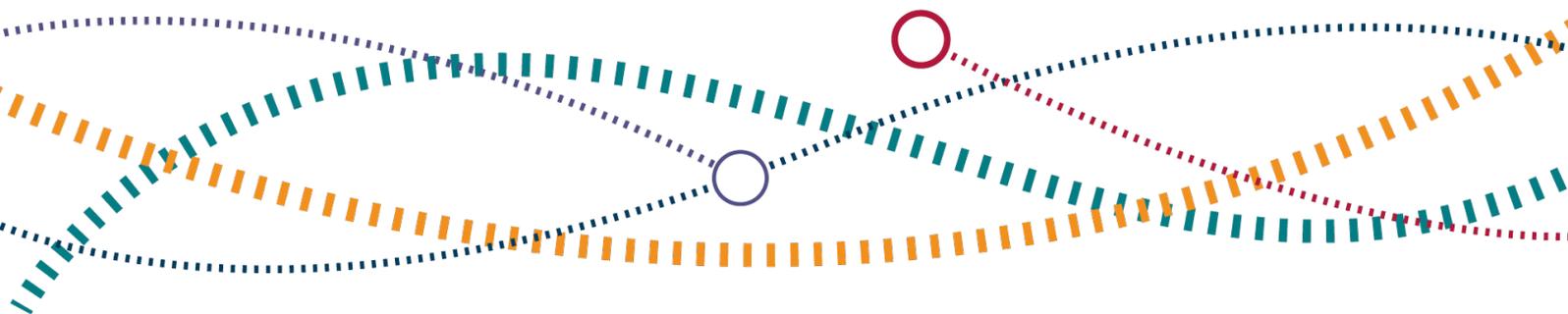# Delay Compensation Licence Condition

A report on train operators' compliance with the Code of Practice

29 June 2023

Contents

Executive Summary

Compliance with the Delay Compensation Code of Practice

The ORR introduced a new licence condition requiring passenger train operators to comply with our Delay Compensation Code of Practice in April 2022. This Code of Practice aims to increase access to the compensation available to rail passengers for late arrival at their destination due to a cancelled or delayed service.

We have recently reviewed operators' compliance with the requirements of the Code of Practice, taken stock of efforts to improve passenger awareness of delay compensation schemes, and made an assessment of the impact of recent moves to automate the processing of claims.

Overall, we welcome the improvements made to the claims process. In particular:

- most operators have automated the processing of claims, meaning they are closed more quickly (on average just under 3 days after claiming, versus 5 days for claims processed manually); and

- some operators have introduced measures to make it easier to claim online for advance ticket holders, for example by proactively contacting passengers by e-mail and requiring only 'one click' to receive payment.

Improvements have also been made by some train operators to ensure passengers are aware of their eligibility for delay compensation and how to make a claim.

However, many operators need to do more to ensure they fully meet the requirements of the Code of Practice, in particular with regard to:

- providing information about claiming delay compensation; and

- providing physical format claim forms for passengers unwilling or unable to make claims online.

We expect operators to be compliant with all aspects of the Code or Practice and will hold operators to account for their performance.

Introduction

Delay compensation

1   Delay compensation schemes are designed to compensate rail passengers for late arrival at their destination (above a given threshold) due to a cancelled or delayed service. Compensation can vary depending on operator, the type of ticket used and the length of delay.

2   In 2022/23 there were 5.9 million claims for delay compensation.

3   The National Rail Conditions of Travel outline the minimum compensation offered through a train company's Passenger's Charter. It requires compensation to be paid to passengers that are delayed by 60 minutes or more. However, most companies pay more than the minimum and also provide compensation for shorter 15-minute delays.

4   'Delay Repay' is a nationwide scheme that aims to makes it easier for passenger to get compensation for delayed train journeys. The delay is calculated against either the normal timetable, or an amended timetable that is published in advance (for example during planned engineering works at weekends).

Licence condition

5   In April 2022, ORR introduced a new licence condition (Condition 29), requiring mainline passenger rail companies to comply with ORR's Delay Compensation Code of Practice – including all government franchise, concession and open access train operators. Delay Compensation Code of Practice (orr.gov.uk)

6   The aim of the new condition was:

- to improve passengers' awareness of delay compensation (research published by DfT in 2020 indicated 25% of eligible passengers were unaware they could claim for their delay - see Rail delays and compensation 2020 - GOV.UK (www.gov.uk));

- to make the process for claiming delay compensation simpler, quicker, and more consistent (only 68% of passengers were happy with the speed of response, and 24% of passengers had to follow up their claim, according to the 2020 research);

- to encourage train operators to continue seeking to improve and innovate in how they provide delay compensation; and

- to provide transparency on the performance and progress of train operators.

Annual reporting

7   ORR requires train operators to report to ORR on how they are fulfilling the Code of Practice requirements. They do this by:

- providing relevant performance data; and

- submitting an annual summary of steps taken to improve passenger awareness of delay compensation and the claim process, referred to as the annual report on continuous improvement.

8   The Code of Practice requires that claims are processed within 20 working days. The data operators provide indicates that 97.1% of claims are processed within this timescale, slightly down from 98.9% in 2021/22.

9   One year on from the publication of the Code of Practice, we wanted assurance that train operators were either compliant with its other requirements or had put measures in place to become compliant. In November 2022 we therefore wrote to 24 train operators setting out our expectations for reporting compliance: Monitoring compliance with Licence Condition 29 on delay compensation - Letter to train companies dated 25 November 2022 (orr.gov.uk) In addition to their first annual report on continuous improvement, we also requested that they complete a short self-assessment of compliance with the Code.

10   We had also become aware from our routine engagements with train operators that that an increasing number were using systems designed to automatically process delay compensation claims. We were keen to understand how widespread this practice had become and to ensure that the benefits to train operators were not to the detriment of passengers. We therefore made a separate request for further information from train operators in this area.

11   We are aware that the delay compensation claim process is currently being used to compensate season ticket holders for strike days. As strike day compensation is out of scope of the Code of Practice this development is excluded from this report.

Report structure

12   This report is divided into three sections, each summarising our methodology and findings identifying key trends and good practice and outlining our next steps to drive further improvements:

       (1)   Code of Practice compliance

       (2)   Continuous improvement

       (3)   Automated claims processing

1. Code of Practice Compliance

Methodology

1   Appended to our November 2022 letter, we sent train operators a self-assessment document for completion by end January 2023.

2   All 24 train operators that operate delay compensation schemes responded (N.B Transport for London provided a single joint response for Elizabeth Line and London Overground), in varying levels of detail. We assessed each response for compliance with the individual requirements of the Code of Practice and requested further information from 19 operators.

Findings

3   In summary, 24 train operators meet all or most of the Code of Practice requirements.

4   Chiltern Railways and Southeastern were the only operators to demonstrate their full compliance with the evidence supplied in their initial responses. 9 more operators demonstrated their full compliance after we requested further information: Avanti, CrossCountry, East Midlands Railways, Govia Thameslink Railway, Great Western Railway, Hull Trains, Merseyrail, Northern and South Western Railway;

5   We are waiting for further information in particular areas from 5 operators before being able to confirm whether they are compliant or not: Greater Anglia, Heathrow Express, Lumo, TransPennine Express and West Midlands Trains.

6   We remind operators that we expect full answers to our requests for information and evidence of compliance with the Code.

7   We have concluded that 8 operators are non-compliant in at least one area based on the evidence supplied to date:

●   Transport for Wales has committed to making the necessary changes to achieve full compliance within the next 6 months;

●   We expect the remaining operators to also commit to doing the same: Arriva Rail London, c2c, Caledonian Sleeper, Elizabeth Line, Grand Central, LNER and Scotrail.

8   The two common areas of non-compliance where changes are required are:

- providing information about claiming delay compensation; and

- providing physical format claim forms.

Provision of information

9   It is important that passengers are aware they are able to claim compensation when they are delayed. DfT's survey of the experience of claiming delay compensation indicates one quarter of eligible passengers are unaware.

10   Our assessment highlighted three requirements in this area that not all operators are meeting, where we changes need to be made to achieve compliance:

(a)   providing a direct link to information on delay compensation included with notification of tickets purchased online, for example in an email sent to passengers following the purchase of a ticket online [Code of Practice 3.3 a) (ii)];

(b)   keeping passengers informed of their performance on delay compensation including publishing information on key metrics. [CoP 6.1 - 6.3]; and

(c)   promoting delay compensation onboard trains, including the use of posters, vinyls or display screens, where they are installed. [CoP 3.3c]

11   We will hold non-compliant operators to account for progress.

Physical format claim forms

12   Physical format claim forms must be made available to passengers on request in staffed stations and for download. It must also be possible for passengers to submit the physical forms in person and by post. [CoP 4.12 and 4.13]

13   Although some train operators have queried the demand for physical format claim forms, the 2020 DfT survey indicated that 20% of passengers made their claim either in person at the station (9%) or by post (11%). We have therefore reiterated the need to comply with this requirement to the operators that were non-compliant in this area.

Next Steps

14   We will continue to work with train operators to ensure they are meeting the requirements of the Code of Practice, in particular focusing on the provision of information to passengers about claiming delay compensation and providing physical format claim forms. We expect all operators to be fully compliant with all aspects of the Code of Practice.

2. Continuous Improvement

Methodology

1   The Code of Practice requires continual improvement in two specific areas:

  ● Passenger awareness of delay compensation; and

  ● The claims process.

2   With the exception of Heathrow Express and West Midlands Trains, with whom we are engaging further, all train operators submitted a report as requested setting out their efforts in these areas over the past year. We set out our findings below.

Findings

Improving passenger awareness

3   The Code of Practice requires information on delay compensation to be presented via a wide range of channels. This is to ensure that all passengers can access this information and be informed about when they are entitled to make a claim and how to do so.

4   Most train operators indicated in their reports that they had used the past year to revisit every channel and platform where delay compensation information was presented, to ensure it aligned with the Code of Practice requirements and was clear and unambiguous in its instructions to passengers.

5   Examples of positive developments to improve passenger awareness included:

  ● Larger and clearer delay compensation banner on websites' landing page;

  ● Information on delay compensation clearly linked to any news of disruption on the network, either on the website, emailed or messaged directly to passengers or via social media channels;

  ● Information cards issued by rail staff in stations or onboard trains;

  ● QR codes on posters and on information cards which link to delay compensation information on train operators' websites;

  ● Redesigned posters at stations and onboard trains; and

- Station and onboard announcements on disruption including information on delay compensation.

Improving the claims process

6   The Code of Practice requires train operators to provide an online process for the submission of claims for delay compensation. Train operators reported that the introduction and improvement of systems designed to process these claims automatically once they have been received has been the main area of focus over the last year. In addition, some have introduced schemes that are also designed to automate the process of submitting a claim for particular ticket types.

7   Examples of positive developments to improve automated claims processes include:

- Fast track automation process for single tickets;

- Real-time ticket look-up;

- Step-by-step guide to claiming available via information pop ups in web portals;

- Increase in maximum file size for uploading supporting documents;

- One click option for receiving payment for advance ticket holders, including via smart cards;

- Redesigned claim forms.

8   With the exception of TfL's concessions, all operators discussed the use of automated processing systems. Given their increasing and widespread use, we conducted a separate exercise with operators to understand more about them and their impact on passenger outcomes. Our findings are set out in the next section of this document.

Next Steps

9   We are aware that train operators have come together to develop further improvements to the delay compensation claim process. We welcome this development and look forward to seeing the benefit for passengers.

10   It is also important that improvements are made to ensuring passengers are aware of their eligibility to claim and how they may do so – including on specific services when disruption is taking place – whether by using staff or via announcements at the station or on the train, as well as online channels. We will continue to monitor this and engage with train operators as required.

3. Automated Delay Compensation

Methodology

1   Through our routine engagements with train operators we became aware that an increasing number of them were using systems designed to automatically process delay compensation claims. This was reinforced in their reports on continuous improvement.

2   In May 2023 we requested information from 24 train operators on their use of systems designed to automatically process delay compensation claims. We were keen to understand more about these systems and their impact on passenger outcomes, including;

- The factors that qualified claims for automatic review;

- The factors that determined whether claims were approved or rejected;

- Volume of claims closed following a decision by an automatic process and volume of claims following a decision by a manual process between 11 December 2022 and 4 March 2023. Of these:

  - The volume of claims approved and rejected for each method;

  - Average processing time for each method; and

  - Rejection reasons by volume for each method.

3   We received responses from 21 train operators. Seven could not provide all the data requested due to the way it is held in their own systems. The total number of claims reported during the relevant period and used for the analysis was 1,283,216.

Findings

4   The use of systems that automatically process delay compensation claims is widespread. Of those operators that responded, 18 use such a system; of the 3 that do not, one is planning to introduce an automated system in early 2024.

5   Most operators using automated systems are using them to process and approve the majority of claims received:

- 66.5% of claims submitted during the relevant period were closed following an automatic review with only 33.5% being closed following a manual review;

- Of the train operators who use automated processing, only two closed more claims manually than by automatic means;

- Two train operators closed all claims using automated processes;

- 55% of all claims submitted are approved by automatic means; only 7% are rejected following a manual review.

6   Claims processed automatically are closed more quickly: in just under 3 days on average, compared to 5 days for claims processed manually. This appears to be a positive outcome for passengers.

7   However, we wanted to ensure this speed is not resulting in a higher rejection rate. This does not appear to be the case. Instead, the data indicates that slightly fewer are rejected by automatic reviews than manual reviews at 17.9% and 20.4% respectively (see figure 1 overleaf) – this is in line with our expectations, given that claims processed manually includes those flagged for further attention following an initial automatic check.

8   Overall, the percentage of claims approved increased in 2022/23 (up to 79.1% from 77.4% in 2021/22 - note this includes some claims for compensation due to strike action) and we have seen no evidence that the adoption of automatic processes is resulting in a significant change in the rejection rate.

9   The only clear difference in passenger outcomes between automatic and manual processing is in the percentage of claims closed for the reason of 'No delay'. Just over 30% of claims rejected automatically were because the system determined there was no delay, compared to 12% of claims rejected manually for the same reason. (See fig. 2 overleaf).

10   We want to understand why this might be the case. It may be because most unsupported claims of this type are rejected automatically without the need for a manual check. However, we will follow this up with operators to confirm if the causes are innocuous or to determine if work is required to reduce the number of rejections made for this reason.

Figure 1   Percentage of delay repay claims approved and rejected by process method, 2022 to 2023 rail periods 10 to 12

Percentage of claims
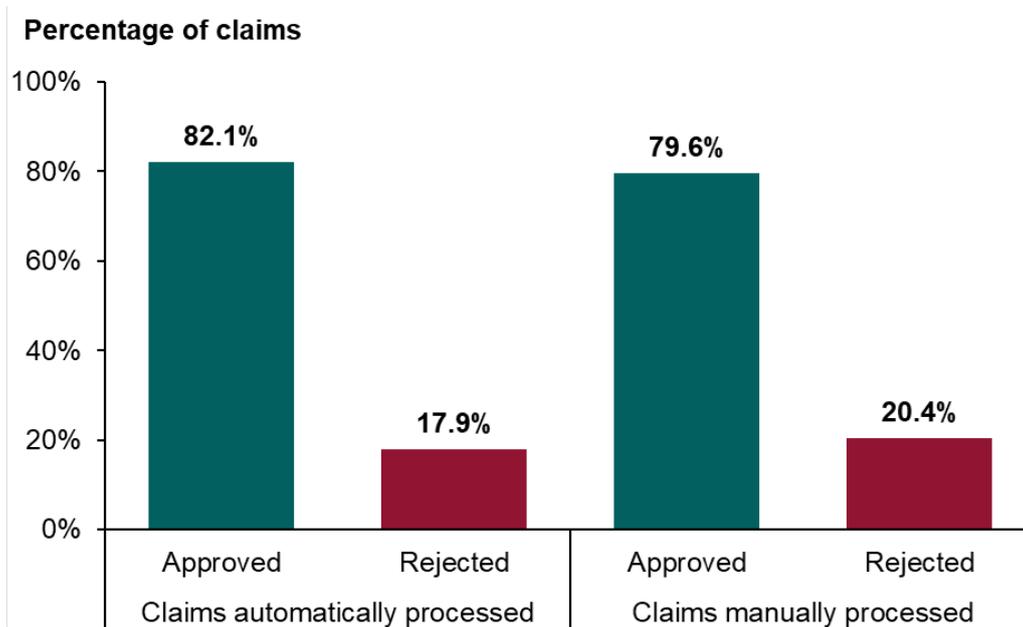
Figure 2   Rejected claims by reason for rejection (percentage of all claims rejected for each process method), top four reasons for rejection of claims processed automatically, 2022 to 2023 rail periods 10 to 12

Percentage of claims rejected
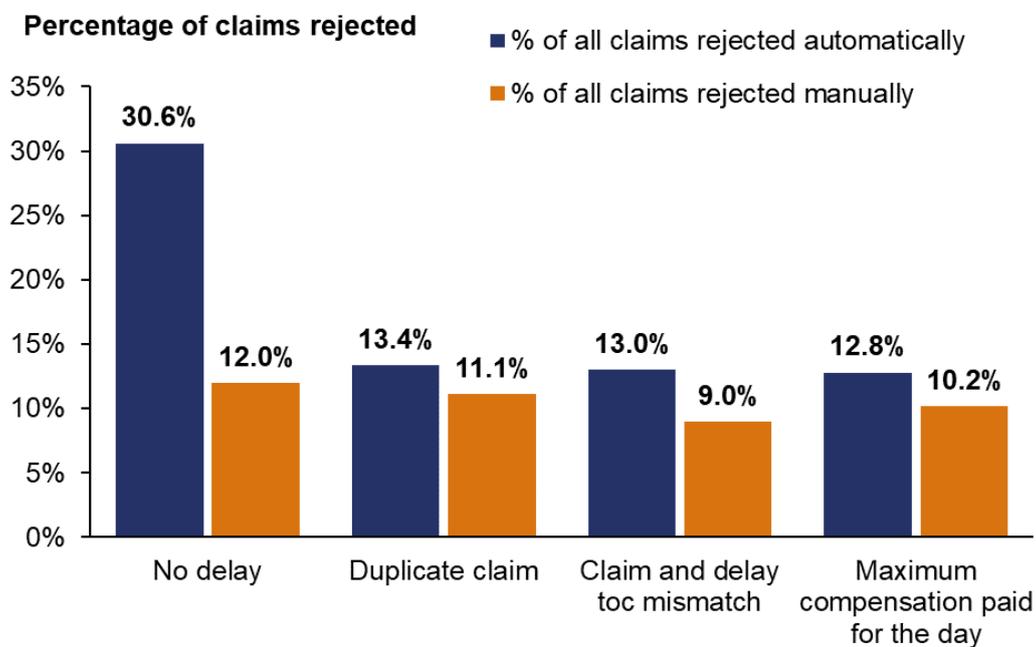
Next Steps

11 Overall, based on the factors we looked at and the data we received, the use of automated systems processing for delay claims by is a positive undertaking by train operators. It secures largely the same outcomes as manual processing but in a shorter time, which results in a more efficient passenger experience. The rejection rate is reasonable and in line with industry standards for all claims. Our assessment did not isolate any significant drawbacks of using automated systems, only advantages.

We expect industry to continue to develop and continuously improve the automated systems, making them more effective at reaching the correct outcome in even quicker timeframes.