Rail Ombudsman, the Rail Safety and Standards Board (RSSB), Network Rail, Transport Focus and London TravelWatch, and Transport Scotland. We are grateful to all those who responded.

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- 1.9 A full list of respondents is provided at Annex A below. All responses have been published on the ORR website alongside this document. Responses have been redacted to remove confidential and personal information.
- 1.10 Since the consultation we have engaged in bilateral discussions with some respondents where it has been helpful to seek clarification on their responses, and/or to help develop our thinking. We have also sought the views of ORR's [Consumer Expert Panel](#).
- 1.11 The following chapter sets out a high-level summary of the views submitted by respondents to our consultation, our comments on those responses, and the changes we have made to the Code as a result. These changes are reflected in the revised Code that we have published alongside this document.

Next steps

15. Following the consideration of responses to this consultation, our next steps will be to prepare for a statutory consultation on licence change this autumn, in which we will seek licence holders' consent to the licence change and publish the final text of the Code. Our intent is for the Code to take effect from 1 April 2023.

2. Consultation responses, and our conclusions

The Complaints Code of Practice

- 2.1 [Chapter 2](#) of our August 2021 consultation sought views on our proposal to replace our current guidance with a new Complaints Code of Practice. The principal effect of this change is that ORR will no longer approve individual operators' CHPs. Instead operators will be required to establish and comply with a CHP that complies with the Code. This is intended to incentivise operators to take greater ownership of their complaints handling procedures. It will also allow ORR to focus more attention on outcomes for passengers with resources refocused on compliance and performance monitoring.
- 2.2 We also sought stakeholders' feedback on the Code's provisions around organisational culture, and how a positive complaints handling culture can be promoted, particularly by senior managers, and on the key principles that in our view underpin a good complaints handling procedure. We also sought views on our proposal to change the definition of a complaint to make the expectation of a response clearer.
- 2.3 We asked for respondents' views on the following questions:
- 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?

Summary of responses – Question 1 – replacing our guidance with a new Code of Practice

- 2.4 Of the 20 respondents to our consultation, 12 responded to question one. Of these eight were generally supportive of our proposal or were supportive whilst raising further comments or queries. Three had no specific comments on the proposal, or shared comments in response to the relevant consultation questions below. RDG's response mainly raised queries.

Transition and feedback

- 2.5 A number of operators, along with the industry body RDG requested more clarity on how the transition to the new Code will be managed. RDG and some train operators also said that it would be of benefit to continue receiving ORR feedback

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on draft CHPs. Transport Focus and London TravelWatch, in turn, emphasised the importance of ongoing compliance monitoring and intervention.

Scope and Board reporting

- 2.6 One respondent sought clarification on whether open access operators would be in scope of the new Code. Another did not agree that Board level view of complaints metrics is necessary, due to the nature of its business and governance arrangements.

Ownership of complaints and general commentary

- 2.7 Two respondents did not respond to question one but made more general comments in support of our proposals. A charter operator said they were generally fully supportive of the Code, but also raised queries around the application of certain aspects of it to non-scheduled operators of charter trains, including in relation to the ownership of complaints. A station operator said it was happy with the proposals and had no further comments or amendments to make.

ORR response

Transition and feedback

- 2.8 To incentivise train and station operators to take greater ownership of their complaints handling procedures, we will introduce a new Code of Practice with which operators' CHPs must comply. It will be each operator's responsibility to ensure that their CHP is compliant. ORR will no longer be offering feedback on draft CHPs.
- 2.9 We will maintain constructive engagement with industry throughout the transition to this new approach and, alongside this, will develop our approach to compliance monitoring. We expect the new Code to come into effect from 1 April 2023, meaning that we would expect operators to have compliant CHPs in place from this date.

Scope

- 2.10 The Code will apply to all operators who have a complaints handling obligation in their licence, including open access operators. There is some minor variation in how aspects of the Code apply to different types of operators, taking into account their different circumstances. This applies in particular to reporting requirements, which are set out under Provision 7 below; and to the provisions of the Code relating to the Rail Ombudsman and ADR which do not currently apply to Eurostar. This is because Eurostar does not currently have the ADR licence condition and is a member of a different ADR scheme.

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Board reporting

2.11 In response to feedback, we have amended the Code to require management information on complaints to be regularly viewed by senior management rather than the Board specifically, to allow operators the flexibility to determine the best arrangements for their business. We have clarified in the Code that ORR may seek evidence as part of any compliance monitoring activities that senior management is aware of and fully engaged with complaints handling performance. (See clauses 1.24 and 1.25 of the revised Code.)

Ownership of complaints

2.12 We have removed a clause in the draft Code about the ownership of complaints relating to Network Rail, as it is duplicating other content. (See clause 1.19 which is struck out in the revised Code.)

2.13 For clarity: where a charter operator is working with a third party who provides the interface with passengers, there must be arrangements in place to ensure that any complaints that fall under the charter operator's responsibility can be handled in accordance with the Code. The charter operator, as the licence holder, remains responsible for ensuring compliance with the Code.

Summary of responses – Question 2 – organisational culture and principles of good complaints handling

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

2.14 Of the 20 respondents to our consultation, 12 responded to this question. Of these eight were broadly supportive, or supportive while raising further comments or queries. Two had nothing further to add. Two mainly raised areas for further consideration.

Complaints involving multiple operators

2.15 RDG and several train operators said they would welcome clarity of expectations regarding the handling of complaints involving more than one train company, and on complaint management during extended periods of disruption.

Learning from complaints

2.16 Transport Focus and London TravelWatch highlighted the importance of learning from complaints, and that it would be useful for operators to report on this via a form of "you said, we did" report. They also emphasised the importance of

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assessing CHPs not just on process (like number of days to respond), but on how well complaints are answered and passenger satisfaction with the response.

- 2.17 Another respondent supported the key principles outlined in the Code but suggested that the importance of metrics and insight in informing continuous improvement could perhaps be more clearly reflected within the key principles underpinning good complaints handling.

Quality of response

- 2.18 One train operating group felt the proposals were sufficiently comprehensive but that there could be more emphasis on the content and quality of the complaint resolutions. Another operator recommended inclusion of a first-time resolution metric, e.g., a target for the number of complaint cases being reopened.

ORR response

Complaints involving multiple operators

- 2.19 We consider that this is already adequately dealt with by our Code (see clause 1.15 of the Code). The receiving operator should (where reasonably practical) coordinate a single response on behalf of all operators involved. If the bulk of the issue(s) rest with another operator it is acceptable for the receiving operator to make arrangements to have the complaint passed to the more appropriate party. The complainant must be informed when this takes place.

Learning from complaints and quality of response

- 2.20 The quality of complaints resolution and continuous improvement will form part of our future compliance monitoring and reporting regime. We set out more about our approach on this, and on wider reporting metrics, including first-time resolution, under Provision 7 of the Code below.
- 2.21 We address the expectations, standards and content of responses under Provision 5 below.

Summary of responses – Question 3 – definition of a complaint

- Q3. Do you have any comments on our proposal to change the definition of a complaint to make the expectation of a response clearer?
- 2.22 Of the 13 respondents who answered this question or who commented on it in their response, the majority were broadly supportive of our new definition or were supportive whilst raising further comments or queries.

Scope of the definition

- 2.23 RDG said that operators support the new definition of a complaint but preferred that all complaints requiring a response be captured within the definition, rather than just those relating to a “customer or potential customer”. It also welcomed additional guidance on the expectations, standards, or content of complaint responses.
- 2.24 One operator felt there are still some discrepancies around what a complaint is, citing delay compensation as an example of an expression of dissatisfaction requiring a response (i.e., compensation), but one that is not currently classed as a complaint.
- 2.25 Another operator recommended amending the definition to be clear that a simple acknowledgement of receipt of a complaint would not suffice. It also wanted further guidance on what is meant by a response being “implicitly expected,” noting that this could be subjective and risks inconsistency across industry.
- 2.26 Several respondents sought further guidance on the application of the definition to social media, where the expectation of a response could be harder to define.

Other comments

- 2.27 Transport Focus and London TravelWatch supported the revised definition, and our proposal that it would be good practice for operators’ CHPs to include details on the availability of redress when passenger assistance has not been delivered as booked, noting that a lack of awareness of passenger rights is a key barrier to passengers exercising these rights.

ORR response

- 2.28 We have not made any amendments to the proposed definition of a complaint.

Scope of the definition

- 2.29 The reference to “customer or potential customer” in the definition of a complaint is consistent with the wording in train and station operators’ licences. Licence holders remain free to apply the Code to the handling of complaints from other sources (e.g., non-customers), although we do not expect them to include these complaints in their complaints data reporting to us.
- 2.30 We consider that it is already suitably clear that a simple acknowledgement of a complaint would not be sufficient, as Provision 5 of the Code requires all complaints to be resolved, meaning that there are no outstanding actions required on the part of the operator.

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- 2.31 Our core data reference guides will continue to provide guidance on issues that are outside the scope of the definition of a complaint, such as delay compensation claims. We will engage with operators to support a consistent interpretation of reporting requirements via our annual core data consultation later this year.
- 2.32 A number of the queries around the new complaint definition related to its applicability to social media. We set out our approach on social media under Provision 2 below.

Provision 1: Information for passengers

- 2.33 The purpose of Provision 1: Information for passengers, is to promote passengers' awareness of the complaints process and how to complain and sets out what operators must do to achieve this. We sought feedback on the following question:
- Q4. Are the provisions on information requirements clear and proportionate?

Summary of responses – Question 4 – information for passengers

- 2.34 Of the 13 respondents who answered this question or who commented on this provision, the majority were broadly supportive of our proposals or were supportive whilst raising further comments or queries.

Information at stations

- 2.35 Provision 1 of the draft Code said that licence holders must ensure information about how and to whom to complain is prominently displayed at stations. It also said that at multi-operator stations, publicity should make clear the different contact points for complaints about different services. This carried forward already existing expectations from our current complaints handling guidance, albeit with the first requirement strengthened to a "must". Operators should therefore be familiar with these expectations.
- 2.36 RDG and Transport Scotland noted that a requirement to display complaints process information or information about where and to whom to complain could be difficult at some stations such as those with multiple operators.
- 2.37 One operator sought further clarity on the expectation for information to be prominently displayed on social media or at stations, noting this will not be practical on some platforms. Another noted the constraints in place in relation to the use of historic buildings.

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2.38 RDG said that whilst operators may have station posters that display welcome messages or contact information, updating these to meet the requirements of the Code could import significant cost.

Paper copies of the CHP

2.39 RDG requested further clarity on the provision of paper copies of the Code (which we understand to mean paper copies of each operator's CHP), noting that many train operators are moving away from printed material where possible and making it available upon request.

Multi-modal travel

2.40 Transport Focus and London TravelWatch said that clarity about who to complain to is important, and there could be value in setting out some of the main scenarios that could cause confusion, such as who to go to if you have a complaint regarding a multi-modal ticket, or about the act of interchanging between transport modes at a station.

ORR response

Information at stations

2.41 We recognise that licence holders will be able to display more information about the complaints process on websites than via physical displays at stations, and that cost considerations may come into play if current station posters were required to undergo a wholesale refresh.

2.42 **We can clarify therefore that operators can meet the requirement on information displays at stations by displaying contact information for channels that can accept complaints.** In practice this might be fulfilled by providing the contact details for customer relations teams, and/or other channels that can accept complaints. For charter operators, we will take a proportionate approach to monitoring information requirements at stations and recognise that these may not be feasible for the operation of one-off charter services.

2.43 Regarding multi-operator stations, in response to feedback we have amended the Code to state that publicity "must, where practicable" make clear the different contact points for complaints about different services. (See clause 1.29 of the revised Code.)

2.44 The Code does not stipulate the format or location of information displays at stations. We expect operators to use their judgement to determine what is appropriate in the circumstances to best meet customer needs.

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Paper copies of the CHP

2.45 The Code is clear that a copy of the CHP must be provided to any person who requests it, free of charge. In practice we would expect paper copies of the complaints procedure to be made available on request, but not necessarily pre-printed or on display; a link to a downloadable copy could be offered/provided. If a paper version of the CHP is requested, that request must be honoured. It would be acceptable for this to follow via post if not immediately available.

Multi-modal travel

2.46 For complaints about multi-modal travel where the substance of the complaint does not fall within the ownership of the licence holder or other licence holders, we have added a new clause to the Code to say that operators are encouraged where possible to signpost the complainant to the appropriate organisation where they can raise their complaint. (See clause 1.16 of the revised Code.)

Material relating to the promotion of complaints handling

2.47 We have strengthened a clause in Provision 1 to make it clear that material relating to the promotion of complaints handling, and the CHP itself, must be presented in plain language and avoid technical terms – or explain these terms where they must be used. (See clause 1.30 of the revised Code.)

Provision 2: Receiving complaints

2.48 Provision 2 of the Code: Receiving complaints, sets out how passengers can access the complaints process. It streamlines many aspects of our existing guidance. It also sets out strengthened and expanded requirements in relation to operators' websites. We sought feedback on the following question:

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

Summary of responses – Question 5 – receiving complaints

2.49 Of the 14 respondents who answered this question or who commented on this provision, three were generally supportive of our proposals or supported them whilst raising further comments or queries. Eight respondents raised mainly queries or opposed aspects of our proposals, with concerns focused in particular on the use of the word complaint on the homepage. Three respondents had no comments.

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Websites

- 2.50 While operators agreed that it should be easy for customers to make a complaint, many industry respondents felt that the requirement to include the word “complaint” or “complaints” on the homepage link to their complaints page was unduly negative and was not in line with practice in other regulated sectors. RDG said that unless the ORR had evidence that this provides a barrier to customers who want to make a complaint, operators would prefer using a word with a less negative inference such as “Contact us” or “Find help.”
- 2.51 One train operator asked for clarification around the meaning of one-click access to the complaints page.
- 2.52 Transport Focus and London TravelWatch supported our proposals as did Transport Scotland who said that a clear requirement to have a “complaint” tab on the homepage should allow customers to register a complaint and removes any ambiguity around existing “contact us” tabs.

Paper complaints forms

- 2.53 Transport Focus, London TravelWatch and Transport Scotland noted the removal of the expectation on operators to routinely carry paper complaints forms but stressed that access to the complaints process via non-digital means such as post remained essential. RDG and some train operators asked for further clarity on ORR’s expectations in relation to paper complaint forms on board trains and at stations. One operator noted that the removal of the need to provide paper forms is not consistent with compensation form policy (which we understand to mean delay compensation form policy) and welcomed guidance from ORR on both policies.

Customer relations call centres

- 2.54 One respondent asked whether ORR will mandate minimum opening hours for customer relations call centres. In relation to social media, call centres and customer relations teams, another respondent noted that smaller charter operators are unlikely to have these sorts of provisions or a dedicated contact number for complaints and asked if this could be taken into account in the Code.

Training for customer facing rail staff

- 2.55 One operator queried the requirement to train all customer facing staff in stations to receive and pass on complaints 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. It suggested this be clarified as a requirement to train staff with

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a customer facing role and also to signpost complaints to appropriate resources in the station.

Feedback

- 2.56 The Rail Safety and Standards Board did not respond to question five but submitted a general comment in response to our consultation, noting that the word ‘complaint’ could limit the potential for feedback that could help the railway to improve, such as feedback on safety related and other matters that would not necessarily be a complaint, but from which the railway might benefit.

ORR response

- 2.57 We have made a number of amendments to the Code in response to stakeholder feedback, as set out below.

Websites

- 2.58 Ease of access features consistently in the principles of good complaints handling. Between 1 April 2020 and 31 March 2021 77.6% of complaints were made via email or webform, meaning that online is overwhelmingly the channel of choice for passengers.
- 2.59 [Critical Research's](#) deep dive of ORR's complaints handling satisfaction survey also indicated that train operating companies can improve ease of access to the complaints handling process and expect to see corresponding improvements in their complaints handling satisfaction ratings.
- 2.60 Therefore we intend to retain the requirement for operators to provide direct, “one-click” access from their homepage to a complaints page containing information on how to make a complaint. We accept however that operators may wish to retain flexibility about how this link is labelled. We have therefore amended the Code so that operators have flexibility to choose how to label this link. (See clause 1.37 of the revised Code.)
- 2.61 We have seen some good examples of how this can be achieved in practice. For example one operator’s homepage contains a “help and contact” tab which, when hovered over, reveals an option titled “Make a complaint.” We consider that ‘hover over’ access to a complaints page from the homepage would be compliant.

Training for customer facing rail staff

- 2.62 We have clarified the Code to state that it is good practice for all customer-facing rail staff, including sub-contracted staff, to be trained to receive and pass on complaints. This means that staff should be able to signpost people to the

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complaints process if they are unable to deal with the complaint themselves. In future, as now, we do not expect complaints that are resolved “on the spot” to be considered as a complaint for compliance or data recording purposes. (See clause 1.35 of the revised Code.)

Paper complaints forms

- 2.63 It is essential that the complaints process remains accessible to all. We have therefore amended the Code to state that whilst licence holders are not required to provide paper complaints forms on request, they must be able to accept written complaints via non-digital means (i.e., via letter/post) and ensure that the contact details for doing so are published within their complaints handling procedure and on their complaints page. (See clause 1.36 of the revised Code.)
- 2.64 The requirements in relation to physical formats for delay compensation claims are set out in clause 4.10 of ORR’s [Delay Compensation Code of Practice](#). This requires operators to ensure that it is possible for passengers to submit claims in physical format, and states that this must be through completion of a form, except where ORR has agreed otherwise. We note the feedback received regarding the consistency of approach for complaints and delay compensation forms and will give consideration to this in any future review of Delay Compensation requirements.

Customer relations call centres

- 2.65 As set out in the draft Code we published in August 2021, operators must publish the hours within which a complaint can be made by telephone, but we are no longer prescribing minimum opening hours and will allow operators to determine what works best for their customers. We do not expect to see a widespread reduction in the opening hours for receiving telephone complaints as a result.
- 2.66 We have amended the Code to make it clearer that operators must be able to accept complaints by telephone. The Code does not require a “dedicated contact number” for complaints only, which should alleviate the concern raised by one charter operator. We have also made it clearer that the choice of access routes for telephone complaints must include a landline, freephone or low cost access number, such as 0800 or 0345. (See clauses 1.43 and 1.44 of the revised Code.)

Feedback

- 2.67 We recognise that all forms of feedback are valuable, beyond feedback that constitutes a complaint, which is what the licence requirement pertains to. We have therefore added a clause to the Code to say that operators are encouraged to invite wider feedback and praise via their complaints page. This is intended to

promote all forms of continuous improvement, and not solely that arising from complaints. (See clause 1.39 of the revised Code.)

Social media platforms

- 2.68 Where the circumstances of a complaint on social media lend themselves to an investigation, operators are currently expected to assist complainants in making a formal complaint via the appropriate channels.
- 2.69 We sought views on proposals that in future, complainants should be provided with the option of having their complaint dealt with via social media, where that is their preferred mode of contact, and where it is practical and feasible to do so. We sought respondents' views on the following questions:
- Q6. Do you agree that in principle, complainants should in future be given the option of having their complaint responded to via social media, where that is their preferred mode of contact, and where servicing the complaint on social media remains feasible and practical?
 - Q7. To industry:
 - What social media channels do you currently operate (e.g. Twitter, webchat, other?)
 - Do you have the ability to record and respond to complaints raised on your social media channels? If not, what are the practical barriers to doing so, and how could they be overcome in the future?
 - What are the potential impacts on complaint volumes and resourcing if operators were required to record and report on “on-the-spot” resolutions on social media within their complaints data? Are there ways of automating the recording of these sorts of complaints within your complaints data, thereby allowing insight from these complaints to be captured?

Summary of responses – responding to complaints on social media

- 2.70 Of the 17 respondents who provided a view on question 6 or commented on social media in their response, eight did not support our proposals. Four respondents including Transport Focus and London TravelWatch were supportive in principle or were supportive whilst making further comments or queries. Five respondents raised mainly queries around the feasibility of our proposals.

Complaints handling on social media – challenges

- 2.71 The challenges identified by industry respondents were principally around practicalities and resourcing. One operator noted that social media is often handled in non-customer relations environments which therefore may not be equipped or suitably trained to handle complaints. Another said that to commit to responding to tweets as a formal complaints channel would require a significant headcount uplift and technical development with likely high costs.
- 2.72 One respondent noted that smaller charter operators may not have social media functions, whilst another noted that responding to complaints via social media could place them under an unnecessary financial burden.
- 2.73 Other concerns raised were that social media might lend itself to unrealistic expectations around speed of response and was not a suitable channel for dealing with certain types of complaints, particularly those that are complex or involve sensitive personal information.

Other comments

- 2.74 Of the four respondents who did agree in principle with our proposals, one sought guidelines to inform the classification of social media comments and complaints.
- 2.75 Another saw instant chat as the channel with the most potential for complaints handling, particularly in simple cases. It preferred the wording of any guidance on complaints handling on social media to refer to “feasible, 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.
- 2.76 Transport Focus and London TravelWatch supported our approach, noting that social media has become the communication method of choice for many people. They said that it is equally clear that not all complaints can be adequately dealt with in this format. Hence, they agreed with our attempt to find a balance.

Summary of responses – social media channels

- 2.77 A range of social media channels are used by train and station operators with Twitter and Facebook being the two channels most frequently mentioned, with Instagram, WhatsApp, Live Chat, webchat and LinkedIn also being used, with not all necessarily being monitored in real time.

Summary of responses – recording and reporting on complaints on social media

- 2.78 RDG said that train operators do not currently have the ability to record complaints raised via their social media channels. The main barrier is that there is no integration between social media platforms and customer relationship management (CRM) systems, and that this would require investment and additional resource. Moreover, it said that the potential volume of contacts dealt with on any one day, particularly during disruption, would make this impractical.
- 2.79 A number of operators explained that their current approach was to either raise a complaint on the customer's behalf in their CRM, where possible, or to signpost the complainant onto alternative channels such as customer relations teams. Some train companies said they were able to tag social media conversations as complaints, although this function was not integrated with their CRM systems.
- 2.80 A number of operators said that being required to respond to and record "on the spot" resolutions on social media would significantly increase complaint volumes, as well as resulting in additional costs in terms of systems, training and headcount. There was no obvious way identified of automating the recording of such complaints.

ORR response

- 2.81 We have amended our proposals in response to stakeholder feedback. We recognise the challenges identified and note that industry as a whole is not presently in a place to be able to implement social media as a complaints handling channel.

Responding to complaints on social media

- 2.82 We have amended the Code to remove the proposed new content on social media, and to replace it with requirements that largely mirror and strengthen the current complaints handling guidance: where a complaint is made via social media and it cannot be resolved on the spot, operators must, as a minimum, assist the complainant in making a formal complaint by signposting them to the appropriate channels. We say "as a minimum" because, as set out above, some operators can and do raise a complaint received via social media in their CRM on the complainant's behalf where possible, and we do not wish to discourage this practice from continuing where it is feasible.
- 2.83 We will also require operators' CHPs to set out their policy on handling complaints via social media. This is intended to support transparency and clarity for

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complainants – but allows for those operators who do not support social media functions to set out in their CHP if this is the case. These changes are reflected in clauses 1.41 and 1.42 of the revised Code.

- 2.84 In practice, for example during times of high-volume contacts, such as during disruption, signposting complainants to the appropriate channels may be achieved by pinning a link to the operator's complaints procedure on their social media channels.
- 2.85 We remain of the view that complainants would ideally be provided with the option of having their complaint dealt with via social media, where that is their preferred mode of contact. **Therefore, we will look to industry to consider this challenge.**

Recording complaints on social media

- 2.86 To enable us to monitor developments over time, we plan to explore with industry options for reporting to ORR volumes of complaints dealt with end to end on social media, and the referral rate of social media complaints to customer service teams. We will explore this further with industry via our annual core data consultation later this year.

Provision 3: Recording complaints

- 2.87 Provision 3 of the Code sets out how complaints must be recorded, and requirements around the information that must be included. This is designed to ensure that operators are clear on the minimum information that must be recorded within their customer complaints database or CRM system in order to support good record-keeping. We sought stakeholders' feedback on the following question:
 - Q8. Is the list of requirements on recording complaints clear and proportionate? Are there any elements that have been overlooked?

Summary of responses – Question 8 – recording complaints

- 2.88 Of the 13 respondents who answered this question or commented on this provision, the majority were supportive of our proposals, or supportive whilst raising further comments or queries.

Recording requirements

- 2.89 RDG said the requirements appeared clear and proportionate, though noted that any amendments or future changes may introduce additional cost.

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2.90 One operator was concerned that a requirement to centrally record and/or have the ability to interrogate all recorded complaint data would be onerous due to the increased resources and costs this would imply to develop and maintain.

Complaints outcomes and complaints categories

2.91 Transport Focus and London TravelWatch saw value in recording and possibly publishing the outcome of a complaint (i.e. compensation, apology, explanation etc). They also asked whether there are any opportunities to highlight specific categories of complaint, such as accessibility, safety, or potentially even hate crime, and that collating and reporting such issues could help facilitate improvements.

Data retention/complaints reopened

2.92 Transport Scotland asked about the requirement to retain complaints records for an appropriate period of time to allow complaints to be reopened, if necessary, and that it may be helpful if this period were to be defined or, as a minimum, that customers are informed of how long this period will be before information will be deleted.

Outsourced complaints handling

2.93 One train operator raised queries around the monitoring of quality in circumstances where complaints handling is outsourced. It said that further guidance from ORR would be welcome on the expectations in relation to suppliers providing information for monitoring purposes, as this could incur additional cost.

ORR response

Recording requirements

2.94 We expect licence holders to have the ability to record and analyse customer complaints data in order to support continuous improvement and learning from complaints. We do not believe that Provision 3 imposes any significant additional burdens beyond those that operators are already subject to via ORR's existing core data reporting requirements, or of the requirements set out within Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations ([PRO Regulation](#)). If operators believe there will be significant additional burdens we invite them to provide feedback and further evidence on this via this consultation.

Complaints outcomes and complaints categories

2.95 We propose that any additions to our current complaints reporting categories are considered as part of our annual core data exercise later this year. This will allow us to also take on board industry feedback in relation to the feasibility of new

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reporting categories and any impacts arising from those. We will be happy to engage Transport Focus and London TravelWatch as part of this year's exercise.

- 2.96 We have been engaging separately with Transport Focus and London TravelWatch about their role within the wider context of rail reform and expect to have closer engagement going forwards around the analysis of complaints data. We expect these discussions to continue, and that they may lead to further areas of exploration in terms of empowering passenger bodies to make use of existing complaints data to understand themes and issues, and drive improvement.

Data retention/complaints reopened

- 2.97 We expect operators to understand and comply with all relevant information law requirements, including the UK GDPR which includes a requirement that personal data should be kept for no longer than is necessary. Therefore we are not proposing to specify a retention period within the Code. However we have added the ability to report on the volume of complaints reopened to the list of minimum requirements under Provision 3 (see amendments below).

Outsourced complaints handling

- 2.98 Where complaints handling is outsourced, licence holders remain responsible for ensuring compliance with the requirements of the Code and must be able to monitor the quality of complaint handling.

Amendments to Provision 3 requirements

- 2.99 We have made some minor amendments to the list of minimum recording requirements to align with our future reporting requirements under the Code, specifically by:
- removing the requirement to record the basis on which the complaint was resolved or otherwise closed and replacing this with a requirement to record the number of days taken to respond to complaints, and an ability to calculate average response times
 - making it clear that the ability to record the volume of complaints signposted to ADR must include those that are signposted due to deadlock or due to expiry of the ADR timescale so that we can continue to monitor this data
 - making the ability to report on the volume of complaints reopened a requirement, as we expect this to form part of our monitoring of complaints handling quality (see Provision 7 below)

2.100 The above changes are reflected in clause 1.49 of the revised Code.

Provision 4: Responding to and investigating complaints

2.101 Provision 4 of the Code sets out requirements on operators in relation to responding to and investigating complaints and includes requirements in relation to the information that must be included when acknowledging complaints, along with requirements on what to do when experiencing delays in handling complaints. It also set out good practice considerations for operators on receiving a complaint to ensure they are clear about what outcome the complainant is seeking. We sought stakeholders' views on the following question:

- 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?

Summary of responses – Question 9 – responding to and investigating complaints

Internal targets

2.102 Industry respondents did not believe 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 extend to the failure to adhere to internal targets for responding to complaints, as these targets may differ between or within operators and could change with best practice. Some also saw a risk of creating perverse incentives whereby operators end up setting less ambitious internal targets to avoid reporting on breaches.

Clarifying the outcome the customer wants

2.103 RDG commented on the recommendation for operators, on receiving complaints, to clarify at the outset what outcome the customer wants if it is not clear already. It said that whilst this may be viewed as a positive approach, it could encourage monetary claims from those who are deemed ineligible for compensation, unnecessarily leading to escalation or financial detriment.

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2.104 Transport Scotland agreed that the approach was a reasonable one, but that there is a risk of antagonising the complainant further if they feel that their complaint is already clear and that this may also add time to the process.

Complaint acknowledgements

2.105 One operator said that it 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, it said an acknowledgement could be sent if response target timescales are likely to be exceeded.

2.106 Another operator asked for further guidance on the expected content for auto-acknowledgments, saying that its experience suggests most customers do not read the information provided in auto-acknowledgements and this would be exacerbated by adding more information.

Third parties

2.107 Another operator said that it may from time to time receive complaints relating to the activities of third parties specific to its international service, and that such complaints did not relate to its service, nor was the handling of such complaints within its control. It sought confirmation that such complaints would not be categorised as “suppliers.”

ORR response

Clarifying what outcome the customer wants

2.108 Following receipt of consultation responses and to help develop our thinking, we tested our proposal on clarifying what outcome the customer wants from their complaint with ORR's [Consumer Expert Panel](#). The Panel supported our approach, noting that it is in the interests of operators to understand a complainant's expectations. We also did not see any evidence within the responses received to support the contention that this approach would result in increased requests for financial compensation. We have retained this clause within the Code but clarified that we consider it to be good practice, rather than a minimum requirement.

2.109 It will be for operators to manage complainants' expectations via clear and transparent communication if a complainant's expectations regarding compensation are not in line with industry policies.

Complaint acknowledgements

- 2.110 We recognise that some discretion may be needed in cases where an acknowledgement via post is likely to be sent only days before a substantive response is received. In such circumstances the requirements around written acknowledgements could be included within the first substantive response.
- 2.111 ORR does not intend to provide prescriptive guidance on the content of auto-acknowledgements to complaints, beyond the requirements that are set out in the Code. The requirement to include a link to the operator's CHP within the acknowledgement of a complaint reflects practice identified within [Queen Margaret University's review](#) of good practice in complaints handling, published alongside our consultation last year, which noted that most regulators reviewed for its research required complainants to be advised of the organisation's complaints handling procedure at the time of the complaint. Including information about likely complaints handling timescales aligns with our principles of good complaints handling, and keeping complainants informed.

Third parties

- 2.112 Where licence holders receive a complaint about a third party supplier, they must work with their supplier to coordinate a response. This would not apply in the case of an independent agency that is not working as a supplier on the operator's behalf.

Changes to Provision 4

- 2.113 We have made two amendments to Provision 4 to address feedback received on other consultation questions, but which are most appropriately addressed within this section of the Code. These are:
- to allow operators to close a complaint if the complainant does not respond to a request for further information after ten working days. This should protect against complaints handling response times being skewed in cases where complainants do not respond to communications from the operator, and also responds to a request from operators for ORR to provide guidance in this area (see 'stop the clock' for further information below). The operator must inform the complainant that they have done so and how the complainant can get in touch if they wish for their complaint to be re-opened (see clause 1.53 of the revised Code); and
 - in circumstances where complaints cannot be fully answered within published timescales, to require operators to update the complainant on their progress in resolving the complaint every ten working days. (See clause 1.55 of the

revised Code). This responds to feedback from Transport Focus and London TravelWatch that was provided in response to Question 10 below.

Provision 5: Resolving complaints

2.114 Provision 5 of the Code sets out the requirements on operators in relation to the resolution of complaints. This includes what information must be included within the CHP about redress and compensation, and about the process for escalating complaints and its relationship to the appeals process via ADR. It also sets out the required procedures around the termination of complaints in circumstances where a complaint is deemed frivolous or vexatious. We also set out what good looks like when it comes to complaint responses. We sought stakeholders' feedback on the following question:

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

Summary of responses – Question 10 – resolving complaints

2.115 Of the 12 respondents who answered this question, most were supportive of our proposals, or supportive whilst making further comments or queries.

Remedies, and escalation

2.116 Provision 5 of the draft Code stated that licence holders must set out the remedies they may offer as part of the complaints process within their CHP, alongside those relating to delay or cancellation as required under the National Rail Conditions of Travel (NRCoT), franchise/contract obligations or other relevant legislation, as well as the process for escalating complaints.

2.117 RDG said an escalation process setting out all the remedies offered may prevent resolution via alternative means and may also encourage customers to bypass initial stages of the full complaints process, rather than enabling early resolution.

2.118 Another operator was strongly of the view that, other than the compensation available under existing passenger rights regulations, operators should have the option to choose what further information they may provide, if any. It felt that publishing the possible remedies available risks raising customers' expectations or worse misleading them, and that this would be likely to prolong the complaints handling process and cause customer frustration and disappointment where claims have been handled legitimately and fairly.

Dealing with frivolous or vexatious complaints

- 2.119 Our Code states that operators must have internal procedures that clearly define the circumstances in which correspondence will be terminated where it considers the complainant's ongoing communication to be frivolous or vexatious and advise the complainant of the contact details of the relevant ADR scheme where a complaint has been terminated for these reasons.
- 2.120 One operator asked for clarification on whether our proposals indicated a change to current practice whereby train operators seek agreement from Transport Focus or London TravelWatch before declaring a complaint as such.

Delays in responding to complaints

- 2.121 Transport Focus and London TravelWatch agreed with the broad list of requirements under Provision 5, particularly the requirement to address all the issues raised, which it said is one of the common forms of complaint received from passengers.
- 2.122 Where there is significant delay or failure to respond initially to a complaint, they said that operators should send out standard updates to all those waiting to have their complaint dealt with to prevent them reaching out to other bodies. And that escalated complaints should also have an estimated response time and a way for the passenger to contact the operator if this is not met.

ORR response

Remedies, and escalation

- 2.123 We do not propose to make any substantive changes to our proposals. Setting out clearly the possible remedies involved is in the interests of transparency for complainants, and links back to the principles of good complaints handling, and that processes should set out what customers can and cannot expect from the complaints handling process, including likely remedies.
- 2.124 We have however clarified the language of the Code to make it clear that it is sufficient to include "a reference" within the CHP to those remedies relating to delay or cancellation as required under NRCoT, franchise/contract obligations or other relevant legislation. This is reflected in clause 1.61 of the revised Code.
- 2.125 We also tested our proposals with ORR's Consumer Expert Panel. The Panel was supportive of our approach, noting that a clear escalation process was deemed to be a positive aspect of a complaints handling process, and that poor communication was the more likely driver of escalations, rather than a clear escalation process in and of itself.

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2.126 Operators with a licence condition that requires them to have an Accessible Travel Policy (ATP) have obligations under ORR's ATP guidance to provide details on the availability of redress when assistance has not been delivered as booked. In our August 2021 consultation we suggested that it would be good practice for operators to include in their CHP where passengers can find out further information about these arrangements. We have now reflected this within Provision 5 of the Code. (See clause 1.63 of the revised Code.)

Dealing with frivolous or vexatious complaints

2.127 We do not propose any substantive changes to the Code. We sought guidance from Transport Focus and London TravelWatch who confirmed that they do not expect to be engaged on a decision to determine a complaint frivolous or vexatious and would expect complainants to be advised of the contact details for the relevant ADR scheme, as above. We have however clarified that operators must record any complaints that have been terminated on these grounds.

Delays in responding to complaints

2.128 We have addressed this through the addition to Provision 4 of the Code, as set out above. (See clause 1.55 of the revised Code.)

Quality of response

2.129 Provision 5 of the Code as published in August 2021 set out considerations for operators in order to ensure quality in complaints handling. We have now clarified the language of the Code to make it clear that operators must ensure complaint responses meet those requirements. See clause 1.58 of the revised Code.

Provision 6: ADR

2.130 The Rail Ombudsman is the ADR scheme for the rail industry. Our current guidance predates the existence of the Rail Ombudsman and therefore needs to be brought up to date to reflect the existence of an ADR scheme and its role as the 'single front door' for unresolved complaints.

2.131 Our consultation sought views on the information licence holders must provide in their CHPs and on their websites about their membership of the relevant ADR scheme and its role in helping complainants. Our Code set out new requirements for the written acknowledgements of complaints to include basic information about the ombudsman and its role. We also set out clear requirements about when in the complaints process signposting to ADR must take place, and what information must be provided. We sought views on the following questions:

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- 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?

Summary of responses – Question 11 – proposals on how operators must promote awareness of the relevant ADR scheme

2.132 Of the 13 respondents who answered Question 11, seven were supportive of our proposals or supportive whilst raising further comments or queries. One operator raised mainly queries. Three were unsupportive of aspects of our proposals. Two had no comments.

Complaint acknowledgements

2.133 Transport Focus, London TravelWatch and the Rail Ombudsman welcomed our proposals on passengers being made aware that ADR exists when they first make a complaint, although the Rail Ombudsman said that 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.

2.134 Some operators felt there may be a risk that by signposting ADR upfront some customers may circumnavigate the complaints process and go directly to the Rail Ombudsman, which would potentially lengthen resolution periods and the implementation of remedial action. Another felt that it would be duplicative to provide information on ADR within complaint acknowledgements, given that acknowledgements will already be required to include a link to the operator's CHP, which will include full details on ADR.

2.135 Another operator said that its experience of signposting ADR in acknowledgement emails is that it has little impact on ultimate ADR referrals, is manageable, and may help with awareness. It therefore agreed that this can be an appropriate mechanism.

Template wording

2.136 One operator asked for clear wording to be provided if our proposals on increasing awareness were to be implemented to ensure clarity and consistency across train companies, ensuring customers follow the processes in the appropriate order.

Summary of responses – Question 12 – signposting requirements to ADR

- 2.137 Of the 13 respondents who answered question 12, ten, including RDG, Transport Focus and London TravelWatch, felt that our proposals on signposting were clear, proportionate and reflective of good practice and of these most had no further comments to make. Two respondents made no comment. One raised mainly queries.
- 2.138 Transport Focus and London TravelWatch agreed on the need for more consistent signposting to ADR at the point of deadlock and that passengers must have absolute clarity about when they can take a complaint to a licence holder. They said this will help prevent contact being made to the ADR provider at an inappropriate time causing the provider to signpost back to the operator which, in turn, causes additional frustrations.
- 2.139 One operator noted that any changes proposed to signposting would need to be reviewed in line with the ORR Core Data report to ensure all operators have the time to make the changes required to their CRMs to enable the reporting to be accurate and also seek budget approval.

ORR response

Complaint acknowledgements

- 2.140 The inclusion of basic information about the Rail Ombudsman in complaints acknowledgements was identified as good practice in [the review of the Rail Ombudsman](#) carried out by RedQuadrant; it is also recommended within RDG's good practice guidelines on signposting the Rail Ombudsman. One respondent who has adopted this approach noted that it has found it to be manageable and may help with awareness.
- 2.141 Providing information about the relevant ADR scheme at the start of the complainant journey should also increase consumer confidence in the internal complaints process. It offers transparency about the process and the available recourse to ADR should a complainant be dissatisfied with the final response to their complaint – and in doing so may also help prevent complainants from contacting the ADR scheme too early.
- 2.142 We therefore do not propose to change our proposals on this point. We have however amended the Code to make it clear that the inclusion of information about ADR in complaint acknowledgements should extend to all complaints, not just

written contacts, and should include telephone complaints as well. (See clause 1.69 of the revised Code.)

Template wording

2.143 We do not intend to provide template wording for acknowledgements or signposting letters as the Code already sets out minimum requirements. We note that RDG has already produced good practice guidelines for industry on signposting which could be reviewed to ensure they reflect the requirements of our Code. We would be happy to engage with industry on this.

Reducing the 40-working day timescale

2.144 Passengers must currently wait 40 working days or deadlock (whichever is sooner) before having the right to escalate a complaint to ADR via the Rail Ombudsman. We sought views on reducing this timescale, via the following questions:

- 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?

Summary of responses – Question 13 – reducing the timescale for accessing ADR

2.145 Of the 13 respondents who answered question 13, six supported some form of reduction. This included Transport Focus and London TravelWatch, who felt that the current 40-day timescale increases the risk of passengers dropping out of the complaints process. Four train operators supported a reduction, though a number said that they wanted ‘stop the clock’ to be retained. (See Provision 7 below for further details on ‘stop the clock’.)

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- 2.146 Three respondents, whilst seeing some scope or benefits to a reduction, were concerned that train operators should have sufficient opportunity to resolve a complaint. Some felt that if customers had the right to go to the Ombudsman after 20 working days, regardless of 'the clock', this could encourage them not to engage with first-tier complaints resolution, and then go straight to the Ombudsman, with the potential to increase costs for operators.
- 2.147 One operator supported a reduction in principle but felt any change should be paused until the implications of the rail reform programme become clearer. Another operator disagreed with any proposed reduction and was concerned that this would impact the quality of outcomes for international service customers and unnecessarily increase costs for services such as theirs. One operator was unable to comment, having had no experience of ADR. The Rail Ombudsman provided a narrative response across questions 13-15.

Summary of responses – Question 14 – Options to reduce the time limit

- 2.148 The majority of industry respondents who provided a view favoured an initial reduction to 35 or 30 days, though around half of these were open to going further, subject to a review phase. Transport Scotland felt that 30 days may be a sensible option but said it was happy for this decision to be led by industry.
- 2.149 RDG noted 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. In light of this and the proposed removal of 'stop the clock' it suggested a phased approach, initially going from 40 to 35 days and evaluating progress prior to potentially moving to 30 days. It said a review should then take place, including a financial impact assessment, to consider whether a further reduction towards 20 working days would be appropriate.
- 2.150 Transport Focus and London TravelWatch preferred the lower time limit of 20 working days, stating that as around 95% of complaints are resolved within 20 working days it is reasonable for the escalatory mechanism to reflect this. It did not support a phased approach, feeling this could cause confusion for consumers. It also said that timescales should not be dictated by the minority of 'hard to resolve' cases.
- 2.151 The Rail Ombudsman noted that on average 22% of disputes are raised within 40 working days of the initial complaint to the service provider and without a deadlock letter and are therefore closed as being raised too early. Of these a significant number (24% between 1 April 2021 and 16 March 2022) return on expiration of the current 40 working day timeframe. It felt that there is a danger therefore that these

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consumers are being forced to “watch the clock down” currently, i.e., to wait for the current timescale to expire.

- 2.152 One operator disagreed with a reduction for international passenger services operating in a multi modal market, noting that it relies on information from a number of sources, including international ones, working to their own accepted timeframes in order to handle complaints.

Lead times for implementation

- 2.153 Views on an appropriate lead time for any reduction were mixed. RDG noted that following the COVID-19 pandemic, train operators do not have the usual historical data to understand what complaint handling times and customer numbers are likely to be, and that it may be prudent to leave the 40-day period in place until there is greater understanding in these areas. If a reduction was implemented, then a phased approach from 40 towards 30 working days in the first year 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. A further reduction the following year could then be considered, based on the success of this initial phase.
- 2.154 One operating group said lead times would depend on the amount of advance notice provided, but that a reduction to 30 working days from 1 April 2023 was likely to be deliverable, with a further reduction from 1 April 2024 (potentially to 25 or 20 days) possible. However it felt that this further reduction was more likely to drive some operator cost increases. Allowing a year’s gap between the reductions would also provide sufficient time to review the impact of the first change. It noted that changes in Ombudsman sponsorship may also affect delivery.
- 2.155 Two other industry respondents felt there was too much uncertainty to advise on lead times given uncertainty around passenger numbers and wider industry reform respectively, whilst Transport Focus and London TravelWatch recognised that a single reduction to 20 working days would require more lead time than a phased approach.

ORR response

- 2.156 The 40 working day timescale for escalating complaints to ADR has been the norm across regulated sectors for some time now. A number of bodies, such as the All-Party Parliamentary Group on Consumer Protection, have recommended this time limit be brought down on the grounds that it may no longer be commensurate with consumers’ expectations, particularly in a digital age. There is

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also a risk of complainants dropping out of the complaints process if the time that they must wait before having the right to access ADR is seen to be too long.

- 2.157 Research published in 2019 on consumer attitudes across the European Union, including the UK, found that amongst the reasons consumers stated for not taking action when encountering a problem, the most common was that they thought it would take too long.
- 2.158 Train companies are currently required to resolve 95% of complaints within 20 working days. Overall, 94.2% of complaints closed were answered within 20 working days between 1 April 2020 and 31 March 2021, meaning that the vast majority of complaints are already resolved within this timeframe. We also note evidence from the Rail Ombudsman on the volume of complaints that are raised too early, and which return on expiry of the current deadline, suggesting that some consumers are currently being forced to “watch the clock down”, i.e., to wait for the current timescale to expire.
- 2.159 **Therefore we believe that there is a good argument for bringing the timescale down. However, we have considered the evidence from industry on preferred options, and in particular appropriate lead times for introducing a reduction, and we believe that now is not the appropriate time to take this forward.**
- 2.160 Complaints volumes remain uncertain post-COVID, and the implications of rail reform for the future complaints handling landscape are not yet clear. Furthermore, we are currently working to take on sponsorship of the Rail Ombudsman and introducing uncertainty around case volumes – and consequently costs – would introduce unnecessary risk at this time. We believe that it is therefore more appropriate to pause a reduction for now, and revisit this at a future point when these interdependencies are clearer.
- 2.161 A relevant consideration in making a decision on reducing the timescale is the impact of any reduction on the volume of cases that are escalated to the Ombudsman, and any concurrent costs. The ability to forecast this with any precision is challenging using existing data. We therefore intend to consider what data we may need to collect from industry and the Rail Ombudsman going forward to allow more confident modelling of the impacts of a reduction to take place. **We expect industry and the Rail Ombudsman to work with us on this.**
- 2.162 In order to advance this work we will:

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- as part of our annual core data consultation exercise this year, work with industry and the Rail Ombudsman to explore what further data could be collected and reported to us in order to allow the costs and benefits of a reduction to be more confidently estimated. This may include exploring how best to collect data on the referral rate of cases from operators to the Ombudsman, and data on the volumes of complaints unresolved after 30 working days to allow us to assess the relative merits of options to reduce the timescale to 30 or 20 working days. We will also explore with industry other options such as trialling the implementation of a reduction in the timescale, and asking industry to work with us on estimating the impacts of any reduction itself
- take stock of complaints handling response times following the removal of 'stop the clock', and the impacts of the Code's implementation on complaints handling response times and quality more broadly
- coordinate any work in this area closely with our future role as the sponsor of the Rail Ombudsman, and within the context of wider rail reform, to ensure that any changes are introduced at the optimal time.

2.163 The Department for Business Energy and Industrial Strategy noted in its [recent response](#) to a consultation on reforming competition and consumer policy that government will continue to engage with regulators to explore the case for reducing the current eight week time limit. We stand ready to engage on this.

Provision 7: Reporting

2.164 Provision 7 of the Code aims to incentivise good complaints handling through transparent reporting for passengers and stakeholders on train and station operators' performance. It sets out the data that licence holders must collect and report on publicly and which we regard as central to driving good complaints handling performance. These cover the key areas of timeliness, and continuous improvement. We also sought views on how we can expand on these to include metrics on quality in complaints handling. We sought stakeholders' feedback on the following 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?

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- Percentage of complaints resolved within 20 working days
- Percentage of complaints resolved within 10 working days
- Average response time for resolving complaints
- Q17. Should licence holders who are subject to our core data reference guide for station only or non-scheduled passenger services be required to publish this suite of metrics? (This excludes Network Rail, who would be subject to the requirements above.)

Summary of responses – Question 16 – response time metrics

2.165 Of the 13 respondents who answered question 16, seven supported our proposals or supported them whilst raising further comments or queries. Two operators mainly raised queries. Two did not support our proposals, or aspects of them. Two had no comments.

Reporting on average response times

2.166 Transport Focus and London TravelWatch were supportive of our proposals, stating that they have long supported the use of average response times, believing this allows for a better comparison and benchmarking of performance.

2.167 RDG said train operators agreed with the minimum metrics, provided it is purely to report the average response time. It said operators had no objection to publishing the response time metrics, if ‘stop the clock’ is included. One operator asked whether a mean or median average would be used. Another operator asked how regularly reporting would be required, whilst also noting that a mean average could be skewed in cases where complainants are unresponsive, particularly in a period with low volumes of complaints.

Resource implications

2.168 One operator agreed with the minimum response time metrics and reporting these to ORR but felt that publishing data should sit with ORR, saying that any additional reporting would have cost implications and would require additional resource, which it could not commit to in the current climate.

2.169 Another operator said a quarterly reporting requirement will noticeably impact it in cost and resource terms and felt that any such requirement should be reserved for situations where there are serious concerns about an operator’s complaints handling process overall.

Summary of responses – Question 17 – publication of response time metrics for operators subject to our reference guide for station only operators or non-scheduled passenger services

- 2.170 Some operators are subject to different reporting requirements to train operators and Network Rail. This group includes station-only and charter operators (excluding Network Rail), and some other licence holders who do not offer regular timetabled services and/or have limited interaction with national mainline services. Their current reporting requirements are set out in our [reference guide for ORR core data compliance reporting for station only operators or non-scheduled passenger services](#). They report complaints data to ORR on a biannual rather than periodic basis.
- 2.171 We want to ensure that the requirements to collect and publish response time data are proportionate for smaller operators that receive significantly lower complaint volumes. We sought feedback on this via question 17 above.
- 2.172 Of the 13 respondents who answered this question or commented on it, six supported the publication of response time data by these operators or supported it whilst raising further comments or queries, with several saying that this would be in the interests of transparency and accountability. RDG said it would also provide the ability to understand common complaint themes. Four had mainly queries, and three had no comments.
- 2.173 Transport Focus and London TravelWatch said that whilst there is an argument for all operators to have consistent targets and obligations, it will be important for the information provided to be meaningful. If the volume of cases is so low that it makes the data meaningless then there may be a case for a more proportionate response.
- 2.174 One station only operator noted that whilst reporting on its performance is not a problem, its complaints levels are historically extremely low, and if any information is required, the metrics must be proportionate.

Summary of responses – stop the clock

- 2.175 ‘Stop the clock’ refers to the process of putting a complaint on hold, while waiting for the complainant to respond or provide additional information, when calculating response times.
- 2.176 A number of operators challenged our proposal to remove the use of stop the clock from complaints handling response times. The principal objections raised were that the time taken for the customer to respond is not within operators’

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control, and therefore should not be measured within complaints handling response times; that customers should not feel pressured to respond to operators' communications; and that the removal of stop the clock could significantly impact operators' performance on response times.

- 2.177 If stop the clock were removed alongside a reduction in the timescale to access ADR one respondent noted that this could result in premature escalations, or there could be those who wish to "play the system" and put pressure on operators to settle prematurely.
- 2.178 RDG also asked for clarity on what the proposed removal of stop the clock would mean for cases where customers never respond despite operators encouraging a response. It said that train operators 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.
- 2.179 One operator said that any changes proposed to stop the clock would need to be reviewed in line with ORR's core data reporting requirements to ensure that all operators have the time to make the required changes to CRMs to enable the reporting to be accurate, and also seek budget approval.

ORR response

- 2.180 The publication of response time data creates reputational incentives on train and station operators to maintain good standards of complaints handling. As Transport Focus and London TravelWatch pointed out, it will also allow for the comparison and benchmarking of performance between operators.
- 2.181 We are proceeding with the introduction of the proposed response time metrics, and with the requirement for operators to publish response time data. We provide further clarification to our proposals below, along with the proposed requirements for those operators who are subject to our reference guide for core data compliance reporting for station only operators or non-scheduled passenger services, and for Eurostar. We also set out where we have made revisions to the Code.

Reporting on average response times

- 2.182 The requirement to report on average response times for resolving complaints will not be a targeted metric. Average response time will be calculated as a mean average (calculated by dividing the sum of response times by the total number of responses). This is consistent with our reporting requirements on delay compensation claims and may also be easier for passengers and stakeholders to

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understand. We tested this informally with some train operators who were comfortable with this approach.

- 2.183 Operators will be allowed to add narrative information to explain the reasons for their performance, such as in circumstances where disruption occurs. As set out in Provision 4 above, operators will be allowed to close a complaint if the complainant does not respond to a request for further information after ten working days. Both these factors should mitigate concerns around average response times being skewed.

Resource implications

- 2.184 Operators will be expected to publish response time data for the relevant rail periods once a quarter. In other words, they will not need to generate separate, quarterly figures for the purposes of data publication; they can use the data that they already report to us in their core data returns and publish this on a quarterly basis. We have adopted this position in order to minimise any resource burden involved.
- 2.185 Eurostar, as an international operator, will continue to be subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations (PRO regulation). It will not be subject to quarterly response time publication.
- 2.186 In future as now, operators subject to our reference guides for core data compliance reporting will continue to report complaints data to ORR on a periodic or biannual basis (as appropriate), including data on the three response time metrics set out above. This will allow ORR to publish industry wide data each quarter, and to monitor performance. This should also increase transparency for passengers and incentivise good performance.
- 2.187 We understand that operators will need to prepare for the new reporting requirements. In publishing our decision now, we aim to provide operators with good lead time to prepare. We will also set out further information on the methodology for these reporting requirements in our core data reference guides and engage operators further on this via our annual core data consultation later this year.

Publication of response time data for operators subject to our reference guide for station only operators or non-scheduled passenger services

- 2.188 We have considered the feedback received on the reporting of response time data for those operators subject to our [reference guide for station only operators or](#)

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non-scheduled passengers services. We agree that a proportionate approach is required in order to ensure that published data is meaningful to passengers and stakeholders.

- 2.189 Complaints volumes vary significantly between this group of operators, with some recording zero or only a handful of complaints in any reporting year, whilst some others may record several hundred, or more.
- 2.190 **We therefore propose that those operators who record fewer than 100 complaints in a year will only be required to publish data on the three response time metrics above annually, instead of quarterly.** Those who record 100 complaints or more will be required to publish response time data quarterly. The 100 or more complaints threshold for requiring quarterly publication will be based on an average across the last three reporting years. This more proportionate requirement is reflected in the revised Code we have published alongside this document (see clause 1.75 of our revised Code). We will set out further details around this and the methodology in our core data reference guide.
- 2.191 All licence holders within this group, irrespective of complaints volumes, will continue to report complaints data to ORR on a biannual basis in order to allow us to continue to effectively monitor compliance.

ORR response – stop the clock

- 2.192 We will proceed with the removal of stop the clock from train and station operators' calculation of complaints handling response times. Our primary objective here is to **level the playing field across industry to ensure a consistent approach to the calculation of complaints handling response times and incentivise the right behaviours across operators. It will also provide us with a consistent baseline on which to revisit the decision about a reduction in ADR timescales.**
- 2.193 We recognise that operators need guidance on when they may close complaints if a complainant does not respond. As set out in Provision 4 above, we have amended our Code so that operators may close a complaint if a complainant does not respond to a request for information within ten working days. In these circumstances the complainant **must** be clearly informed of how they can ask for their complaint to be re-opened, if they so wish. (See clause 1.53 of the revised Code).

The 95% requirement

- 2.194 Licence holders are currently required to make a full response to 95% of complaints within 20 working days. We sought views on replacing this with a new requirement to signpost the Rail Ombudsman at a reduced timescale instead. We sought views on the following question:
- 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?

Summary of responses – Question 18 – the 95% requirement

- 2.195 Of the 13 respondents who answered this question, six were supportive or supportive whilst raising further comments or queries. Four raised mainly queries. Two had no comments. One said the 95% requirement should be retained.
- 2.196 RDG said that TOCs were comfortable with either measure but would like more clarity on what the improved outcome would be for customers and whether this new measure is based on the number of complaints signposted or a metric like percentage of complaints signposted within the determined 40/30/20 days.
- 2.197 One operator requested further clarity of the ask and the intended outcome. It felt that both measures are needed to provide a complete view. Another said that some complaints need longer to investigate due to their complexity, and that in these circumstances there needs to be sufficient time to thoroughly investigate and ensure a quality outcome.
- 2.198 Transport Focus and London TravelWatch agreed with our proposal, subject to the new signposting requirement actually being 20 working days. If the conclusion is to stay at 40 or move to 30 working days then they said that removing the 95% in 20 working days requirement could slow down responses to passengers.
- 2.199 Transport Scotland's view was that maintaining the 95% target is more appropriate as it encourages a timely response.

ORR response

- 2.200 Given that we do not propose to reduce the timescale for accessing ADR from the current 40 working days or deadlock, we believe that it is right to **retain** the requirement on operators to resolve 95% of complaints within 20 working days in order to continue to incentivise timely responses to first tier complaints. Alongside

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this requirement, we will also monitor performance on average response times, and the percentage of complaints resolved within 10 working days.

- 2.201 In practice, the requirement to make a full response to 95% of complaints within 20 working days will become more stretching for some operators due to the removal of 'stop the clock'. However its removal will allow us to assess and monitor train companies' performance on complaints handling response times using a level playing field, rather than as is presently the case, where some operators may use stop the clock, and some may not, and to differing degrees.
- 2.202 We will therefore continue to collect data on the percentage of complaints resolved within 20 working days and monitor performance against the 95% requirement. We will revisit this requirement as and when we reconsider a reduction in the timescales for accessing ADR in order to determine whether its retention remains appropriate. The retention of the 95% requirement is reflected in Provision 4 of the revised Code. (See clause 1.51a of the revised Code).

Continuous improvement

- 2.203 Train and station operators who are subject to our core data reporting requirements presently report to us each year on their continuous improvement activities.
- 2.204 We sought views on our proposal that operators should publish data annually on their continuous improvement activities, and how they have used and applied learning from complaints within their business, rather than reporting on this annually to ORR. This is intended to support an internal culture that owns and values continuous improvement and embeds it within the culture of an organisation. We sought views on the following question:
 - 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?

Summary of responses – Question 19 – continuous improvement

- 2.205 Of the 13 respondents who answered this question or commented on it, five supported our proposal, or supported it whilst raising further comments or queries. Four operators raised mainly queries. Three had no comments. One did not support it.

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Coordination with PRO reporting

- 2.206 RDG said that train operators are happy with the proposal, noting that it would be important to manage this to ensure no duplication with the requirements of the PRO regulation.

Self-publishing

- 2.207 Transport Focus and London TravelWatch agreed that operators should take responsibility for learning from complaints and that a move towards self-publishing could help embed this culture. However they felt that any such move should be accompanied by a review period after which both compliance, and the spirit of compliance, can be assessed.
- 2.208 One operator opposed self-publication and felt that ORR should continue to publish reports as they can provide a holistic view for the industry.

Content of continuous improvement reporting

- 2.209 Two operators asked for more specifics on reporting: what data needed to be published and whether ORR would set out minimum requirements; and whether the content would include business improvements designed to reduce the number of complaints that are received in the first place.

Commercial sensitivity

- 2.210 Another operator welcomed a focus on continuous improvement but said that a proportion of information derived from such activities is likely to be commercially sensitive, and that this needed to be borne in mind to preserve confidentiality and competitiveness in multi-modal markets.

ORR response

- 2.211 We will proceed with the requirement on **all operators** to report and publish information annually on their continuous improvement activities and how they have actively used and applied learning from complaints within their business. This will replace the requirement to report data annually on these activities to ORR.

Coordination with PRO regulation

- 2.212 To avoid duplication, the requirement under our Code to report and publish annually on continuous improvement activities can be fulfilled by including this content with the annual service quality report for those operators who are subject to the PRO regulation. ORR will be monitoring the content of these reports to ensure they fulfil the spirit and letter of our requirements.

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Self-publishing

2.213 We have revised Provision 7 of the Code to make it clear that reports on continuous improvement, along with the publication of response time data, must be published on the operator's website. For ease of access this could be hosted on the complaints page. Ensuring that operators meet these requirements will form part of our monitoring approach. (See clause 1.79 of the revised Code.)

Content of continuous improvement reporting

2.214 Our revised Code now sets out further detail on required content: continuous improvement reports must report the key issues that passengers have complained about, demonstrate how licence holders have actively used and applied learning from complaints within their business and describe the impact of improvement activities. (See clause 1.77 of the revised Code.)

2.215 We will set out further guidance on the timescales for annual publication and on the content of these reports in our core data reference guides. However we expect this content to cover at least the top five key areas passengers have complained about – but we will encourage operators to consider how they can go further, for example by considering:

- interventions that have been made following feedback or a complaint that does not form the “top five”, but which nevertheless had a significant impact on the passenger experience
- business improvements that have been designed to reduce the volume of complaints that are received in the first place.

2.216 We recognise that all forms of feedback are valuable and as set out under Provision 2 above have added wording to our Code to encourage operators to invite wider feedback and praise via their complaints page.

Commercial sensitivity

2.217 We do not stipulate that any operator must include commercially sensitive information within their reports. Operators are free to exclude such information.

Quality

2.218 Independent research commissioned by ORR, and conducted by Critical Research, which [we published](#) alongside our consultation last August, found that the quality of response was the strongest driver of overall satisfaction with complaints handling. The importance of quality in the measurement of complaints

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handling performance was also echoed in train operators' feedback to Queen Margaret University for their review of good practice in complaints handling.

2.219 Our consultation set out an intent to work with operators and other relevant stakeholders to consider how we can develop a revised suite of performance metrics that give appropriate consideration to quality, as distinct from speed of resolution. We sought feedback on the following questions:

- 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?

Summary of responses – Question 20 – proposals to develop quality metrics

2.220 Of the 12 respondents who answered question 20, ten agreed in principle that performance metrics should give appropriate consideration to quality, whilst also raising further comments or queries. Two respondents raised mainly queries.

2.221 RDG said that train operators agreed in principle with giving more focus to quality metrics, but that this would need to take into consideration any additional cost, different operating models and technical back-office arrangements. It felt that train operators and ORR should agree what the revised performance metrics and reporting mechanism would look like given the existence of different quality regimes and measures.

2.222 One operator was concerned about over-surveying passengers given some operators already have their own post-complaint tools. A number of operators also noted differences between operating models, markets and customers, making a one-size fits all approach unlikely.

2.223 Transport Focus and London TravelWatch agreed with the development of quality metrics and said they should be easy to understand and publicly available, whilst Transport Scotland agreed that quality of response is the most important, and that a customer survey once a complaint has been resolved could provide insight into this.

2.224 One station only operator had no issue with the principle of improving quality but said any form of metrics must be relative to the level of complaints being handled.

Another operator agreed to our approach but on the basis that ORR publishes the data and provides clear guidelines on any performance quality metric.

Summary of responses – Question 21 – potential quality measures

- 2.225 Six industry respondents provided comments on what measures of quality could be considered, beyond ORR's own ongoing survey of passenger satisfaction with complaints handling.
- 2.226 The most frequently mentioned sources were the industry Wavelength survey and the UK Customer Satisfaction Index, along with internal surveys or satisfaction measures, and other tools such as mystery shopping and quality management programmes.

ORR response

Survey data

- 2.227 Any reporting on quality should be easy and accessible to understand. It should also allow comparison as far as possible between operators. Any requirements should also be proportionate and avoid introducing unnecessary cost or time burdens on operators and passengers, whilst also driving quality outcomes for consumers.
- 2.228 We have reviewed some of the potential options for measuring quality as suggested by respondents, including industry's Wavelength survey. We have concluded this is not currently a viable source as it does not include any questions relating to complaints specifically. However, this survey is expected to evolve over time, and we will continue to work with RDG to understand how these changes may support this workstream.
- 2.229 Other suggestions included national customer satisfaction surveys and processes in place at individual train operators for monitoring complaints handling processes. While we welcome any learning that can be taken from these sources, they do not currently provide the whole-industry picture that we are seeking.
- 2.230 We have concluded that drawing on ORR's own survey on passenger satisfaction with complaints handling offers the best option. The deep dive of our survey [published alongside our consultation last year](#) suggests a method for measuring quality which draws on our existing survey data by combining the results from five existing survey questions, as set out below:
- Your complaint was taken seriously

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- The operator was helpful/knowledgeable
- Your complaint was fully addressed by the operator
- The clarity of information provided by the operator about your complaint
- Operator seemed keen to reach an agreeable outcome

- 2.231 Combined together these questions provide a proxy measure for quality in the complaints handling process that would also allow publication of results at industry level and by operator, thereby also allowing comparisons of performance.
- 2.232 We intend to publish this additional measure as part of our annual publications on the survey results going forwards, starting with data for the year 1 April 2023 to 31 March 2024, and use these data in our monitoring of train companies' performance.
- 2.233 Not all train and station operators currently take part in our complaints handling satisfaction survey. Those operators with very low complaints volumes, such as some station only and charter operators, would not provide sufficient data samples to allow results to be meaningful. We will however keep this under review and will consider any opportunities to expand the survey's reach to more operators where this may be feasible.

Complaints reopened

- 2.234 Train and station operators (other than those subject to our [reference guide for station only operators or non-scheduled passengers services](#)) already report to us on the volume of complaints reopened as part of their core data returns to ORR. Complaints reopened are defined as "those complaints which have already had a first full substantive response either in that period or a previous one, but the complainant has 'comeback' due to not being satisfied with how the complaint has been handled or with its outcome."
- 2.235 Following our consultation we asked a number of train operators about using this metric as a proxy for quality to get their views on whether it would drive the right outcomes, and also, to better understand how train companies record this data currently.
- 2.236 Operators were broadly positive about its use as a way of measuring quality and incentivising first-time resolution, although we found differences in how operators are recording this data.

- 2.237 We believe that if recorded according to our original intent then complaints reopened is a good indicator of quality in the complaints handling process. We therefore intend to ask all operators subject to core data reporting – including those subject to our [reference guide for station only operators or non-scheduled passengers services](#) to record the volume of complaints reopened on a consistent basis, and in line with our existing definition, and to report on this data to us.
- 2.238 ORR will monitor complaints reopened volumes as part of our compliance monitoring work. Provided that we are satisfied with the quality of this data going forwards we expect to incorporate this data into our future data publications also, in order to incentivise first time resolution, and allow operators to benchmark performance.

Driving wider learning from complaints

- 2.239 We sought views via our consultation on the current fora for driving continuous improvement and learning from complaints. We sought feedback on the following question:
- 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?

Summary of responses – Question 22 – fora for facilitating continuous improvement

- 2.240 Of the 12 respondents who answered this question, three felt that the current fora were sufficient, or that there was nothing more they could identify. Six respondents had comments or suggestions on further measures that could be considered or identified where ORR could add value. One raised mainly queries. Two had no comments.

Suggestions for facilitating continuous improvement

- 2.241 Suggestions raised by respondents included semi-annual reviews of operator CHPs chaired by ORR to ensure alignment in process and an overall improved customer experience, or annual meetings to discuss CHPs to facilitate continuous improvement or share insights and best practice.
- 2.242 One operator felt that more industry trend analysis would help drive industry improvements, and that sharing research across operators was vitally important.

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Another operator felt that the analysis of core data and publication of the analysis by the ORR along with any learning is valuable.

Participation in future fora

2.243 One operator welcomed continuous improvement and learning but said that any initiative and participation in this space should be voluntary and that appropriate considerations be given to confidentiality in commercial and competitive markets.

Other comments

2.244 Transport Focus and London TravelWatch noted the impact of the rail reform programme and the role envisaged for Transport Focus in monitoring complaint volumes and themes. However, it felt that it is too early to form a view on what shape or form this may take.

ORR response

2.245 We are committed to driving continuous improvement and continue to facilitate this through the publication of industry wide complaints data which allows operators to see complaints volumes and trends and compare performance on key headline metrics such as response times and satisfaction with complaints handling outcome and process.

2.246 We are conscious of the wider rail reform programme, and the roles that may evolve for other bodies such as Transport Focus and London TravelWatch in this space – particularly where the use of complaints data to drive wider learning across industry is concerned. Therefore we intend to keep a role for ORR in this space under review as the implications of rail reform become clearer.

Provision 8: Training, resourcing and quality assurance

2.247 Provision 8 of the Code sets our requirements on operators in relation to training, resourcing and quality assurance in relation to their complaints handling functions. We sought stakeholders' views on the following questions:

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

Summary of responses – Question 23 – frequency of refresher training

- 2.248 14 respondents provided a response to question 23 or provided comments on this provision. Of these, nine respondents expressed a view on what should constitute regular intervals for refresher training, with five saying this should be annual or annual at a minimum. One felt it should be for operators to decide but that a maximum period of 24 months is reasonable, whilst another said between 12 and 24 months. One felt it should be as required. Another operator said that it cannot be defined. Transport Scotland was of the view that this should be led by industry.
- 2.249 There was a general sentiment amongst respondents that operators are best placed to determine when training should be completed, as complaint training has other dependencies such as for example skills mix, how often colleagues deal with complaints as part of their day-to-day role, and other training modules which also form part of complaints handling training such as GDPR and accessibility training.

Training content

- 2.250 The Rail Ombudsman raised the importance of operators having complaints handling training programmes in place for all staff, and not just those within customer services departments, noting areas where it had seen some gaps in training, such as in relation to evidence logging.
- 2.251 Transport Focus and London TravelWatch felt that it was reasonable for there to be annual refresher training on issues such as accessibility/equalities requirements, and for training to recognise vulnerable complainants.

ORR response

- 2.252 We agree that the frequency of refresher training is best defined by individual operators so that this can be determined according to the needs of each operator's business and be responsive to specific issues as they arise. We do not intend therefore to stipulate the required frequency of refresher training within the Code. However we have amended the Code to make it clearer that refresher training must be provided at regular intervals. (See clause 1.88 of the revised Code.)

Training content

- 2.253 Under our Code operators must have complaints handling training programmes and training plans in place for all staff dealing with complaints. The Code also sets out the minimum areas that any training should cover, which includes customer service, complaints investigation and resolution skills, and recording and maintaining complaints records. As set out under Provision 2 above, all customer

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facing rail staff should also be able to signpost people to the complaints process if they are unable to deal with the complaint themselves.

- 2.254 Under ORR's ATP guidance, operators are also required to provide comprehensive equalities and accessibility training to all new staff, and all existing passenger-facing staff, along with refresher training every two years.

Summary of responses – Question 24 – resources for complaints handling

- 2.255 12 respondents commented on question 24 regarding the requirement to ensure that adequate resources are provided for complaints handling. Four of these were supportive of our intended approach, with some of these raising additional queries. Seven respondents raised mainly queries. One had no comments.

Budget considerations

- 2.256 The principal concerns raised related to restricted budgets and the potential for this requirement to trigger additional increases in costs. One operator noted that under current industry arrangements with the Department for Transport it is restricted with budgeted spend, and that amending any resources will need to be approved. It asked that this is not a condition that operators are tied to unless it is agreed with the relevant funding body.
- 2.257 RDG noted that resourcing for complaints handling goes beyond just staff managing complaints and that consideration must be given to the limited business accommodation, finite IT provision and other activities required for operators to deliver successful complaint handling solutions. It said that train operators 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.
- 2.258 The need for flexibility due to 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) was also noted.

Contingency measures

- 2.259 Transport Focus and London TravelWatch agreed with the new emphasis on contingency measures, saying that it is unreasonable for operators to be permanently resourced to deal with exceptional spikes in demand – but that it is not unreasonable to expect that they have well thought out contingency measures for those circumstances. They said that these contingency plans must also reflect

instances where staff are prevented from entering premises – as seen during the peak of the COVID-19 pandemic.

ORR response

Budget considerations

- 2.260 There has always been an expectation that operators should run a service that is sufficiently resourced to handle complaints. This is reflected in our current complaints handling guidance, which states that a well-managed complaints handling model includes well trained staff, and that the service offered “**is sufficiently resourced**”. Therefore we do not regard Provision 8’s requirements to be a step change that should require significant uplifts in costs and resources.
- 2.261 ORR is not unique in setting this requirement. A similar requirement to allocate and maintain adequate resources to efficiently handle complaints is contained in the standards on complaints handling for regulated providers in the energy sector, for example.
- 2.262 ORR recognises that it would be unrealistic for licence holders to be permanently resourced to deal with exceptional spikes in demand. The Code allows for this, in stating that operators must give reasonable consideration to what contingency measures will be needed during these sorts of circumstances.
- 2.263** We have amended the wording of our proposal to state that operators must ensure that they allocate and maintain adequate resources to receive, handle and process complaints “**to comply with the requirements of this Code**”. We recognise that the original wording (to receive, handle and process complaints “**in a timely manner**”) may have placed an undue emphasis on response times. This is reflected in the revised Code (see clause 1.90 of the revised Code).
- 2.264 We believe that operators are best placed to determine how resources should be managed and organised according to their own operating models. ORR will want to see evidence that response times and quality of response is maintained and that contingency plans consider what measures may be required during exceptional spikes in demand.

Draft obligation on licence holders

- 2.265 We also sought views via our consultation on proposals for an amended and simplified complaints handling licence condition. The principal effect of the change will be for ORR to discontinue approving individual licence holders’ CHPs in favour of a new obligation on licence holders to establish and comply with a complaints

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handling procedure that complies with the Code. We sought feedback on the following question:

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

Summary of responses – Question 25 – draft licence condition

Transition and consultation

- 2.266 RDG said that in general, train companies are happy with the proposed amended licence condition and agree this represents a positive step forward. It welcomed further clarity on the approach for transitioning and whether any review periods will be built in to ensure successful implementation.
- 2.267 One operator requested that all feedback is considered, and further consultation is carried out before changes are implemented. Another asked what any compliance action might comprise.

Scope

- 2.268 Network Rail said that whilst the formal acceptance of proposed licence changes is a matter reserved for its Board, it supported a simplified licence condition. It noted that the proposed licence condition would form part of the Network Rail Station Licence, which relates to Network Rail Managed Stations. It said that it was 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.

ORR response

Transition and consultation

- 2.269 Operators now have a further (and final) opportunity to provide any comments on the wording of the revised Code.
- 2.270 Following consideration of the responses to this consultation we will prepare for a statutory consultation on the proposed licence change this autumn and publish the final text of the Code. This should provide train and station operators with good lead time between publication of the subsequent modification notice (following completion of the statutory consultation), and 1 April, to prepare for implementation. Subject to the receipt of consent to the licence change we expect the Code of Practice to come into effect from **1 April 2023**, meaning that we would expect operators to have compliant CHPs in place from this date.

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2.271 We will be running our annual core data consultation exercise later this year where we will set out in more detail the changes in reporting requirements. We will be developing our approach to compliance monitoring in the coming months.

Scope

2.272 We recognise that the scope of the Code's application is to Network Rail's station licence. We are also mindful of the wider rail reform agenda and the structural reform to the industry. Whether this will entail any implications in terms of the scope and ownership of complaints handling is not yet clear. We will keep the Code under review and consider any ways in which it may need to respond to any changes in the existing arrangements.

Annex A: Consultation respondents

A.1 Respondents to our August 2021 consultation are listed below. All consultation responses will be published on our website alongside this document.

Abellio UK

Arriva UK Trains Ltd

Eurostar International Limited

First Rail Holdings Limited

Glasgow Prestwick Airport

Govia Thameslink Railway

Network Rail

Nexus

Northern Trains Ltd

Rail Delivery Group

Rail Operations Group

Rail Safety and Standards Board (RSSB)

Transport for London (TfL)

Transport Scotland

Trenitalia c2c

The Rail Ombudsman

SE Trains Limited (southeastern)

Transport Focus and London TravelWatch

Transport for Greater Manchester (TfGM)

West Coast Railway Company Ltd



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