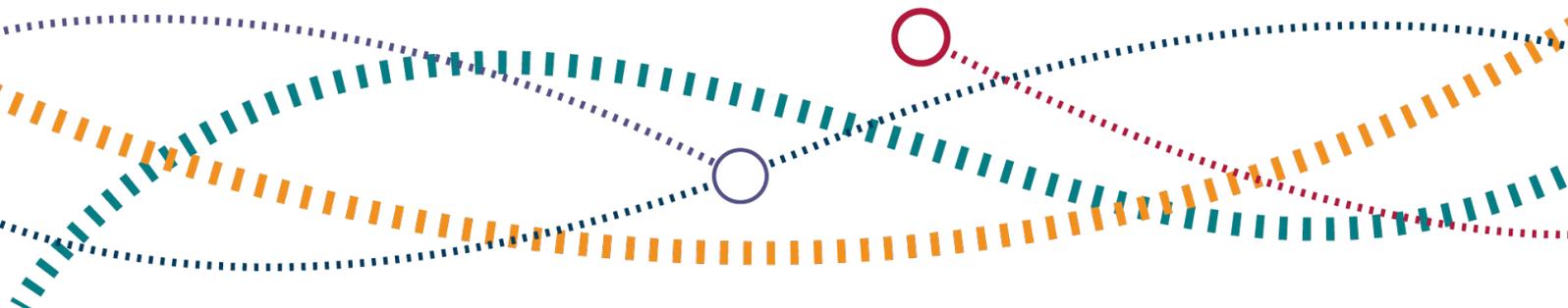




# Rail Alternative Dispute Resolution (ADR) Scheme Council: lessons learned session

07 April 2024



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# Executive summary

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This is a note of the final meeting of the Rail ADR Scheme Council which was held on Monday 25 September 2023 between 14:00 and 16:00.

The Rail Alternative Dispute Resolution (ADR) Scheme Council (the “Scheme Council”) was established to provide governance over the Rail ADR Scheme. The Rail ADR Scheme refers to the service provided by the [Rail Ombudsman](#), which began operation in November 2018.

The Scheme Council was created as part of the governance arrangements that were established under the Rail Delivery Group’s (RDG) contract with the provider of the Rail Ombudsman service, in part to ensure the independence of the scheme from the industry it serves. The Scheme Council is made up of five Independent Members (the Office of Rail and Road, Department for Transport, Disabled Persons Transport Advisory Committee, Transport Focus and London TravelWatch), alongside Members of the Rail ADR Scheme (e.g. train and station operators). The Independent Members have majority voting rights on the Scheme Council.

In November 2023, responsibility for the sponsorship of the Rail Ombudsman transferred from the RDG to the Office of Rail and Road (ORR). The ORR contract will introduce new governance arrangements which will supersede those of the present scheme. As a result, the Scheme Council will cease to exist.

This final meeting of the Rail ADR Scheme Council was framed as an opportunity for Scheme Council members to reflect on the five years of the Scheme Council’s existence, and on the first five years of the Rail Ombudsman service, and to share any lessons learned. In order to encourage open and frank discussion, the meeting was operated under Chatham House rules.

## Attendees

Attendees of the meeting included representatives from the Independent Members, Scheme Members (i.e. train and station operators), and also the RDG. Representatives from Dispute Resolution Ombudsman, the provider of the Rail Ombudsman service, joined the meeting for Agenda Items 4 and 5.

# 1. Item 1 - Welcome and introductions

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- 1.1 The Chair welcomed attendees to the final meeting of the Scheme Council and explained that the meeting would be conducted under Chatham House rules, and that a note of the meeting may be published on the ORR website.
- 1.2 The Chair invited ORR to set out the new governance arrangements that would take effect from November 2023 under the ORR sponsored Rail Ombudsman service.
- 1.3 ORR explained that, going forward, the Rail Ombudsman will be governed by its own independent Board, which will be comprised of a majority in non-executive roles. The Rail Ombudsman will also set up two Rail Sector Advisory Panels: a Passenger Advisory Panel, consisting of persons representing consumer interests, and a Rail ADR Scheme Member Panel, consisting of representatives of Scheme Members.
- 1.4 These Panels will be appointed by the Rail Ombudsman in the coming months. Their purpose is to advise the Rail Ombudsman's independent Board on emerging trends and issues from the perspective of their representatives, and to advise on how the Ombudsman can deliver on its purpose and objectives, especially its role of driving continuous improvement in the rail sector. These arrangements had been consulted upon via the ORR's [consultation](#) on an Ombudsman Operating Model and confirmed via ORR's [decision](#) document.

## 2. Item 2 – RDG Management report

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- 2.1 RDG provided a brief overview of the RDG Management Report on the performance of the Rail ADR Service. It was noted that some service points had been awarded prior to the last Scheme Council meeting but that these issues had now been resolved. The Quarter 4 invoice to the Rail Ombudsman had been paid. It was also noted that new invoicing arrangements would replace those under the current RDG scheme.
- 2.2 It was confirmed that a date had been agreed for a workshop to take place on Rail Ombudsman casework recommendations, as these would continue to be an important aspect of the Rail Ombudsman's work going forwards.

## 3. Item 3 – Scheme Council lessons learned session

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3.1 The Chair invited Scheme Council members to discuss their experience and lessons learned in relation to the role of the Scheme Council specifically. As part of this, the Chair invited attendees to participate in a number of online polls during the meeting to stimulate discussion. These were as follows:

- **Q1. Do you think the Scheme Council was able to effectively provide governance over the Rail ADR scheme?**
  - 57% of respondents said “somewhat”. 14% said “yes”. 21% answered “don’t know.” 7% said “no”.
- **Q2. Was the Scheme Council able to effectively hold the Rail Ombudsman to account on its performance?**
  - 50% of respondents said “yes.” 14% said “no”. 29% said “somewhat”. 7% said “don’t know.”
- **Q3. Do you read the quarterly performance and insight report? (This is the quarterly insight report produced by the Rail Ombudsman)**
  - 60% of respondents said “yes.” 7% said “no”. 33% said “sometimes”.

3.2 The Chair invited discussion around these questions.

3.3 Several members reflected that the Council had had to spend a lot of time discussing the financials of the Scheme during its early years and that, as a result, it was difficult for other matters to progress. It was observed that this had also damaged trust with the Ombudsman service provider, although this had recovered over time.

3.4 One member noted that the Scheme Council was put in place to protect the independence of the Scheme and felt that the Council had done the best that it could, but it was perhaps not a model of governance that they would recommend to other sectors. There was a sense that some uncertainty had remained amongst some stakeholders around the independence of the Scheme under the current governance arrangements, but it was acknowledged that the new governance arrangements proposed by ORR should in theory address some of these issues.

- 3.5 It was noted that there were examples of the Scheme Council working effectively to introduce change, such as agreeing the sharing of more data with the Statutory Appeals Bodies (Transport Focus and London TravelWatch), and also responding to changing circumstances during the COVID-19 pandemic when, for example, a resolution was passed to extend the timescales for the appeals process.
- 3.6 Another member noted that the Council had evolved over time and that following the [independent review](#) of the Rail Ombudsman carried out by RedQuadrant a number of changes were implemented to increase the transparency and frequency of reporting to the Scheme Council, and that these had been positive developments.
- 3.7 It was also noted that historically the Rail Ombudsman had consistently met its contractual KPIs and that under the ORR contract an additional KPI was being added.
- 3.8 One member observed that the Ombudsman had been slow to produce case studies at first and some of these had lacked depth and context, but that it had improved over time.
- 3.9 A number of reflections were shared about the recommendations arising from the Rail Ombudsman's casework. One member observed that perhaps the Council could have taken a more proactive role in relation to recommendations, such as considering whether certain recommendations might have cost impacts which could present a barrier to implementation, whereas others might be considered "nice to have".
- 3.10 Another member observed that some recommendations were very difficult to implement and closer collaboration between the Rail Ombudsman and Scheme Members was needed, and possibly a more formalised process for raising recommendations so that Operators can deliver on these. It was agreed that RDG's Redress and Support Group (RSG) should play a key role in considering industry-wide recommendations, and that there would need to be a link from the RSG into the new Rail ADR Scheme Member Panel.
- 3.11 It was also suggested that recommendations from the Rail Ombudsman's casework should be shared with Transport Focus and London TravelWatch going forwards and that new Memoranda of Understanding were being worked up between these bodies and the Rail Ombudsman which could reflect this arrangement.

**Break**

- 3.12 Representatives from Dispute Resolution Ombudsman (DRO), the provider of the Rail Ombudsman service, joined the meeting.

## 4. Item 4 – Rail Ombudsman performance and insight report

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- 4.1 Members had been provided with the Rail Ombudsman's quarterly performance and insight report. Case volumes had been relatively stable. Days to close had come down for simple cases.
- 4.2 Cases about delay compensation had been the biggest driver of cases. Other notable themes mentioned from the Ombudsman's casework were around the importance of station and online signage, and also, what to do with advance tickets during periods of disruption. It was also noted that accessibility related complaints often had a common theme around the quality of information provided.

## 5. Item 5 – Rail Ombudsman lessons learned session

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- 5.1 The Chair introduced this item as an opportunity for representatives from DRO and Scheme Council members to share feedback on their experience of operating/participating in the first five years of the Scheme.
- 5.2 Representatives from Dispute Resolution Ombudsman shared some of their reflections on their first five years as service provider. These included an evolving understanding of how to optimally collaborate with stakeholders and interested parties, as well as taking on board recommendations from independent reviews. The Rail Ombudsman had also learned from recommendations made by the Independent Assessor and made changes in response. There had also been learnings around how the Ombudsman communicates to ensure its decisions are understood. The RedQuadrant review had in particular highlighted the importance of the continuous feedback loop and that this is used internally as well.
- 5.3 Going forwards, the Ombudsman is considering convening a panel of people who have used the service or taken a case to the Independent Assessor, and was consulting with external stakeholders to consider how best to recruit to this panel.
- 5.4 It was also observed that the relationship between the Rail Ombudsman and RDG was working well, and that access to rail industry technical expertise was important, such as the routine updates from industry on current events, or notice of significant changes in the rail landscape, etc. All of this served to enhance the Ombudsman's understanding of the sector and to inform its casework. A new MoU between the Rail Ombudsman and RDG was being created which would preserve this relationship and exchange of knowledge going forwards.
- 5.5 On the experience and awareness front, Ombudsman staff were looking to increase their opportunities to get out on the network and experience things first-hand. Collaborative working with industry had also been a strength, as had relationships with other stakeholders such as the Statutory Appeals Bodies and ORR.
- 5.6 It was also noted that the revised Scheme Member Agreements that were being introduced under the ORR sponsored service included a new potential fraud protocol. Its purpose was to assist Members and the Ombudsman when liaising on

cases involving suspicions of fraud, and that the Ombudsman had worked with the industry's fraud forum and Operators to put that in place.

- 5.7 The subject of forecasting case volumes was raised and it was noted that additional resource and overtime can be used when volumes fluctuate. A wider question was posed about whether complaints volumes at the first tier (i.e. complaints initially made to train and station operators prior to ombudsman stage) could be shared with the Ombudsman earlier to aid with its forecasting.
- 5.8 Following these introductory remarks from DRO, the Chair opened the discussion out to Scheme Council members.
- 5.9 One Member felt that there must be a way to share complaints data or trends with the Rail Ombudsman at an earlier stage, but that it was currently unclear how that could work in practice.
- 5.10 It was also noted that the Rail Ombudsman shares a large volume of statistics on the complaints it sees, including those that are not upheld, and that consideration could be given in future to recognising what the industry does well, as well as highlighting examples of best practice.
- 5.11 The Rail Ombudsman also shared some insight from the complaints it sees about accessibility on the railway, and its approach to making reasonable adjustments to ensure complainants with support needs can access the service. Sometimes more time might be needed in these cases to gather evidence, and this is one consideration should there be any future plans to reduce case handling response times i.e. it may not always be in the interests of the passenger. Feedback from deaf users had, for example, resulted in the introduction of SMS as a contact channel. A theme arising from accessibility complaints is that often people want an apology and some reassurance that the issue complained about will not happen again.
- 5.12 A question was raised about the current format of the performance and insight report and whether this was considered to be a good basis for future Feedback Reporting by the Rail Ombudsman. It was observed that there is a balance to be struck between complaints statistics and the more qualitative insight that the Rail Ombudsman can share. E.g. perhaps some of the best learning can come from the richer, more qualitative reporting rather than statistical data in some cases.
- 5.13 Another attendee observed that in terms of the industry briefings that the Rail Ombudsman receives, there is often a lot of activity happening within industry and that the breadth and depth of current briefings may not always be enough. There

was also consideration around how industry can keep the Rail Ombudsman informed, and also, a challenge back to the Ombudsman as to whether it asks for enough information, and that both sides will need to continue to work closely together to facilitate this. Again, it was suggested the MoU between RDG and the Rail Ombudsman would support this.

- 5.14 The Chair thanked all attendees for engaging in the discussion and brought this item to a close, but noted that attendees were welcome to provide any further comments to the Secretariat via email.
- 5.15 The Chair thanked representatives from DRO for joining the session, who then left the meeting.

## 6. Any other business (AOB)

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- 6.1 The Chair asked for any items under AOB. None were raised.
- 6.2 As next steps, the Scheme Council Secretariat would produce a written note of the meeting for comment from attendees. A final version would then be published.



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