

Inspiring consumer confidence

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GLOSSARY

ADR	Alternative Dispute Resolution
ATP	Assisted Travel Policy
Adjudication	The process by which, in the event that a Simple Resolution and Mediation has been unsuccessful in reaching agreement between the Rail Service Provider and the Rail Passenger, the Rail Ombudsman will investigate and make an impartial decision on the case.
Average Award Value	The Average Award Value for the entirety of the financial awards made in a given date range.
Charter	The Charter of each Rail Service Provider containing the terms under which the Consumer travels.
Claim Rejected	The Rail Ombudsman's categorisation of a Consumer's claim that has been rejected following an Adjudication.
Complex Resolution	A stage in the Rail Ombudsman process where a Simple Resolution is not possible. The Rail Ombudsman will first Mediate and then where applicable, issue an Adjudication to resolve an In Scope Dispute.

Consumer

An individual who has undertaken, or has attempted to undertake, a journey on a scheduled rail service, and has purchased (or has had purchased on their behalf), or has attempted to purchase, a ticket for that journey.

Deadlock

The stage reached within a dispute, when the Rail Service Provider believes that it has exhausted all possibilities of resolving a dispute and there is no further progress possible. At this stage the Rail Service Provider will provide a Deadlock letter to the Consumer confirming this to be their final position. It will also sign-post the Consumer to a means of ADR.

Decision

A Decision by the Rail Ombudsman on the fair outcome of an In Scope Dispute that is binding on a Rail Service Provider.

Industry Arrangements

(a) Where the Rail Service Provider is an operator, the express terms of the contract between the Rail Service Provider and the Consumer as set out in the NRCoT, and, where applicable the Charters. In addition, and insofar as they form the basis of the contract, the following provisions may be relevant in determining contractual liability: Ticketing and Settlement Agreement, Assisted Travel Policy and any other applicable terms and conditions which form part of the contract between the Rail Service Provider and the Consumer; the versions of the above policies approved by the ORR that are in use at the time of travel or ticket purchase will apply;

(b) Where the Rail Service Provider is not an operator (for example, a third-party retailer of rail tickets), then the documents establishing their duties will be identified on their entry to the Rail Ombudsman and used by the Rail Ombudsman when assessing In Scope Disputes.

Independent Assessor

Appointed by the Rail Ombudsman to ensure that the operation of the scheme is transparent, fair and reasonable.

In Scope Dispute

A dispute accepted as being 'In Scope' of the Rail Ombudsman in accordance with the Rail ADR Service Rules.

Mediation

The process by which, assisted by an independent view from the Rail Ombudsman, a settlement in relation to an In Scope Dispute can be negotiated to which both the Consumer and the Rail Service Provider agree.

NRCoT

The National Rail Conditions of Travel which outline the rights and responsibilities when travelling along with the minimum requirements to which a Rail Service Provider should adhere.

ORR

Office of Rail and Road

Out of Scope

A complaint which is Out of Scope (ineligible) or Out of Scope (transferred)

Out of Scope (ineligible)	A complaint which is deemed ineligible for the Rail Ombudsman and also, for Transport Focus and London TravelWatch. The majority of complaints found to be ineligible are caused by Rail Passengers approaching the Rail Ombudsman without a Deadlock Letter and before the end of the 40 working day period allowed to Rail Service Providers to resolve their complaints.
Out of Scope (transferred)	A complaint that is outside the scope of the Rail Ombudsman which is transferred to either Transport Focus or London TravelWatch.
Rail Service Provider or “RSP”	Licensed train and station operators and any voluntary members of the Rail Ombudsman including National Rail Enquiries.
Rail ADR Service Rules	The rules and eligibility criteria for the Rail Ombudsman.
Simple Resolution or ‘Simple’	A stage in the Rail Ombudsman process that provides an opportunity, in some circumstances, to quickly resolve an issue.
Smartcards	Reusable, credit-card sized cards which store (multiple) train tickets and can be used to tap a reader to enter or exit the station.

Split Decision

The Rail Ombudsman's categorisation of a Decision in which the Consumer has received only part of their original claim following an Adjudication.

Statutory Appeals Bodies

Transport Focus (TF) and London TravelWatch (LTW).

Third-Party Retailers

A Third-Party Retailer is licensed to sell train tickets to passengers and businesses, but has no involvement in the delivery of train services.

Upheld in Full

The Rail Ombudsman's categorisation of a dispute that has been Upheld in Full in favour of a Consumer following Adjudication.

1. BACKGROUND

1.1 The Rail Ombudsman's Deep Dive Report

The Rail Ombudsman has been commissioned by the Office of Rail and Road (ORR) to produce a report containing the results of a detailed review of the insight and learning generated from its casework over the period 2018 - 2023. It should be noted that data for 2018 only includes the period from 26 November 2018, when the scheme became operational, to 31 December 2018 and is, as such, an incomplete year.

The report principally focuses on areas that fall within ORR's regulatory remit for passenger-facing services, this includes:

1. Complaint Handling
2. Delay Compensation
3. Accessibility
4. Fares and Retailing
5. Passenger Information
6. Any Other Recurring Themes

1.2 Background to the Rail Ombudsman

The Rail Ombudsman opened its doors on 26 November 2018, offering a free to Consumers, expert, Alternative Dispute Resolution (ADR) service to help sort out unresolved Consumer complaints about service providers within the rail industry.

The Rail Ombudsman's vision is to inspire Consumer confidence and to deliver its service fairly and impartially to ensure the right outcome in every case. The Rail Ombudsman also supports the rail industry to raise standards.

Like other Ombudsman schemes, the Rail Ombudsman gives the parties the opportunity to settle their disputes which have either reached Deadlock or where 40 working days have passed without resolution, without the need to go to court. The Rail Ombudsman will always firstly try to resolve the dispute informally, but if this is not possible, it is empowered to make a Decision which is binding upon the Rail Service Provider.

The Rail Ombudsman can also make recommendations to the rail sector (to individual Rail Service Providers and more broadly) and publishes case studies and data which can help them to understand what they could do to improve their service and raise standards.

1.3 What can Consumers expect from the Rail Ombudsman?

Case received: once the Consumer has raised a case, they are given a unique reference number and access to the Rail Ombudsman's Case Management System and/or the contact details of a designated Ombudsman to keep updated with the progress of their claim.

Review: the Rail Ombudsman will look at the details which the Consumer has provided to make sure that it is something within its remit. If not, the single-front door operated by the Rail Ombudsman either transfers or signposts the complainant to the most appropriate organisation.

Response: if the Rail Ombudsman can take on the complaint, the next step is to request a formal response from the Rail Service Provider. The complaint is assigned to an Ombudsman who contacts both parties to introduce themselves and explain what happens next.

Investigation: the Rail Ombudsman will assess and weigh up the evidence provided, taking into consideration the rights and obligations set out in law, industry policies or arrangements, and what is fair, reasonable and practical. They might need to request further information or evidence.

Mediation: the Rail Ombudsman aims to bring the parties closer together and where possible close the case with an agreed resolution.

Adjudication: if the parties still do not agree, the Rail Ombudsman will make an independent Decision on the case outcome, based on the evidence and information provided.

Closure: once the Decision is made, the case is closed. The Consumer has 20 working days to decide whether to accept it or not and the Decision is binding upon the Rail Service Provider if it is accepted. If the Consumer does not wish to accept the final outcome, they are not bound by it and can look to other forums, such as the courts.

2. INTRODUCTION & COMMENTS ON GENERAL THEMES

The information and analysis provided within this report will principally focus on the areas regulated by ORR alongside more general trends and issues noted by the Rail Ombudsman. This may in turn identify areas of future focus for the ORR and the industry more broadly. This section outlines themes that apply across all aspects of the Rail Ombudsman's casework irrespective of the complaint issue.

This report draws on the 'casework recommendations' made by the Rail Ombudsman. Not all cases result in recommendations being made; where they are, it is usually – though not always – at the Adjudication stage. Recommendations typically follow the format: "The Rail Ombudsman recommends that...". This recommendation is not part of the binding redress resulting from an escalation to the Rail Ombudsman, but is made where the Rail Ombudsman identifies learnings, particularly those that may help to prevent similar complaints in the future. The Rail Ombudsman includes its recommendations in the Adjudication documents issued to Consumers as well as the industry for transparency; it is sometimes the case that Consumers are seeking to effect change in the industry through raising their issues to the Rail Ombudsman (instead of, or in addition to, financial redress, for instance). As such, reference to casework recommendations should be taken in the context of a recommendation made directly to Rail Service Providers through casework, rather than recommendations of this report.

Before conducting an analysis of individual complaint themes, it is important to recognise that the holistic escalated complaint 'picture' is subject to a range of influencing factors that may have similar or contrasting impacts within the industry itself. The volume of complaints escalated to the Rail Ombudsman has been highly variable¹, and therefore a clearly identifiable factor to examine, although it is likely that this interacts with other factors such as the potential for different operators to adopt different approaches to complaints. This may generate avenues for further enquiry, namely, to recognise inconsistency where it exists, understand the causes and impact, and ultimately determine whether there is an optimal approach from a regulatory perspective. Conversely, it is also apparent that there is significant commonality across the industry; the Rail Ombudsman has identified the cross-cutting role of information available to passengers and the role of Third-Party-ticket retailers in this regard.

Fluctuating escalated complaint volumes: cause and effect

The volume of complaints escalated to the Rail Ombudsman can be clearly linked to the prevailing circumstances or events of the time. It is also likely that passengers' experiences and expectations of rail services strongly influence their propensity to escalate complaints to the Rail Ombudsman. Clearly the decision to escalate a complaint to the Rail Ombudsman will be influenced by an individual passenger's motivation to have their case reviewed, which is relative to their own cost-benefit assessment of a given situation. However, the Rail Ombudsman consistently sees the effect of wide-scale issues on the network that affect much larger groups of passengers and produce time-limited surges (or drops, in the case of the COVID pandemic) in case volumes. Examples can include bad weather causing localised/temporary impacts, widespread strike action leading to reduced timetables and major disruption, or the effects of the COVID pandemic driving a sudden uplift in season ticket refund requests and associated complaints, followed by a huge drop in complaints as passenger numbers dramatically declined. These trends can be seen from the charts in Section 11 of this report.

¹ 'Year on Year Case Volumes' chart on page 81

The Rail Ombudsman's dispute outcome data shows fluctuations that appear to be driven by several factors, and clear correlation between volume and outcome at an industry-wide level is difficult to discern. Certainly, the proportion of In Scope/Out of Scope cases brought varies over time, as does the proportion of Simple/Complex outcomes and this data is likely to be impacted by both volume and the nature of disputes raised. It appears likely that during periods of higher volume more cases that Rail Service Providers would otherwise resolve prior to escalation go on to reach the Rail Ombudsman.

A clear indicator that the industry is challenged by increasing complaint volumes, with tangible detrimental impacts for Consumers would be demonstrated if it were the case that in times of greater volume, more Consumers' disputes were Upheld in Full at Adjudication. However, analysis of disputes Upheld in Full at Adjudication does *not* give a clear indication that more passengers who were entitled to all that they were seeking reach the end of the dispute process during times of greater volume. Q1 2019-20 did see a notable rise in this outcome to 14%, from 11% the previous quarter, which coincided with a significant increase in volume, and subsequent reduction in volume has coincided with a reduction in the proportion of Adjudications Upheld in Full. However more recent increases in volume have not seen a return to the previous levels of that outcome, suggesting the relationship is not straightforward. It is likely that Rail Service Providers' experience of working with the Ombudsman and familiarity with outcomes from prior casework will be a factor, also changing complaint volumes may interact with factors at the individual operator level, in terms of its impact. Considerations and avenues for potential further enquiry are discussed below.

Setting complaint handling approaches in context

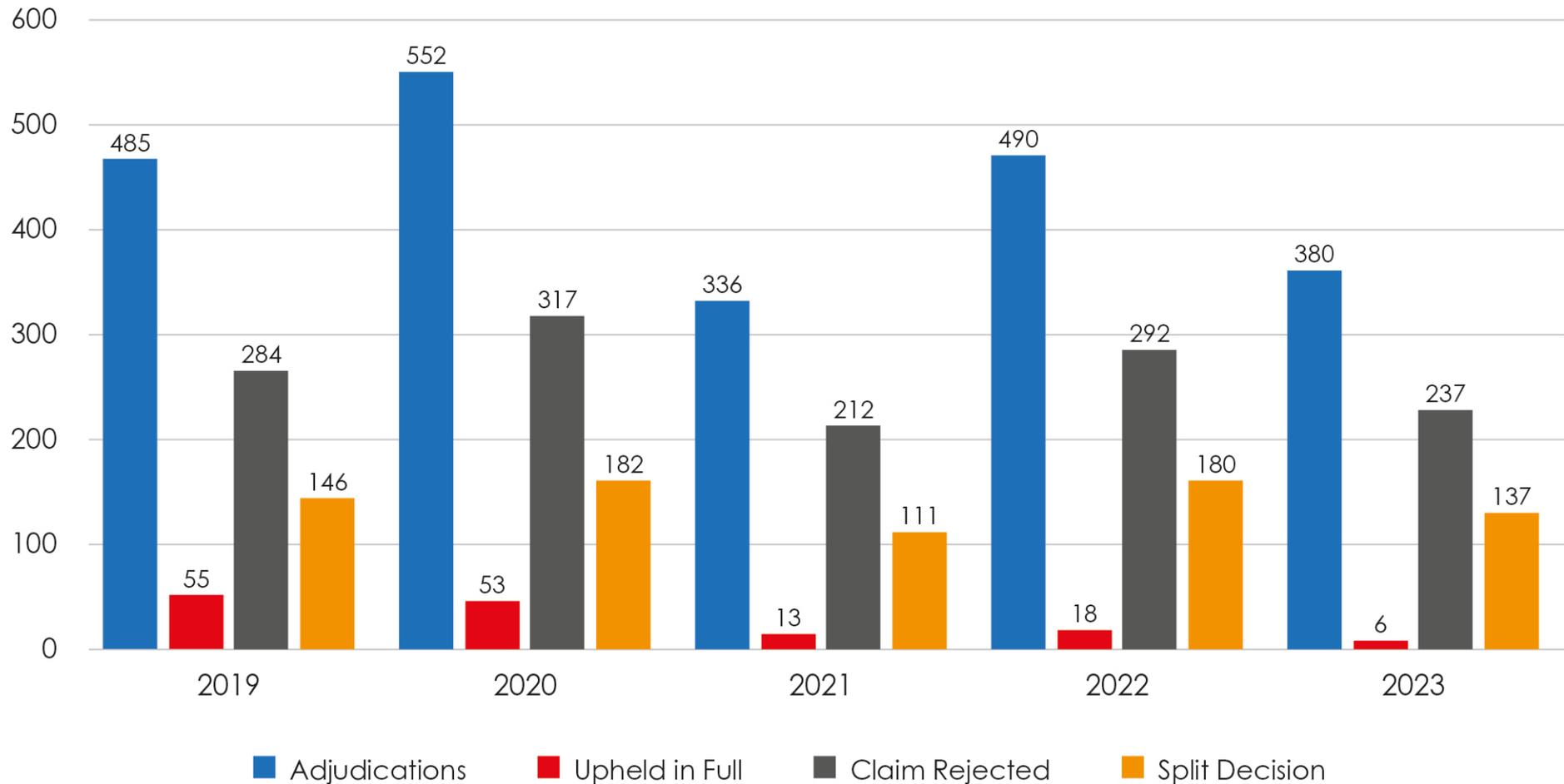
Rapidly increasing complaint volumes could pose operational/resource challenges to Rail Service Providers, and this could in turn impact the Rail Service Provider's approach to complaint handling. This has the potential to impact the Consumer experience of the complaint process and ultimately, therefore, complaint outcomes.

For instance, the Rail Ombudsman's data shows clear differences between Rail Service Providers in terms of their preferred approach to escalated complaints, some favouring (and facilitating by way of offers) the earliest resolution possible and others more inclined to see a case through to Adjudication. It is not always clear whether the latter is a deliberate strategy, or a result of the Rail Service Provider's ability to engage sufficiently with the Consumer/ Ombudsman early enough in the process. Root cause drivers for different approaches within the industry could be a fruitful area for further analysis.

In considering the potential for different approaches to be adopted within the industry, it is important to recognise that within the constraints of the established timescale for resolving complaints, quicker is not necessarily better i.e. a higher proportion of complaints resolved at Simple Resolution should not necessarily be taken to be an indicator of good performance in complaints handling. While it may be positive from the point of view of Consumer experience, this should not be confused with the achievement of a fair outcome and the fulfilment of Consumer entitlement.

Further segmentation by Rail Service Provider – or by groups of providers – could generate insight at the escalated complaint level. Analysis at this level could help to identify trends in complaints resolution behaviour within the sector at an individual operator and/or group level. Groupings could be set by owning group and by 'type' of Rail Service Provider, with Open Access and Department for Transport Operator of Last Resort operators, for example, likely significant sub-sets.

Adjudication Outcomes 2019 - 2023



This chart illustrates the number of Adjudications carried out, alongside their outcomes of either: Upheld in Full, Claim Rejected or Split Decision from 2019 – 2023 (2018 is omitted as it was not a full year.) The outcome profile suggests that in many cases the Rail Service Provider could be considered justified in its stance on the case.

The cross-cutting role of information

This analysis has highlighted the importance of information in the passenger experience – whether it was available/suitably prominent/understood – across any of the complaint themes, not just those cases primarily categorised as Passenger Information. Given the prevalence of multi-operator journeys, consistency in approach to information is clearly an area where the industry is already seeking to collaborate and achieving successes.

This cross-cutting role of information is exemplified through the relatively recent practice of categorising casework recommendations by the Rail Ombudsman. Irrespective of whether the case itself was about, for example Delay Compensation, the subject on which the Ombudsman felt action could be taken was in fact related to the information provided. Also, analysis of primary case category and In Scope Dispute categories provides further evidence of the prominent role information plays in a broad range of disputes.

For instance, between October - December 2023 while just 2.5% of In Scope Disputes were principally categorised for Passenger Information, 11.3% of cases included information as a factor within the associated In Scope categories. Similar figures are obtained by taking a long-term average (3% and 10.9% respectively November 2018 – December 2023). While fluctuations do occur within the period, as might be expected particularly given the relatively small number of cases received at times, this indicates a persistent tendency for information to be an at least ancillary factor in a significant number of the complaints escalated to the Rail Ombudsman.

Furthermore, it is noteworthy that information is a key consideration in some of the most complex cases the Rail Ombudsman resolves, and it is regularly a factor at play in those cases Upheld in Full or resulting in a Split Decision at the Adjudication stage (38% of cases Upheld in Full or resulting in a Split decision, October - December 2023, listed information within the In Scope categories). This also serves to illustrate the multi-faceted nature of disputes; for cases that reach the Rail Ombudsman, there are typically several factors at play and this is an example of how joined up working both within Rail Service Providers' resolution centres (e.g. seamless integration of Delay Compensation, refund and general complaint handling functions) and between the Rail Ombudsman and the Statutory Appeals Bodies contributes to the most effective resolution of Consumer issues. As such, seeking opportunities to enhance collaborative working – with provision of information to passengers at the heart of those arrangements – is likely an avenue for further enquiry (noting that the industry has already recognised the importance of joined up working and actively seeks to achieve this through various forums and projects, for instance the [Smarter Information Smarter Journeys initiative](#) led by Rail Delivery Group).

A recurring theme of the Rail Ombudsman's casework recommendations and insight work has been the prominence of information (as perceived by the complainant), but it is acknowledged that there must inevitably be a hierarchy: not every piece of information can share equally in prominence. This potentially gives scope for further enquiry into consistency across the industry on what is provided and where.

The Rail Ombudsman has found that the terms of advance tickets commonly cause passenger confusion if a service is cancelled. It therefore recommends that clearer information needs to be provided at the point of purchase and during a journey, when quick decisions will be made. A clear and consistent approach across the industry about what information is provided or published could help to mitigate confusion or perceptions that it is unclear. Consumers will understandably rely on the first piece of information they find, so it is important that all potential sources give consistent information. Also, through casework the Rail Ombudsman does perceive that some information could be more prominently displayed in stations – e.g. never to travel on an alternative service (for which the ticket held is not valid) without clear authority to do so and what that authority would look like.

The role of Third-Party Retailers, particularly in the context of time limitation

A significant proportion of the Rail Ombudsman's casework is driven by the retailing and/or refund of tickets, and ticket-related issues can be ancillary to other subjects complained about too. As Third-Party Ticket Retailers are not currently members of the Rail Ombudsman, this places a reliance on the Rail Service Provider taking responsibility for their customer for the purposes of ADR, even though factors influencing their complaint may sit ultimately with the retailer. For example, Rail Service Providers may offer to reimburse a Consumer for their ticket costs, as a gesture to resolve a claim. The decision to do so may not be straightforward and therefore this issue can cause disputes to become more protracted.

Recommendations made to Rail Service Providers in the course of casework have highlighted opportunities for improved co-operation between Third Party Retailers and Rail Service Providers, especially where claims may be subject to time limitation; this may be an area requiring further work and collaboration.

Complaint themes more likely to result in 'Complex' Resolutions

Having reviewed the outcomes of cases across the five categories that are the focus of this report, Accessibility and Passenger Information cases are most likely to proceed to Adjudication (23% and 27% of those cases reaching the Adjudication stage respectively). Accessibility cases also see a larger than average proportion of cases settled at Mediation and a correspondingly lower percentage of Simple cases. Complaint Handling, Delay Compensation and Fares and Retailing cases are the most likely to settle with a Simple Resolution (37%, 23% and 39% respectively), with Delay Compensation claims seeing the lowest percentage of Adjudications (9%).

NB in the table below, percentages do not add up to 100% as Out of Scope cases (which would make up the remaining figures) have not been included. Source 2018 - 2023.

Category	% Adjudication	% Mediation	% Simple Resolution
Complaint Handling	13	18	37
Accessibility	23	23	16
Delay Compensation	9	14	39
Fares & Retailing	10	13	32
Passenger Information	27	15	23

3. COMPLAINT HANDLING

3.1 Introduction

A total of 2,839 complaints regarding 'complaint handling' were recorded within the period from 26.11.2018 to 31.12.2023. In terms of the more granular breakdown, "complaint not fully addressed" is the most significant driver of complaints. That the Consumer remains unhappy with the "type/level of compensation" and "no response from service provider" are also significant contributors.

Table 3.1a An overview of Case statistics*
26.11.2018 - 31.12.2023

Complaint Handling	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	918	1053	49	22	145	198	£97.95

Table 3.1b Overview of Case statistics*
1.1.2023 - 31.12.2023:

Complaint Handling	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	212	262	134	0	26	35	£84.92

*Please note that 5 cases within this category remained open at the end of the reporting period, so no outcome is represented above.

Table 3.2 Complaint Handling second tier complaint category statistics

26.11.2018 - 31.12.2023:

Complaint not received	41
Complaint not fully addressed	1564
No response from service provider	472
Response Time	147
Staff member impolite/unhelpful	52
Unhappy at type/level of compensation	480
Other	83

The largest driver of complaints under this category was 'complaint not fully addressed'. The outcome profile of these complaints (1564 in total) was as follows:

- 197 were concluded within Adjudication; 7% were Upheld in Full, 54% Claim Rejected and 39% had a Split Decision. This equates to 12.9% of the overall total closed at Adjudication.
- 270 were closed at Mediation, which equates to 17.5%.
- 569 were closed as Simple Resolutions, representing 37.1%.
- 527 were Out of Scope, which represents 33.7%.

3.3 Case studies & case specific learnings

Disputes related to Rail Service Providers' Complaint Handling is the second largest driver of complaints to the Rail Ombudsman. However, one of the challenges with determining precise numbers of cases that concern Complaint Handling specifically is that this subject often forms part of a wider case as an ancillary issue, as well as sometimes being a complaint issue in its own right. Examples of this include cases where wider policy or byelaw enforcement are Out of Scope, which means that a secondary Complaint Handling element is the only factor that can be considered. In one specific case, where an autistic minor was travelling with a recently expired railcard, the remit of the Adjudication was limited to the handling of the complaint because the Rail Ombudsman cannot make a Decision that would prejudice enforcement of Railway Byelaws.

Awards for Complaint Handling failings are typically made because of the unnecessary time and trouble caused by the Rail Service Provider's complaint handling, for example:

- delays and incomplete responses;
- the Rail Service Provider not adhering to published response timescales, for example not returning calls;
- not adhering to published policies and processes;
- failing to address all aspects of the complaint;
- not listening to the Consumer's preferences when considering offers. This was considered a potentially aggravating factor in one case where £150 was awarded to a Consumer who was offered free travel when they travelled using a 'freedom pass' (which entitled them to free travel), along with other customer service failings such as not recording a call where the suitability of other goodwill was discussed.

Complaint Handling failures often result in awards that are modest in nature and tend to fall within the lower end of the Rail Ombudsman's Compensation Framework². Below are some examples of the cases that the Rail Ombudsman has investigated and some of the factors that were considered.

² [The Rail Ombudsman Compensation Framework](#)

Case study 1: Failure to fully address the Consumer's enquiry

In this case, a Consumer was unable to submit a Delay Compensation claim and then subsequently unable to get an answer about how to do so, making several calls and sending emails. This attracted an award of £10, as the Rail Ombudsman felt that the matter could have been handled at the point of first contact, explaining the process over a telephone call. Whilst the main substance of the claim was Delay Compensation, the element of the claim that attracted an award was Complaint Handling.

Case study 2: Failure to provide a response

In this case, the Rail Service Provider initially acknowledged the Consumer's complaint regarding two incidents, which the Consumer claimed placed them (and others) at serious risk of harm but did not provide a substantive response until the claim was brought to the Rail Ombudsman. The Consumer suffered detriment in terms of time and trouble navigating the Rail Service Provider's complaints process, having to chase for a response and ultimately escalate. The Rail Ombudsman considered that the matter could have been closed sooner with an explanation from the Rail Service Provider at an earlier time. An award of £50 was made on this basis.

Case study 3: Unsuitable remedies

In a case involving an accessibility issue, an additional award was made by the Rail Ombudsman in respect of the Complaint Handling element. The Rail Service Provider sent a hamper and some National Rail Travel Vouchers to the passenger. The Consumer asserted that they did not accept the offer of a hamper, however this could not be verified as the Rail Service Provider did not have a call recording, since the call had been made on a mobile phone.

Whilst broadly speaking the onus would be on a passenger to provide some evidence to back up their assertion, the Rail Ombudsman considered that the Rail Service Provider should have had systems in place either to record the call or provide a contemporaneous note. As noted above, the Consumer also stated they travelled using a free pass and so the vouchers were of limited use. The Rail Ombudsman therefore awarded the sum of £150 for the way in which the complaint was handled.

Case study 4: Transfers of cases between Rail Service Providers/multi-party or split cases

The Rail Ombudsman has in place a process that enables it to split cases, where necessary, and deal with multiple Rail Service Providers where there is disagreement about who is liable. This has mainly been relevant to cases where there is a dispute about the rail industry process for the transfer of a Consumer's case to the Rail Service Provider who is responsible. Some cases result in a disagreement between Rail Service Providers about which of them is responsible for taking ownership of an issue. This leaves the Consumer effectively "caught in the middle" of an industry argument. Sometimes the only way to determine liability is to seek a response from both Rail Service Providers and work both cases alongside each other.

In the context of complaint handling cases, these can involve circumstances where several Rail Service Providers are involved either because a transfer was required to another Rail Service Provider which did not take place, or the Rail Ombudsman needs to consider different claims arising out of the same journey against different Rail Service Providers.

Issues with transfers to other Rail Service Providers can arise where this industry process is delayed by the Rail Service Provider that was obliged to transfer the claim, and the Consumer's timescales are contingent on that action being taken. This is a key consideration where, for example, a delay means a Delay Compensation claim cannot then be submitted within the required 28-day timeframe. There are two likely outcomes to these scenarios. The first is that the Rail Service Provider that caused the delay assists the Consumer by proving to the other that the delay was down to them, so that the claim can be processed by exception. The second is that the Rail Service Provider that caused the delay offers to cover the relevant sum and the case is closed as a mediated or Simple resolution. The Rail Ombudsman has seen examples of both and has made awards on the basis that Industry Arrangements do not cause the Consumer detriment in terms of being able to make a claim within the stated timescales.

3.4 Recommendations made by the Rail Ombudsman

The Rail Ombudsman has made recommendations to the industry in individual cases and more broadly where it has identified learning and insight themes arising out of individual cases. Examples of some of these are summarised below:

- The Rail Ombudsman recommends that Rail Service Providers consider a more joined up approach to transferring Consumer complaints between Rail Service Providers, enabling a seamless transfer within the timescales with which the Consumer is required to adhere, or a more transparent mechanism for dealing with issues by exception.
- The Rail Ombudsman recommends that customer service staff are fully briefed and trained to be able to deal with all aspects of a claim or are given a point of escalation for more complicated cases involving, for example, Consumer Rights Act 2015 and Equality Act 2010.
- The Rail Ombudsman recommends that Rail Service Providers consider the impact and avoid the use of generic responses.

3.5 Conclusions

Cases about Rail Service Providers' complaint handling have consistently been within the top three drivers of complaints to the Rail Ombudsman and the importance of this theme as a subject for tangible action to improve consumer experiences is reflected in the fundamental nature of recommendations made, three of which are highlighted above.

It should be noted that 'complaint not fully addressed' will often be a factor within complaints where there is disagreement on the compensation or explanations offered for an incident, and this will, in part, account for the prevalence of this category. The significant proportion of cases with a Split Decision outcome is indicative of the typically multi-faceted nature of Complaint Handling disputes i.e. an award has been made for some of the issues raised but not all.

It is not always easy to separate complaint handling from the main issue of a claim, which is why additional insight can be provided by casework recommendations. These provide for a level of insight over and above the administration of the claims themselves.

A key learning captured through casework recommendations made on this topic is the importance of clear communication with a Consumer from the outset of a complaint. More specifically, this will include expectation management on timescales and the next steps expected from all parties involved. For example, an automated acknowledgement email may provide useful information advising the Consumer of how to claim for Delay Compensation or a ticket refund, but a Consumer may still believe that this can be handled as part of their wider compensation claim. From the Rail Ombudsman's perspective, communications must therefore always remain pitched at the level of someone with no knowledge of claims and complaints processes.

4. ACCESSIBILITY

4.1 Introduction

A total of 316 'Accessibility' complaints were recorded over the period to which this report relates. Within this category, the largest driver of complaints was 'booked assistance not provided at station'. Other prominent themes were assistance staff, on-train facilities and being able to get on and/or off a train easily.

4.2 Statistical analysis

Table 4.1a Overview of Case statistics*
26.11.2018 - 31.12.2023

Accessibility	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Maximum Award	Average Award
	114	51	75	15	32	26	£1,000.00	£112.40

Table 4.1b Overview of Case statistics*
1.1.2023 - 31.12.2023

Accessibility	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Maximum Award	Average Award
	24	17	25	0	6	6	£497.00	£101.42

*Please note that 3 cases within this category remained open at the end of the reporting period, so no outcome is represented above.

Table 4.1c Accessibility claims second tier complaint category statistics 26.11.2018 - 31.12.2023

Assistance booking Process	13
Assistance staff	50
Booked assistance not provided at station	74
Booked assistance not provided on train	16
Disabled Parking	3
Disabled toilets at station/on train	13
Lack of disabled facilities at station/on train	31
Lack of information	15
Quality of service from Help Points (including requesting assistance)	6
Service Provider accessibility policy	9
The ease of being able to get on and off	23
Unable to view information at station/on train	1
Un-booked assistance not provided at station	8
Un-booked assistance not provided on train	2
Wheelchair space on train	4
Other	48

As noted above, the largest driver of complaints within this category over the five years covered by this report, was 'booked assistance not provided at station.' The outcome profile of these complaints (74 in total) was as follows:

- 21 Adjudications (32% Upheld in Full, 26% Claim Rejected and 42% Split Decision). This equates to 28% of the overall total closed at Adjudication.
- 20 cases were closed at Mediation, equating to 27%.
- 9 were closed as Simple Resolutions, which equates to 12%.
- 24 were closed as Out of Scope, which represents 32%.

The Accessibility category also saw complaints under the following headings:

- 50 complaints regarding 'assistance staff.'
- 31 complaints regarding 'lack of disabled facilities at station/on train.'
- 23 complaints regarding the 'ease of being able to get on/off.'

It is also worthy of note that when compared with the other complaint categories that are the focus of this report, accessibility claims have a higher Average Award Value and can require more time to resolve. This may mean that the Ombudsman asks the parties to agree to longer than usual timeframes, to enable the parties to navigate the process comprehensively. Sometimes this is offered as a reasonable adjustment (which is a legal requirement under the Equality Act 2010, where a service user has a protected characteristic, as defined by that legislation) whereas in other instances it is offered as required in the event of exceptional circumstances. An example as to how extensions of time operate in practice, can be seen from one particular case where a Consumer with autism asked for more time to enable them to consider the implications for them of their case progressing to Adjudication in a situation where they had to weigh this against the Rail Service Provider having made an offer in Mediation.

As can be seen from the more granular analysis of the categories within the overarching "Accessibility" classification, complaints arise in the main from booked assistance not being provided at a station or on the train, lack of facilities at the station or on the train, the level of service from assistance staff, lack of information.

4.3 Case studies and case specific learnings

Below are some examples of the cases that the Rail Ombudsman has investigated and some of the factors that were considered.

Case study 1: Consumer unable to disembark

A Consumer who was stranded on the train when the ramp was not correctly deployed to help them disembark was made an award of compensation. This was in recognition that whilst the Rail Service Provider had a system in place to perform the task, it was accepted that it did not work in the Consumer's case and the Consumer was subjected to a protracted and public incident as a result. The Ombudsman took various factors into consideration, including that it was an isolated incident. An award was made, which incidentally represented a sum that the Consumer had indicated would be broadly acceptable to them.

Case study 2: Toilets out of order

In this case, the Consumer held an "I can't wait" card and RADAR key. They presented their card and asked staff to direct them to a toilet, the one in the station being out of order. In response, they were advised to use the pub down the road. No evidence was provided to support that there was any advance notification of the toilets being out of order, which precipitated the requirement to find another means of going to the toilet. The result for the Consumer was a public and embarrassing incident. The Rail Ombudsman recommended that the Rail Service Provider considers how station information is reviewed to ensure all accessibility updates are timely, made across all necessary media platforms (for example National Rail Enquiries) and suitable alternatives planned for. An award was made both for the incident and for the way in which the complaint was handled.

Case study 3: Ticket booking issue

In this case, a visually impaired Consumer was unable to book tickets over the telephone and consequently purchased tickets from a different retailer, which were more expensive. The Consumer then travelled with these tickets and experienced delays. The Delay Compensation claim was raised with the Rail Service Provider and was rejected. The Consumer had difficulty in appealing this and in complaining about the ticketing issue when they did this by telephone. In addition to compensation, the Consumer was seeking a reasonable adjustment when booking future travel. Unlike a court, the Rail Ombudsman cannot make any declaration or direction requiring the Rail Service Provider to make a reasonable adjustment. However, it was clear that the service provided to the passenger was to a lesser standard than would have been the case for a passenger without any additional support needs and they were subjected to additional expense when making the purchase, along with time and trouble seeking redress. The Rail Ombudsman made an award for the ticketing issue and recommended that the Rail Service Provider reconsiders the option to provide ticket purchase through the Assisted Travel telephone line. The Rail Service Provider reconsidered and facilitated ticket purchases accordingly.

4.4 Recommendations made by the Rail Ombudsman

The Rail Ombudsman has made recommendations to the industry in individual cases and more broadly where it has identified themes arising out of individual cases. Examples of some of these are summarised below:

- The Rail Ombudsman recommends that a Rail Service Provider reviewed the process of contacting passengers with booked assistance where there is disruption, particularly on long journeys, noting that this should be possible where the passenger has booked their assistance directly with that operator.
- The Rail Ombudsman recommends a review of the channels to contact the British Transport Police when reporting anti-social behaviour in real time. Further, that greater prominence is given to information and on-board literature providing clear advice on how to report these issues in real time, in order to sign-post methods of support and a place to go if someone feels threatened.
- The Rail Ombudsman recommends that the Rail Service Provider and Network Rail work together to prioritise the lift repair at the affected station and to keep the Consumer updated on what was a long-standing problem affecting their ability to travel.
- The Rail Ombudsman has noted that the availability of CCTV footage can be an issue when reviewing a claim. In one specific case, the Rail Ombudsman recommended that the Rail Service Provider reviews when CCTV requests should be triggered by a complaint about alleged discrimination.
- In a case where the Rail Ombudsman found it difficult to obtain standard industry guidance relating to disembarking a passenger with a rollator, the Rail Ombudsman recommended that this was looked into by the industry, in order to provide more comprehensive training to staff members when they were fulfilling passenger assist requests.

4.5 Conclusions

Since it began operation in 2018, the Rail Ombudsman has considered a range of disputes related to accessibility problems which passengers have encountered when travelling on, or trying to access, the rail network.

Understanding what went wrong and how to avoid that in the future can be a big factor in Consumer confidence and complaint resolution. In the Rail Ombudsman's experience, it is vitally important that the Consumer knows they have been listened to and taken seriously; a true understanding of their experience can be as fundamental as the remedy itself. Whilst complaint numbers in this area have been relatively low compared to other complaint categories, the impact on an individual can be significant and the potential for impactful learnings at an industry level is higher.

Sometimes the parties settle the dispute without the need for a formal Decision and the Rail Ombudsman can facilitate that through the communication of offers and discussions as to why (or not) the Consumer believes that may be reasonable. For example, one Consumer who was stranded at a station due to a lift being out of order was content to settle the matter with an apology, a gesture to make this apology more meaningful and an explanation as to the change in policy that their claim brought about. This demonstrates the impact of an individual complaint which generated not only a published case study, but also prompted wider discussion and led to a change in process.

Accessibility cases can be highly emotive and sometimes include allegations of discrimination. Comprehensively addressing these issues during the complaint process is aided by early recognition and considerate handling. Again, information available to Consumers is a recurring theme, with consistency of message and the format for provision often elevated in significance in accessibility cases.

5. DELAY COMPENSATION

5.1 Introduction

A total of 4,882 'Delay Compensation' complaints were escalated to the Rail Ombudsman between 2018 and 2023. The biggest driver of complaint in this category is where the claim has been rejected by the Rail Service Provider. Other prominent categories of complaint include the process, level of compensation and speed of response. The last of these especially can overlap with Complaint Handling disputes, as has been discussed above.

5.2 Statistical analysis

Table 5.1a Overview of Case statistics*

26.11.2018 - 31.12.2023

Delay Repay	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	1839	1910	689	30	141	257	£84.06

Table 5.1b Overview of Case statistics*

1.1.2023 - 31.12.2023

Delay Repay	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	489	638	240	2	31	64	£83.51

*Please note that 16 cases within this category remained open at the end of the reporting period, so no outcome is represented above.

Table 5.1c Second tier complaint category statistics 26.11.2018 - 31.12.2023:

Compensation Claims Process	884	Abandoned Journeys	32
		Admin Charges	3
		Claimant (or potential claimant) experienced difficulties in making a claim e.g. didn't know where to get a form or couldn't find where to make an online claim, didn't know to retain ticket or provide proof of purchase	42
		Compensation claimed after 28 days	3
		Consequential loss	92
		Duplicate and Replacement ticket issues	1
		Failure to offer	42
		Failure to receive tickets	4
		Follow up action unfulfilled	1
		Frustrations that the claims process is too complex, confusing, or in some way too onerous e.g. didn't understand some of the instructions or felt that too much form filling was required, etc.	40
		Method of calculation	2
		Out of time claims	6
		Refusal due to lack of receipt/ticket	1
		Strike refunds	28
		Taxi refunds	78
		Ticket refunds and compensation	69
Unawareness of or unhelpful conditions	4		
Vouchers/gifts not cash	10		
General comp claims process	426		

Awareness / Promotion of Schemes	22	Passenger not aware of their delay compensation rights General awareness / promotion of schemes	10 12
Claim Rejected	2171	Claim was rejected because of incorrect or inaccurate information provided by the claimant. Complaint about claimant was not delayed by enough minutes to be eligible Complaints about claim being rejected (whether its legitimate or not) Poorly Timed Announcements	81 102 830 1
Level of compensation	754		
Service Provider Processing error	114		
Speed of Response	707	TOC time to respond to claim TOC time to acknowledge claim Time taken to receive compensation General speed of response	121 74 100 412
Other	230		

A total of 4,882 Delay Compensation complaints were escalated between 2018 and 2023. Within this category, the largest driver of complaints was Delay Compensation 'claim rejected'. The outcome profile of these complaints (2,171 in total) was as follows:

- 162 Adjudications (7% Upheld In Full, 65% Claim Rejected and 29% Split Decision, representing 7%). This equates to 7% of the overall total closed at Adjudication.
- 252 cases were closed at Mediation, representing 12%.
- 721 were closed at Simple stage, equating to 33%.
- 1036 were closed as Out of Scope, which equates to 48%.

As per Table 5.1.c above, the Delay Compensation category also saw complaints under the following headings:

- 884 complaints regarding the 'compensation claims process.'
- 754 complaints regarding 'level of compensation.'
- 707 complaints regarding 'speed of response.'

The following chart illustrates the number of complaints regarding Delay Compensation, split by second tier category, received for each year between 2018 and 2023.

Table 5.1.d Delay Compensation subcategories over time

Delay Subcategories	2018	2019	2020	2021	2022	2023
Awareness/ promotion of schemes	1	13	3		3	2
Claim rejected	44	295	291	170	651	720
Compensation claims process	13	175	100	46	265	285
Level of compensation	21	174	98	72	173	216
Other		25	45	19	106	35
Service Provider processing error		17	23	4	41	29
Speed of response	3	97	104	43	267	193

5.3 Case studies and case specific learnings

Cases which are solely about Delay Compensation usually arise because the claim has been rejected by the Rail Service Provider. For example, a common scenario may present where a Consumer lodged a Delay Compensation claim that was rejected as the Rail Service Provider did not believe that the Consumer had left enough time to make a connection. In this situation, the Rail Ombudsman will typically review the minimum connection time at the station in question via the National Rail Enquiries webpage and take a view as to whether it was reasonable for the passenger to have expected to make the intended connection.

Many of the Delay Compensation cases that are escalated to the Rail Ombudsman do not rest on standalone issues. Some claims can be influenced by other factors, as noted elsewhere and in respect of which the Rail Ombudsman has already provided insight via published case studies that are available on the Rail Ombudsman's website. (Please see hyperlinks for ease of reference: strike action [\(Travel During Industrial Action - Rail Ombudsman\)](#), adverse weather conditions [\(Travel During Severe Weather - Rail Ombudsman\)](#) and amended timetables [\(Amended Timetables - Rail Ombudsman\)](#)).

Anecdotally, when speaking to Consumers, the Rail Ombudsman often finds there is confusion around the difference between Delay Compensation and other types of compensation, such as out-of-pocket expenses. Delay Compensation is due under Industry Arrangements, and it will not usually be incumbent on a Consumer to show fault. However, damages, for example under the Consumer Rights Act 2015, may be recoverable if there has been a failure of reasonable care and skill or in relation to the information provided (which the Consumer has relied upon).

Below are some examples of the cases that the Rail Ombudsman has investigated and some of the factors that were taken into account.

Case study 1: The process was too long

In this case, a Consumer complained that the process via which they would need to raise a delay compensation claim was too long and required disproportionate effort relative to the amount of compensation they would receive. The Rail Service Provider had responded to the Consumer outlining the process and the timescales involved, but the Consumer declined to make a claim and escalated to the Rail Ombudsman, seeking a change in policy. The Rail Ombudsman determined that the Consumer had been correctly signposted and that this was well within the 28-day window that the Consumer had to raise a delay compensation claim. The claim relating to the change of policy was referred to the applicable Statutory Appeals Body.

Case study 2: Payment method dispute

The Consumer requested payment to be made by bank transfer, however the Rail Service Provider had already issued vouchers to the Consumer. In this case, the vouchers had not been used, so the Rail Ombudsman made an award for the payment to be re-issued.

Case study 3: Postal applications

In this case, a Consumer made an application for Delay Compensation by post, sending paper tickets. They did not obtain proof of postage and no other record of the tickets such as a photograph. The Rail Service Provider had no record of receiving the claim or the tickets. In this case, the Rail Ombudsman was unable to make an award as there was insufficient proof that the Consumer had the relevant tickets.

Case study(ies) 4: 'Missed flight Cases'

Another 'sub-category' of cases that are typically recorded against Delay Compensation, hence their inclusion within this section of the report, (or alternatively Train Service Performance) concern missed flight cases, or cases where a Consumer has missed an event because of delays to their train service. Typically, the claim will be for losses which may include Delay Compensation and additional expenses, such as booking flights or hotels, which have arisen out of the delay. Whether awards are made in these cases will depend on individual circumstances and the information that is available, and this is, therefore, a type of claim that hinges to a great degree on its individual facts. For example:

- A case where a Consumer was travelling on a train service that terminated early, resulting in them missing their flight, despite having left sufficient contingency to allow for delays as referenced in the Rail Service Provider's Charter, resulted in the Consumer being awarded some additional costs. These included a refund on the flight tickets and one night of their hotel stay, which they had been unable to cancel. The Rail Ombudsman assessed that these were reasonable, and proof had been provided. In this case, the Rail Service Provider considered that the Consumer should have alternatively claimed against their travel insurance, however, although this was referenced early on in correspondence between the parties, the Rail Service Provider never provided the Consumer with the information they had requested to enable them to explore this avenue, and the claim progressed with no further reference to the insurance. The claim was therefore resolved partially in the Consumer's favour.
- In another case, a Consumer was forced to abandon their journey via train and take a taxi for part of the journey. They had left sufficient contingency and took a taxi because a flight to their destination would have been expensive and difficult to book on the same date. The Rail Ombudsman awarded the Consumer a contribution to the cost of the taxi, less the amount of the Delay Compensation that they could have claimed via the Industry Arrangements.
- Where Consumers do not leave sufficient time to get to the airport in line with information in a Rail Service Provider's Charter or information from the airline or airport, awards will not be made for additional expenses claimed, although Consumers will still be able to claim Delay Compensation via Industry Arrangements.

5.4 Recommendations made by the Rail Ombudsman

The Rail Ombudsman has made the following recommendations specifically regarding the administration of Delay Compensation claims:

- The Rail Ombudsman recommends that the AutoDR (or automatic delay repay) system is investigated further to make sure that it is providing the best service. The Rail Ombudsman also recommends that more attention is paid to the Consumer's preferred payment method when they express this, and if that is not possible, explanations are provided to the Consumer concerned as to why an alternative payment method is needed.
- The Rail Ombudsman recommends that the Rail Service Provider considers adding to Delay Compensation 'Frequently Asked Questions' that compensation is capped and cannot be awarded once 100% of the ticket value has been compensated, even if further delays are experienced on the return journey*. The information should also confirm that a Consumer may have the entitlement to compensation under Consumer legislation and confirm the correct process for such claims. Also, that this is added to the Charter section which shows how Delay Compensation is calculated. As was highlighted in the Adjudication Decision to which this casework recommendation relates, the Rail Service Provider was applying the correct published policy, but it could be made clearer to help avoid Consumers attempting to claim twice when 100% of the ticket value has already been received.

*In some scenarios, a passenger may be entitled to 100% of a return ticket value, as a result of delays occurring solely on the outbound leg of the journey. As such, no further compensation would be due in relation to further delays experienced on the return leg."

5.5 Conclusions

Claims relating to the amount of Delay Compensation awarded can be verified through independent rail data logs, but if a Consumer presents other evidence which puts this in doubt, this will always be considered by the Rail Ombudsman. Other complaints on this topic are related to confusion or difficulty in navigating the claims process. This is a category where it is possible for cases which, at face value present similar facts, to result in different outcomes dependent on the availability and quality of a Consumer's evidence.

There can be confusion about processes, particularly when these are automated, and the route of appeal is not clear. Delay Compensation claims are commonly linked to a claim for additional compensation, which would require consideration against the Consumer Rights Act 2015. Missed flight cases are a typical example, and individual providers have amended Charter wording, and online information in response to recommendations highlighting the need for clear and consistent guidance across the industry on allowing contingency time when travelling to an airport.

A recurring theme that arises is confusion over whether to claim for Delay Compensation or a refund. Similarly, claims may be directed to the wrong operator. It is apparent to the Rail Ombudsman that Consumers often do not differentiate between Delay Compensation (typically "Delay Repay") and other compensable losses. This again points to the importance of information available to Consumers, and which can be highlighted by operators at the complaint stage if necessary.

6. FARES AND RETAILING

6.1 Introduction

A total of 1453 'Fares & Retailing' complaints were recorded over the period from 2018 - 2023. Within the Fares and Retailing category, the largest driver of complaints was 'Other.' Whilst this is technically an uncategorised heading, within this category the Rail Ombudsman ascertained that a large number of the complaints were closed as 'Out of Scope' (294). In terms of In Scope Fares and Retailing cases, the Rail Ombudsman also received applications which referred to 'Smartcards, 'value for money' and 'ticket buying facilities.'

6.2 Statistical analysis

Table 6.2a Overview of case statistics*

26.11.2018 - 31.12.2023:

Fares & Retailing	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	646	465	194	27	47	73	£101.40

Table 6.2b Overview of case statistics*

1.1.2023 - 31.12.2023

Fares & Retailing	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	119	72	30	1	6	9	£71.23

*Please note that 1 case within this category remained open at the end of the reporting period, so no outcome is represented above.

Table 6.2c Fares & Retailing claims second tier complaint category statistics 26.11.2018 - 31.12.2023:

Smartcards	143
Value for money	277
Ticket buying facilities	379
Other	654

The outcome profile of complaints relating to 'Fares & Retailing' was as follows:

- 654 complaints were categorised as 'other' within this category in total.
- 49 Adjudications: 8% Upheld in Full, 61% Claim Rejected and 31% Split Decision. This equates to 7% of the overall total closed at Adjudication.
- 75 cases were closed at Mediation, which equates to 11%.
- 236 were closed at Simple stage, which equates to 36%.
- 294 were closed as Out of Scope, which equates to 46%.

6.3 Case Studies and case specific learnings

Below are some examples of the cases that the Rail Ombudsman has investigated and some of the factors that were considered.

Case study 1: Advance tickets

In this case a Consumer complained about the information received at the time of purchasing their tickets. They considered that they had not been informed of the refund conditions associated with Advance tickets. In its response, the Rail Service Provider provided further information surrounding the terms of Advance tickets and outlined that they were non-refundable, as stated on the ticket. The Rail Ombudsman reviewed the terms attached to the ticket type and the availability of this information at the time of booking and more generally in the public domain. The Rail Ombudsman did not uphold the Consumer's claim.

Case study 2: Alternative services during disruption

In this case a Consumer received confirmation that the service they intended to travel on was cancelled and that they could either be refunded their ticket cost or travel on the Rail Service Provider's next available service. There was no ticket acceptance in place, which meant that the Consumer could not travel on the service of a different Rail Service Provider. The Consumer did travel with an alternative Rail Service Provider and received an unpaid fare notice as they did not have the correct ticket for the train they travelled on. The Consumer was claiming a refund of the additional expenses that they incurred. The Rail Ombudsman assessed the information sent to the Consumer and timing of this and determined that this was sufficiently clear to enable the Consumer to have made alternative plans. The Consumer's claim was not upheld on this basis.

Case study 3: Claims made against the wrong Rail Service Provider

In this case a Consumer made a claim for delay compensation against the Rail Service Provider (RSP 1) who they purchased their ticket from. Delay compensation was in fact due from the Rail Service Provider who provided the delayed service (RSP 2). RSP 1 should have transferred the claim to RSP 2 in accordance with Industry Arrangements but failed to do so and the Consumer missed the 28-day deadline for applying for delay compensation. In this case, the Rail Ombudsman considered that RSP 1 should make all reasonable efforts to liaise with RSP 2 to ensure that the Consumer received the correct level of delay compensation or make the payment themselves.

Other issues that the Rail Ombudsman has noted in this category relate to:

- bugs and temporary fixes with Smartcards, as to which the Rail Ombudsman has made recommendations, noted below.
- issues using Ticket Vending Machines (TVMs), for example the Consumer believing they are being overcharged by a TVM.

6.4 Recommendations made by the Rail Ombudsman

The Rail Ombudsman has made the following recommendations specifically regarding the administration of Fares and Retailing claims:

- The Rail Ombudsman recommends that the industry clarifies on National Rail Enquiries why certain tickets are considered a non-standard product and therefore may not be available through all retailers. This casework recommendation was derived from a case where the Consumer wanted to purchase a Sail Rail ticket, which they were able to purchase from the ferry company only, even though it was a National Rail ticket.
- The Rail Ombudsman recommends that the Rail Service Provider reviews the Smartcard replacement process to minimise inconvenience for Consumers. The information available for Consumers does not reflect the issues the Rail Service Provider is facing with Smartcard migration. The Rail Ombudsman also recommends that information relating to the ongoing issues, and timelines for prospective resolutions be made available to Consumers, in particular on the Rail Service Provider's website (the Ombudsman noted it had been unable to locate any details relating to these issues). The Rail Service Provider should also take practical proactive steps to inform all Consumers affected by the Smartcard issues once migration* can be completed.
- The Rail Ombudsman recommends that the Rail Service Provider make information regarding the terms of the ticket available to Consumers in their Charter to prevent further confusion. In this case, the ticket type was a "Superbreak" ticket. Superbreak tickets are purchased through a travel agent and sold as part of a package, which usually includes other elements such as hotel and theatre tickets.

*For context, the Rail Service Provider was in the process of transitioning to a different Smartcard solution.

6.3 Conclusion

Fares and Retailing as an overall category, provides an example of cases which have arisen out of confusion on the part of Consumers regarding the terms of their ticket, particularly with advance purchase tickets. Further, ticket-related issues can be ancillary to other subjects complained about, most notably Passenger Information. Considerable opportunity for crossover with other case types is apparent given the significantly interwoven issues at play and the level of understanding of these factors evident in the information provided by Consumers.

7. PASSENGER INFORMATION

7.1 Introduction

A total of 473 complaints were recorded over the period from 2018 - 2023, with the Passenger Information theme identified through cases principally categorised as Provision of Information for these purposes. As discussed elsewhere throughout this report, however, Passenger Information can be a relevant factor across most types of complaint. Within this category, the largest driver of complaints was 'provision of information about train times/platforms.'

Table 7.2a Overview of case statistics*

26.11.2018 - 31.12.2023:

Provision of Information	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	164	109	70	29	34	66	£66.21

Table 7.2b Overview of case statistics*

1.1.2023 - 31.12.2023

Provision of Information	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	26	27	15	0	9	14	£54.17

Table 7.2c Passenger Information claims second tier complaint category statistics 26.11.2018 - 31.12.2023

Provision of information about train times/platforms	225
Provision of information on website or mobile apps	71
Provision of information during the journey	106
Other	71

*Please note that 1 case within this category remained open at the end of the reporting period, so no outcome is represented above.

7.2 Statistical analysis

As noted above, within this category, the largest driver of complaints was 'provision of information about train times/platforms'. The 225 complaints escalated on this subject were categorised as follows:

- 68 Adjudications (4% Upheld in Full, 74% Claim Rejected and 22% Split Decision). This equates to 30% of the overall total closed at Adjudication.
- 28 cases were closed at Mediation, which equates to 13%.
- 57 were closed at Simple stage, which equates to 25%.
- 72 were closed as Out of Scope, which equates to 32%.

7.3 Case studies and case specific learnings

The biggest driver of claims relating to Passenger Information is the provision of information about train times/platforms. This often manifests itself in terms of unplanned or unexpected delays. Below are some examples of the cases that the Rail Ombudsman has investigated and some of the factors that were considered.

Case study 1: Train cancellation due to planned disruption

In this case, the Consumer was travelling to an airport to catch a flight and was affected by cancellations so took a taxi at a cost of £200 after waiting for three hours at the station for another service. The Consumer was seeking reimbursement of the cost of the taxi. The Rail Service Provider outlined that the train was not scheduled to run due to engineering works and provided further explanation of the alternative routes that could have been taken, however declined to make any offers. The Rail Ombudsman awarded a contribution towards the taxi fare as there was inconsistent evidence around the scheduled works and the alternative route was not found to be reasonably workable.

Case study 2: Reduction in service

In this case the Consumer complained that there was no at-seat catering service in first class as was advertised. The Rail Service Provider highlighted that this was a free add-on and was only “subject to availability”. The Rail Ombudsman noted that information provided orally and in writing to a Consumer, where relied upon, is binding on the Rail Service Provider under the Consumer Rights Act 2015. This means that the expectation of a service which is not in fact provided can give rise to a claim for a price reduction. In this case the Rail Ombudsman concluded that the Consumer had a reasonable expectation of receiving some form of catering service, particularly given the nature and length of the service, and no alternatives were suggested nor was there any information provided in advance about any service limitation. A partial refund was awarded on that basis. Conversely, an award was not made in a case on similar facts but where only a cold catering menu was available as opposed to a hot meal, as the information available contemplated this in certain circumstances.

Other examples

Other examples of complaints which have arisen about the expectation of services based on the information that was available to the Consumer before or at the time the ticket was purchased include:

- Lack of available Wi-Fi
- Lack of seat when reserved
- Lack of or reduced catering
- Incorrect information provided about rail replacement services
- Lifts not being in operation*
- Changes to toilet provision, for example an accessible toilet being out of order for a prolonged period*.

*Noting that these can cross over with accessibility claims.

General guidance by way of case studies

The provision of information has been identified as a theme through casework in different circumstances, leading to guidance being issued by the Rail Ombudsman. Below are links to this guidance, which is hosted on the Rail Ombudsman's website:

- [Travel During Industrial Action](#)

- [Travel During Severe Weather](#)

- [Amended Timetables](#)

- [Information at Stations - Rail Ombudsman](#)

7.3 Recommendations

The Rail Ombudsman has made the following recommendations specifically regarding the administration of Passenger Information claims:

- The Rail Ombudsman recommends that the Rail Service Provider considers how to better inform Consumers of timetabling changes at remote stations and/or better manage expectations through station information online. The Rail Ombudsman also recommends that the Rail Service Provider amends their published information concerning Consumer information systems (on National Rail Enquiries and on their website), so it clearly advises that there are no screens or announcements.
- The Rail Ombudsman recommends that information regarding planned disruption is provided and updated accordingly where the timescales permit, at unmanned stations.
- The Rail Ombudsman recommends that the Rail Service Provider updates National Rail Enquiries with up-to-date information regarding station facilities, within a reasonable period, where there are medium to long-term deviations from the advertised facilities.
- The Rail Ombudsman recommends that the Rail Service Provider updates National Rail Enquiries with up-to-date information regarding Ticket Vending Machine (TVM) facilities within a reasonable period to ensure facilities are advertised accordingly for Consumers to use.

- The Rail Ombudsman noted that the Rail Service Provider was not able to evidence exactly the information that was made available to Consumers regarding the short forming of the service. It was recognised it is difficult to objectively evidence that the short forming had been effectively communicated on these dates of travel. However, the Rail Ombudsman recommends the Rail Service Provider keep a more detailed log of information, which is made available to Consumers to demonstrate the steps they are taking to keep Consumers informed.

7.4 Conclusions

In the foreword to its 2022 Annual Report, the Rail Ombudsman noted that information is a key driver of complaints. It is worth repeating in summary that the provision of information, particularly during disruption due to bad weather and strike action, has been and remains a key theme. The Rail Ombudsman has made suggestions to improve the clarity of messaging during strikes, storms and other disruption, particularly where “Do Not Travel” notices are in force and may cause additional confusion (and thereby frustration) for Consumers. Based on the cases that are escalated to the Rail Ombudsman, the fact that timetables can be amended at relatively short notice, which can impact journey planning and any redress that might be available, does not appear to be widely understood by Consumers.

Asking the industry to be clearer about what this means in practice and what options are available to people when they plan their journeys has been a key theme and is reflected in enhanced case studies designed to pass this information on to Consumers. In other cases, communication with Consumers continues to be a theme. The Rail Ombudsman has asked Rail Service Providers to be clearer about communicating technical rail information (for example relating to complicated ticketing arrangements) to Consumers, to consider the channels of information to ensure they are inclusive, and that where printed information has a shelf-life, it is updated, particularly when important information such as postal addresses change.

The Rail Ombudsman has also considered the provision of information during disruption, especially noting information about rail replacement services and last-minute cancellations. By ensuring the information is clear and available in the formats and channels that their passengers are familiar and comfortable with using can only serve to improve the passenger experience, even during times of disruption. As a footnote to this the Rail Ombudsman has looked at how information is presented and engaged with industry to provide the [Young Person's Train Guide](#). This is an example of how information can be presented in a way which is meaningful, targeted and proportionate both to improve the user experience and drive down complaints.

8. OTHER INSIGHTS

Introduction

In this section, the Rail Ombudsman highlights other insights derived from casework.

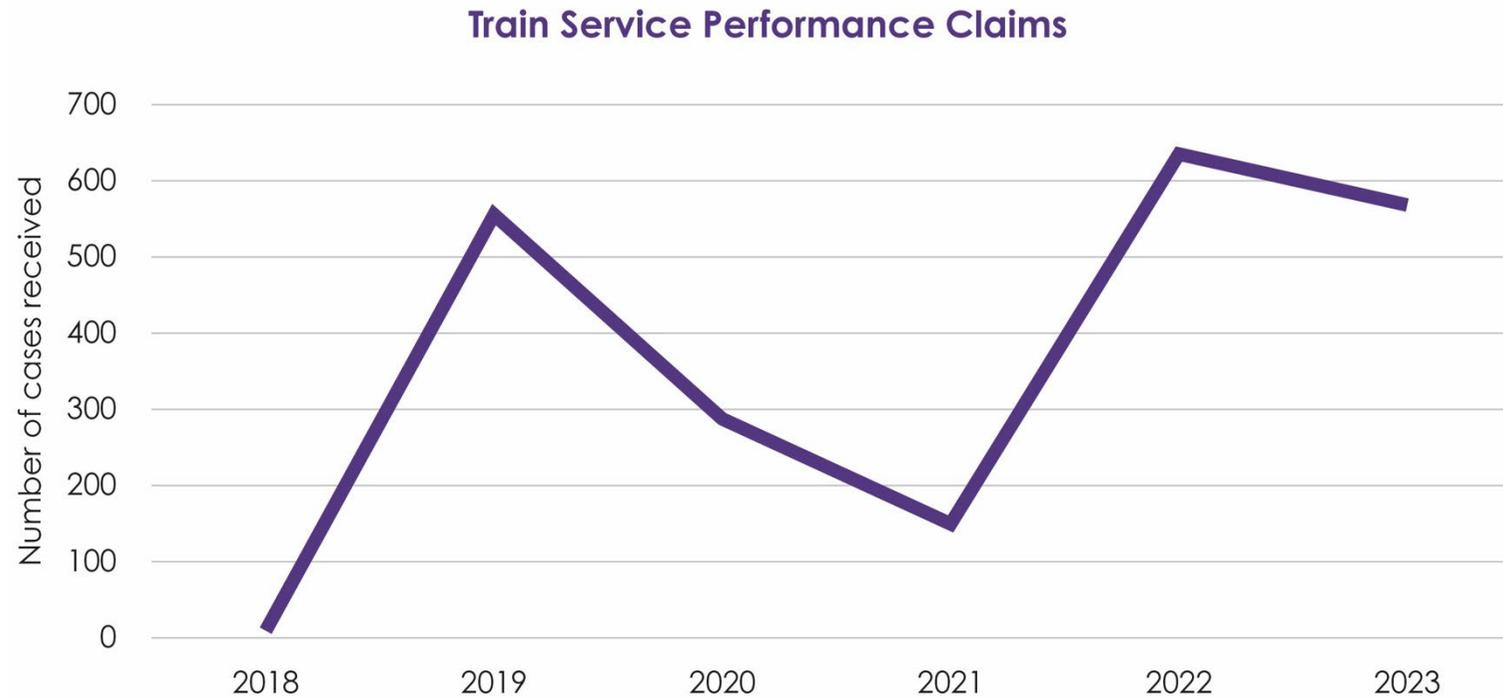
8.1 Train Service Performance

Train Service Performance was the next largest complaint category behind 'Delay Compensation' and 'Complaint Handling' in years 2019, 2022 and 2023, but saw a significant decrease in years 2020 and 2021, when rail services were reduced due to the pandemic.

There were a total of 2220 complaints over the period from 2018 - 2023. Within this category, the largest driver of complaints was 'punctuality/reliability'. The outcomes of these complaints (2073 complaints related to punctuality/reliability in total) were as follows:

- 298 Adjudications (4% Upheld in Full, 64% Claim Rejected and 32% Split Decision). This equates to 14% of the overall total closed at Adjudication.
- 344 cases were closed at Mediation, which equates to 17%.
- 725 were closed at Simple stage, which equates to 35%.
- 706 were closed as Out of Scope, which equates to 34%.

The chart below illustrates the number of complaints relating to Train Service Performance which were received by the Rail Ombudsman between 2018 and 2023.



Consumer Rights Act 2015 claims

As with many other categories, there is an overlap with claims relating to the Consumer Rights Act 2015 and other relevant legislation, and complaints principally categorised across a range of subjects, be that Train Service Performance, Passenger Information, etc.

Cases relating to on-train issues provide examples of where departures from the advertised service can lead to a reduced service, for which a price reduction under either the Industry Arrangements or the Consumer Rights Act 2015 may be appropriate (even if that element of the service was described as free or subject to availability). Examples include:

- A Consumer was travelling with their family, which included two young children. They had seat reservations, and their service was full due to disruption. They complained because they were unable to use their reservations and had to stand. They rejected the offer of a 50% refund because they were seeking a full refund. The Rail Service Provider's Charter provided for a 50% refund if seat reservations were not honoured, and no seating was available for over 30 minutes. A partial refund was made on that basis.
- A Consumer held a first-class ticket but due to disruption and previous cancelled services, had to stand. The train logs supported the Consumer's account, and an award was made for the difference in value between the first class and standard class ticket price.

8.2 Company Policy

In years 2020/2021 there was a surge in complaints relating to 'Company Policy' with the subcategory of 'Ticketing and refund policy' being a driving factor within both years. Anecdotally, this was due to changes in policy during the pandemic and the way in which these were communicated.

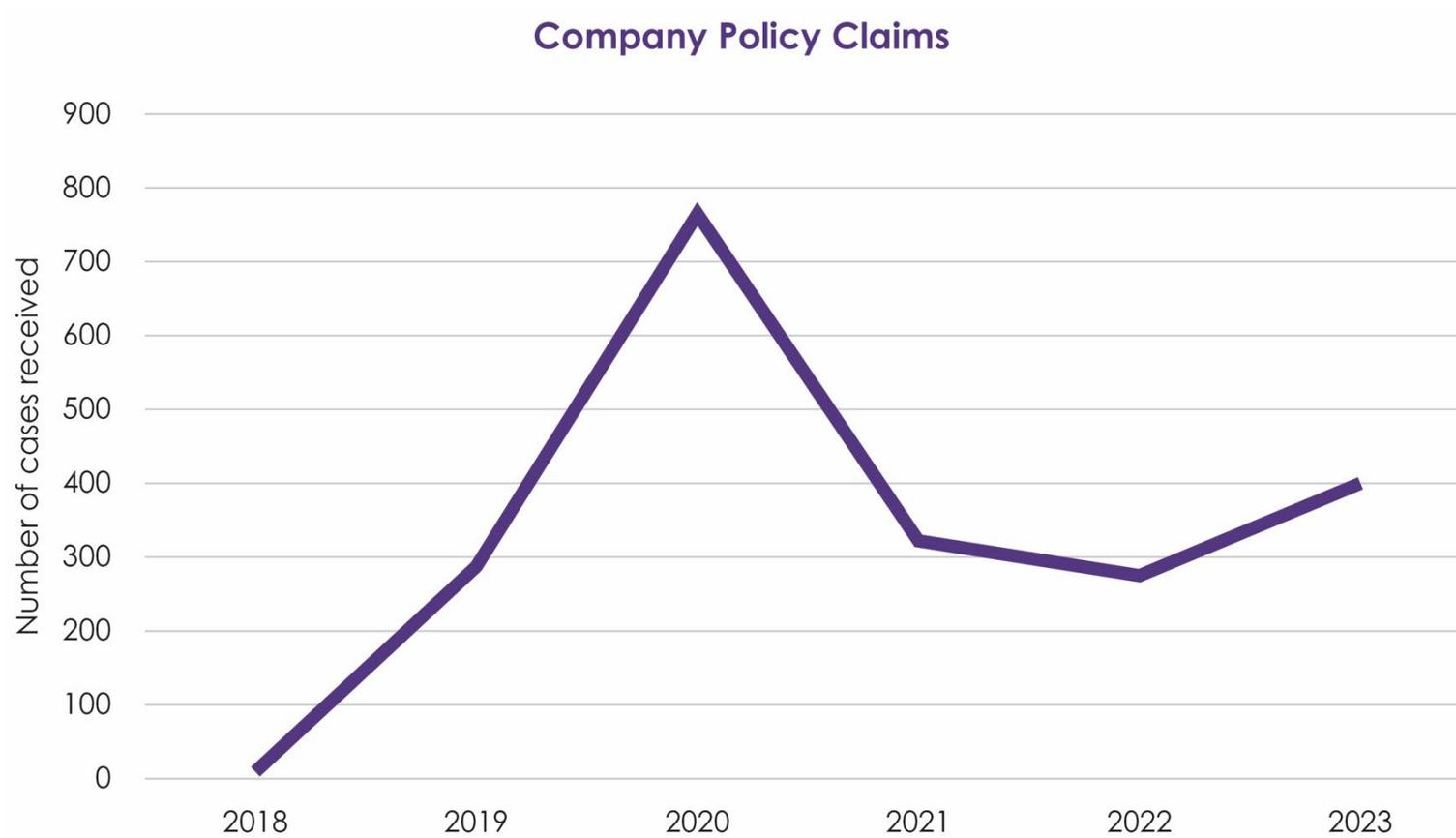
Company Policy	2018	2019	2020	2021	2022	2023
	3%	9%	25%	17%	6%	9%
	6	291	764	319	277	394

The table above illustrates the number of cases relating to Company Policy received for each year between 2018 and 2023, alongside the number of Company Policy cases as a percentage of total claims received for those years.

The following table provides a breakdown of second tier complaint category cases received between 2018 and 2023.

	2018	2019	2020	2021	2022	2023
On Board Policy		11	8	6	8	8
Advance Purchase Tickets		17	62	2	2	26
Invalid Ticket Used		3	3	2	2	19
Miscellaneous Charges Other			1	1	3	1
Penalty Fare	2	64	32	64	63	144
Pricing Structure/Policy	2	2		1	1	13
Railcards	12	23	26	4	8	
Refund Conditions/Administration Fee		88	212	110	43	72
Season Tickets		33	297	53	2	21
Special promotions					2	
Ticket Conditions	2	5	1	1	1	5
Ticket Inspections		1		1		3
Ticket Restrictions		2	3		2	8
Unable to Produce Ticket		6	1		1	10
Ticketing/Refunds		30	106	45	111	51
Internal Policy					1	
Other		17	15	7	33	3

This chart illustrates the number of complaints relating to Company Policy which were received by the Rail Ombudsman between 2018 and 2023.



Despite this being a large driver for Out of Scope referrals (as set out in more detail below), the Rail Ombudsman has been able to review 72% of cases within this category.

Closed Company Policy cases transferred to the Statutory Appeals Bodies.

Company Policy transfers to Transport Focus/London TravelWatch

	TF	LTW	
2018	3	1	4
2019	64	28	92
2020	28	117	145
2021	1	93	94
2022	0	83	83
2023	4	149	153
	100	471	571

Biggest Drivers for Company Policy transfers to Transport Focus/London TravelWatch

	2018	2019	2020	2021	2022	2023	
Penalty Fares	1	43	24	42	47	101	258
Railcards		1	16	22	4	8	51
Refund Conditions		6	17	10	3	5	41
Season Tickets		12	49	1		2	64

Out of Scope issues - the biggest driver is that the case is not at Deadlock

	Out of Scope	%	Total Cases	%
Accessibility	114	2%	316	2%
Complaint Handling	918	14%	2839	16%
Delay Compensation	1846	27%	4882	28%
Fares & Retailing	646	10%	1453	8%
Passenger Information	164	2%	473	3%
Company Policy	1060	16%	2051	12%
Other Categories	2013	30%	5243	30%
	6751		17257	

Out of Scope categories	Total
Being dealt with through alternative channels	587
Already Settled	250
Consumer Withdrew	115
Incident prior to Rail Ombudsman Launch	559
No Deadlock	3596
Penalty Fare Appeal	472
Personal Injury	101
Planned Service Alterations	92
Policy Issues	555
Residential/Lineside Issues	211
Other	213

This table shows all cases which were deemed Out of Scope between 2018 to 2023, split by Out of Scope category.

9. INSIGHTS FROM OTHER SECTORS

Dispute Resolution Ombudsman (DRO), the contracted provider of the Rail Ombudsman service, operates across other sectors as part of The Ombuds Group. DRO is an independent, not-for-profit, government-approved Ombudsman scheme, providing Alternative Dispute Resolution (ADR) across a range of industries. Led by staff with both dispute resolution and legal qualifications, The Ombuds Group has a heritage of over 30 years having been established in 1992 by the Office of Fair Trading. Neither a Consumer champion nor an industry body, DRO draws upon extensive experience in providing similar services across a broad range of regulated and unregulated sectors including furniture, rail, retail, licensing, logistics and home improvement.

DRO also provides staff and expertise to the Independent Football Ombudsman which was set up and funded by the Premier League, English Football League (EFL) and Football Association. DRO has, therefore, as part of its report been asked to share insight from other sectors, including areas identified as requiring improvement and sharing examples of best practice. These are explored in the paragraphs below.

9.1 Consumer Codes Approvals Schemes

DRO has experience of working with Consumer codes and other examples of complaint handling mechanisms. These operate across many sectors and are assessed against a standard set of criteria. In its response to the consultation Reforming Competition and Consumer Policy, the then Department for Business, Energy & Industrial Strategy noted that: “A number of respondents pointed to the work Ombudsmen do, including the Ombudsman Association, to improve standards for ADR services and complaints handling more broadly”. Many highlighted the value of having an Ombudsman or equivalent body in each sector with a consistent and clear set of standards. If this was not possible, then ensuring all bodies are assessed against similar standards would improve ADR as a service. Similarly, the Consumer Codes Approval Scheme was often highlighted as a good example of where a set of standards is universally applied and regularly assessed with a high level of scrutiny.

The Chartered Trading Standards Institute (CTSI) states "The Consumer Codes Approval Scheme (CCAS)³ aims to improve customer service standards by:

- The approval and promotion of codes of practice through code sponsors, approved by CTSI
- Protecting Consumers with higher levels of customer service
- Allowing businesses to display the codes logo to reassure Consumers.

Consumers can look out for the CTSI approved code logo when searching for a business. They can be confident that any approved business they choose has a proven commitment to honest business and higher customer standards.

Whilst recognising that these codes operate in sectors that are "voluntary" as opposed to the rail sector in which compliance is mandated by a regulator, examples can be drawn from these sectors, particularly relating to the way in which complaints are managed. DRO has direct involvement with one such code, also providing ADR to several other accreditation schemes across a number of sectors.

Even though traders voluntarily sign up to a code of practice, certain actions are then mandated and enforceable by virtue of the fact that they have done so (under the Consumer Protection from Unfair Trading Regulations 2008), for example the enforceability of Decisions made under the code by an Ombudsman. That they are voluntary can create an appetite for continuous improvement and drive the development of innovative technical solutions, for example case management tools to encourage even earlier resolution by way of a virtual mediation facilitator.

Quality assurance boards not only stand over initial accreditation but ongoing compliance and insight from cases can and does provide insight. One such accreditation body has suggested training in respect of obligations and developments in Consumer law, from the relevant Ombudsman as a means of showing commitment to continuous improvement and as a more punitive step if casework denotes breaches of any code of practice. For example, DRO provides:

- City & Guilds accredited training on consumer law and customer service, pricing and advertising compliance and data protection.
- Bespoke DRO accredited training on:

³[Consumer Codes Approval Scheme \(tradingstandards.uk\)](https://tradingstandards.uk)

- o trader's obligations to vulnerable Consumers,
- o common industry complaints,
- o Equality Act 2010,
- o distance selling
- o drafting compliant and fair terms & conditions.

Training from DRO has also been mandated as a result of an investigation into a trader by Trading Standards.

Another consumer code requires DRO to specifically report on code breaches in a case summary document at the end of every case so that these can be picked up with a trader and appropriate action taken.

9.2 Standards Boards and Insight Panels

DRO's governance in other sectors includes expertise drawn from a Standards Board. Specific cases can be brought before this Standards Board, appointed by reference to a set of byelaws, who can comment on cases referred to it by DRO. Resultant feedback and training needs identified are passed onto the trader following that review. Quality Assurance boards and panels are used by other Ombudsman schemes⁴ as a tool to ensure quality of service both in terms of the individual schemes', decision making, and to provide scrutiny to the sectors within which they operate.

9.3 Process reviews

In sectors where their prescribed processes are not the norm, there is greater flexibility for a trader to ensure that the process works for them. However, there are some examples of best practice that DRO can point to that ensure traders design processes with the end user in mind. In terms of ensuring inclusive access to processes, **ISO2248 – Consumer Vulnerability** provides a checklist that organisations can work through to enable them to review and evaluate their processes.

⁴ [2022-ICAP-REPORT.pdf \(themotorombudsman.org\)](#)

Other sectors have sector specific documents, for example **The English Football League (EFL) have produced [a Sanctions Guide](#)**. This provides a comprehensive guide on how to establish processes which are transparent, meaningful and which adhere to the principles of natural justice.

Complaints handling processes can be complicated to design and the Rail Ombudsman has itself recently changed its own process for handling complaints from passengers about its service on advice from the Independent Assessor. This was to ensure that complaints about its service are now escalated to an Ombudsman who was not involved in the original case.

In determining whether it is reasonable to continue to deal with an individual who has escalated via a service complaints process, there are examples of standalone policies/charters pertaining to zero tolerance for abusive behaviour, such as signage at retail outlets and at stations. These can also be difficult to navigate and may themselves drive escalation.

It's also worth noting DRO's [unreasonable actions policy](#) and the circumstances in which it is invoked.

The Rail Ombudsman data indicates that about 5% of claimants raise their disputes via post. This means that any process needs to be able to respond to the needs of its users, be they digital or otherwise. DRO has provided guidance on complaint handling to traders across the sectors it operates within.

There is much guidance relating to complaint handling, such as those contained in the **Financial Conduct Authority's (FCA) new Consumer Duty** which are also noteworthy. There is a summary of the main points below. The duty contains -

- A new Principle for Business: the "Consumer Principle which requires firms to "act to deliver good outcomes for retail customers";
- "Cross-cutting rule" setting out three overarching behavioural expectations that apply across all areas of firm conduct; and
- "Four Outcomes", which are a suite of rules and guidance setting more detailed expectations for firms.

The FCA states that Firms should ask themselves:

- Am I treating my customers as I would expect to be treated in their circumstances?
- Are my customers getting the outcomes from the products and services that they would expect?

The imbalances of power between parties should be acknowledged. Processes should be devised to help customers understand their obligations – the manner in which information is presented and, by extension, how products are sold, is crucial and likely to be open to scrutiny.

Taking each in turn:

1) The Consumer Principle:

The new Consumer Principle is: "A firm must act to deliver good outcomes for retail customers". This is the high-level expected standard of behaviour intended to put retail customers' needs at the forefront of firms' minds, and firms must consider this whenever performing activities in relation to retail customers. Similar to the approach taken when implementing, for example, GDPR, audits, gap analyses and risk assessment activity should be the norm.

2) Cross-Cutting Rules

The three cross-cutting rules are:

1. Act in good faith towards retail customers;
2. Avoid foreseeable harm to retail customers;
3. Enable and support retail customers to pursue their financial objectives.

They are designed to set out how firms should act to deliver good outcomes for Consumers.

Acting in Good Faith is categorised by honesty, fair and open dealing, and consistency with the reasonable expectations of Consumers. A number of examples given by the FCA of firms not acting in good faith include:

4. In relation to communications – promoting products or services in a way that misleads Consumers about benefits or risks for example by making it difficult to find key information or understand their obligations;
5. In relation to Consumer support – setting up systems that a firm knows will frustrate a customer or prevent them enjoying the use of their products, for example poor after-sales support in comparison to the initial sales processes.

The Guidance also specifically references seeking guidance from the Financial Ombudsman Service and taking this into account where cases present on similar facts. Where guidance is sought, it is suggested that this be documented as part of the due diligence processes and any learnings be applied to existing policies.

Avoiding Foreseeable Harm includes firms taking both proactive and reactive steps to avoid customers suffering harm from a firm's conduct, products and services. This rule will apply throughout the customer journey and lifecycle of a product or service. Firms with ongoing relationships will also have an ongoing obligation to avoid foreseeable harm.

Examples of foreseeable harm include, Consumers not being able to cancel a product or service that isn't right for them because the firms' processes are unclear or difficult to navigate. This is another example of the importance of the clarity of terms, highlighting key risks and presenting this information up front and centre. In addition, customer services processes need to be flexible enough for all Consumers to access them, especially those with needs that may be caught by the requirements of the Equality Act 2010 or who may be vulnerable. Inclusive policy considerations are key.

Enable and Support Retail Customers to Pursue Their Financial Objectives requires firms to think about the financial objectives of their customers and create the right environment where those customers can make informed decisions in their interest. This rule will apply throughout the customer journey and lifecycle of a product and service. Firms must proactively and reactively focus on putting customers in a better position to make decisions in line with their needs and financial objectives. This would include recognising and taking account of Consumers' behavioural biases and the impact vulnerability can have on their needs. **Any communications should be tested and then continuously monitored.**

Firms are expected to be able to demonstrate and evidence how they have met and continue to meet the Cross-Cutting rules (see Data and Monitoring below).

3) The Four Outcomes

The Four Outcomes are a set of rules and guidance setting more detailed expectations for firm conduct across four areas that represent key elements of the firm – Consumer relationship. These are:

1. Products and services
2. Price and value
3. Consumer understanding
4. Consumer support

The FCA's rules require firms to:

- Monitor and regularly review customer outcomes from products and services to ensure they are aligned with the Consumer Duty;
- Identify where, and why, customers or groups of customers are not receiving good outcomes - using real-time examples

and learnings to improve and adapt processes;

- Respond to and address any risks or issues identified, and to stop them occurring again.

Examples:

Consumer Understanding: The FCA wants to ensure that communications enable customers to understand the products and services being marketed to them, including risks and features and implications of any decisions to be made.

The Consumer understanding outcome builds on the existing "clear, fair and not misleading" rules, and requires firms to:

Support their customers' understanding by ensuring that their communications meet the information needs of retail customers, are likely to be understood by the average customer intended to receive the communication, equip them to make decisions that are effective, timely and properly informed;

- Communicate in a way that is clear, fair and not misleading;
- Tailor communications taking into account the characteristics of intended recipients, including any vulnerability, complexity of products, communication channel, and role of the firm, so for example where interacting directly on a one-to-one basis, tailor communications to meet the information needs and ask them if they have any further questions, allowing time to absorb and consider the implications and key risks. These communications should then be tested, monitored and adapted as required;
- Ensure information is accurate, relevant and provided on a timely basis;
- Test, monitor and adapt communications as required to support good understanding and customer outcomes – this could include the use of focus groups within the target market.

Broadly, firms are advised to put themselves in the Consumer's shoes when considering the impact of communications and whether they equip customers with the right information at the right time.

Firms need to avoid designing or delivering communications in a way that “exploits Consumer's information asymmetries and behavioural biases”, for example information spread across different channels or webpages, too many links to sections and pages, hidden or omitted information.

In general communications should be appropriately layered, with key information for example relating to action required and the consequences of inaction provided upfront, they should also be engaging, relevant, simple and well-timed. The communications channel itself used can be important on an individual basis. Furthermore, firms must ensure that regardless of the channel, the information provided enables Consumers to assess the options available, whether they meet their needs and objectives and enable them to evaluate risk.

Data and Monitoring

In each instance, data and monitoring are key to evidencing compliance with the duty and ensuring ongoing commitment to it. Specifically, distributors should regularly review whether their distribution arrangements are appropriate and up-to-date, and the products have been distributed to and understood by their target market. This may involve market testing, focus groups, complaints data and root cause analysis and MI.

9.4 Signposting by those within jurisdiction

Inconsistent signposting to the Rail Ombudsman by RSPs could lead to Consumer confusion and Consumer detriment. ORR's Complaints Code of Practice makes provisions for reference to ADR in complaint acknowledgements to promote consistency. There are also examples in other sectors where this is mandated in a uniform, consistent way to ensure Consumers know at first point of escalation that there is an independent body that their complaint could be directed to. This is particularly prevalent in financial services, providing reassurance to Consumers from the outset.

10. ENGAGEMENT OVERVIEW: THEMES; FORECASTING AND RESPONSES OF OPERATORS TO DECISIONS

Engagement with the industry through casework discussions, service reviews and forums has generated insights around industry approaches to complaints, Rail Ombudsman Decisions and the complaint themes which prove most fruitful in terms of appetite for insight and potential for driving positive change. Forums include the Industry Redress Support Group and Rail Sector Liaison Panel, which is defunct at the time of writing, superseded by the Rail Sector Advisory Panels. These Panels are part of the Rail Ombudsman's governance structure, and their role is principally to provide insight and advice to the Rail Ombudsman board.

A prominent theme arising from engagement is the recognition that different approaches to complaints are taken within the industry. The industry is perhaps best placed to identify the root causes of varying approaches but fundamentally industry approaches can be considered on a scale between two extremes; one approach whereby the objective appears to be to resolve disputes as promptly as possible in most circumstances and the other which is to see the case through to a binding Adjudication by the Ombudsman. In effect these approaches respectively appear to prioritise customer satisfaction and determination of entitlement. An operator's proclivity towards either approach can be identified through the relative proportions of Simple Resolution – Settled Prior to Mediation and Adjudication outcomes. This is not intended to suggest that there is necessarily a right or wrong approach, rather to note that differences exist and that this should be borne in mind when considering “whole industry” statistics and themes.

Casework insights are often most prevalent in cases where some entitlement to redress was determined (especially Consumer Complaint Upheld in Full or Split Decision). These insights are therefore being driven disproportionately within the industry according to the approaches taken by Rail Service Providers. A case that is resolved by an early offer from the Rail Service Provider, which is satisfactory to the Consumer, would be expected to generate less insight than one on which an Adjudication is made, because it requires less investigation, evidence and interaction with the parties. Nonetheless, the Rail Ombudsman has found the industry in the collective sense very receptive to hearing about learnings derived in this way; for some Rail Service Providers it may provide actionable insight, and for others a view of the types of outcomes that may be encountered if they took a different approach.

Industry responses to Decisions have been reliably gauged through regular Rail Service Provider engagement. Entering a highly complex sector in 2018, the Rail Ombudsman actively sought to understand industry perspectives on its ways of working and outcomes and has sustained this open approach since.

Whilst Rail Service Providers have adhered to Decisions, occasionally some delays in fulfilment of awards have been experienced by Consumers, which the Rail Ombudsman's aftercare service works to resolve. It is readily understood that Rail Service Providers do not wish to see disputes Upheld in Full, as this means the Ombudsman has decided that the passenger was due everything sought, and the Rail Service Provider did not agree as the case most likely would not have reached Adjudication otherwise.

The regular statistical releases published by the Rail Ombudsman show these Upheld in Full outcomes to be few in number, but there is always an appetite from Rail Service Providers to discuss these cases to understand how and why the Ombudsman arrived at that Decision, and what is to be learnt. On a small number of occasions, the Ombudsman's Decision has been queried by an unsatisfied Rail Service Provider; in these circumstances the Rail Service Provider is sign-posted to the Independent Assessor, and the Rail Ombudsman has self-referred some cases from a quality assurance perspective.

Rail Service Providers do not always agree with the Rail Ombudsman's decisions, however they still comply with them. The Rail Ombudsman's position is that while its Decision is binding, it should enter all reasonable dialogue to ensure the Decision is explained to the Rail Service Provider. This appears to be well received by the industry, and plays an important role in ensuring opportunities to learn and improve are taken by the Ombudsman. It is also likely conducive to the lack of compliance issues, which would be detrimental to Consumers should they occur.

Complaint handling is an area of significant interest to Rail Service Providers because of what they can learn from it, coupled with it being an aspect of service over which they can exert considerable control. While it is acknowledged that resolving customer complaints quickly and satisfactorily is a desirable outcome, it is not always reasonable for the Rail Service Provider to do so given the weight of Consumer expectation in some cases. In such instances, it is known that some Rail Service Providers are keen to see the case reach the Rail Ombudsman, with the Ombudsman's approach and outcome providing a guide to the Rail Service Provider as to how to handle similar cases (notwithstanding the caveat that Rail Ombudsman outcomes do not set any formal precedent). This approach has typically been noted in relation to low-volume high-value complaints.

Industry response to recommendations varies most notably between those made on more readily actionable subjects at operational levels, and those felt to be interdependent with more strategic matters involving cross-industry alignment and funding. This could be seen in Rail Service Providers' receptiveness to recommendations on changes to Charters or similar, to make wording clearer. Comparatively, the Rail Ombudsman saw less traction (visible to the Ombudsman at least) on the industry-wide case transfer process, which has been perceived to add friction to customer complaint journeys.

However, the Rail Ombudsman and industry, with input from other stakeholders including Transport Focus and London TravelWatch, worked together during 2023 to overhaul the recommendation making and feedback process. The changes made are bedding in at the time of writing and are expected to generate greater traction and enhanced visibility through new, more collaborative working practices.

A clear theme of engagement has been the industry and stakeholder interest in enhanced visibility of the remedies available to the Consumer at different points in the complaint journey – particularly to acknowledge the efforts made by the industry to resolve complaints. This arose particularly around industry reaction to cases where the outcome was Split Decision and the natural tendency for the parties to a dispute to view the outcome in terms of which party has “won” and which has “lost”. A Split Decision simply means that the Rail Ombudsman determined there was some merit in the complaint and that the Consumer was entitled to a remedy of some sort. This is not to say that the Rail Service Provider had not also arrived at this conclusion and offered this same remedy during the Mediation phase, which was rejected by the Consumer. Engagement during 2022 led to a data capture trial of “offer values” to supplement the established award values data. Subsequently contractually required by ORR and implemented, the table below gives an early view of values offered by Rail Service Providers during Mediation on cases that proceed to Adjudication (27 Nov 23 – 12 Jan 24):

	Member offer	Award value
Average including cases where no financial offer or no financial award made	£12.52	£12.11
Average excluding cases where no financial offer or no financial award	£36.60	£28.77
Total	£475.77	460.28

Within the dataset there are cases where more, the same and less than was offered by the Rail Service Provider is subsequently awarded by the Rail Ombudsman. We are also capturing data on remedy types as it is important to recognise the nature of the remedy e.g. cash, rail travel vouchers, apology etc, which may differ between offers and awards, as well as or instead of solely the value of it. The early indications from this data (which is currently a small set) are positive regarding the industry’s valuation of complaints in terms of offers made, although the different approaches taken by Rail Service Providers becomes especially pertinent in this regard.

Forecasting

Forecasting is routinely discussed with the industry, which is proactive in advising the Rail Ombudsman of upcoming changes that may impact referrals. Given the relatively small number of complaints that result in escalation, though, the impact on Rail Ombudsman volumes is difficult to discern, and certainly within apparently normal fluctuations that are absorbed by the normal resource in place. Beyond occasional events (e.g. migrating between suppliers, which may have resulted in disruption and thus complaints) industry forecasting appears to be largely constrained to some seasonal variations. However, with hot summer weather and winter storms both having the proven potential to produce notable impacts, there is a limit to how this knowledge can be usefully deployed (for instance through resourcing).

Dramatic changes in volume in response to widespread issues do have a significant impact, but this scenario has been experienced as a result of unprecedented circumstances i.e. pandemic and post-pandemic recovery. The earliest possible notification of industry-wide period-on-period increases in volume is invaluable but given the short lag time experienced between industry complaints and Rail Ombudsman referrals, it is acknowledged that the Rail Ombudsman will need to absorb some stretch before further action can be taken in response to forecasted volume increases. The Ombudsman believes this can be a focus area for collaborative working with the industry and stakeholders on an ongoing basis to ensure forecasting is optimal.

11. SUMMARY

This report has explored the key themes of: Complaint Handling; Accessibility; Delay Compensation; Fares and Retailing; and Passenger Information. It has also sought to capture the nuances of approaches to dealing with complaints, which can have a bearing on the ultimate outcome of a complaint. There is also considerable commonality between themes, whether that is in the nature of the complaint subject (for instance the cross-cutting role of information available to passengers) or in terms of factors affecting the administration and resolution of complaints.

A key consideration for the Rail Ombudsman when it reviews a complaint is the availability of evidence; this becomes especially acute where accounts differ between the individual and the Rail Service Provider and there is nothing to corroborate either account. The availability or otherwise of CCTV can be a factor, but as this does not usually have sound, it is limited in terms of evidencing the content of an interaction, unless body-cam footage is available. The Rail Ombudsman therefore advises passengers to request this footage when they raise their complaint as it can be over-written and therefore no longer available.

While Complaint Handling is a prevalent issue at the escalated complaint stage, this is in part a reflection of the fact that at the dispute stage, a complainant is, by definition, not satisfied with the way their complaint has been handled. The root cause is more likely to be an issue related to late or cancelled services, or tickets and refunds. The Rail Ombudsman has identified information provision as a common factor across the root cause scenarios behind many disputes on varying themes. Readily available, clear, accurate and consistent information is of paramount importance to passengers and a critical factor in avoiding complaints. Where complaints do inevitably at times arise, Rail Service Providers' ability to evidence

the information available to passengers at the times decisions were made (such as purchasing a ticket or whether to travel) plays a significant part in the Rail Ombudsman's determination of a case.

The Rail Ombudsman's overarching finding in this regard is that while it recognises the industry is diverse in its composition, with different operators tackling different challenges and pressures, the passenger experiences the Rail Ombudsman examines underline the importance of consistency across the industry. This is true from a passenger awareness and understanding perspective especially, but it is also helpful to the industry – on a smaller scale – at the dispute stage, where consistent approaches help to set a standard Consumers can expect.

Consistency relies on cross-sector collaboration, and a tangible opportunity to improve Consumer experiences in the complaint process exists in the transfer of claims between operators – a process which doesn't always work smoothly and as a result drives otherwise avoidable disputes.

Rail travel is clearly just one facet of the lives of complainants, who may have comparative experiences in other sectors too. The experience of the Rail Ombudsman (plus DRO in its wider remit and indeed other organisations) is that Consumer expectations evolve over time. This is less perceptible than a change to legislation, for example, but it is doubtless the case that Consumer expectations have risen in recent years. In particular, Consumers have been found to be less forgiving of delays in dealing with their complaint, and there is a growing move towards not only better recognising and proactively approaching potential vulnerability in several sectors, but also for Consumers to declare it. The implication for rail appears to be an evolution of the focus of some accessibility-related complaints; it may ultimately lead to a perceptible change in volume in the longer term. Maintaining cross-sector awareness of trends in Consumer behaviour and customer service is therefore a key focus area for effective complaint handling and dispute resolution, especially so as standards and expectations continue to evolve.

12. DATA TABLES

Totals from 26.11.2018 to 31.12.2023

Total cases	17256
Out of Scope	6776
Adjudications	2244
Simple	5587
Mediation	2611

Complaint Categories

Complaint Handling	2839
Accessibility	316
Delay Repay	4882
Fares & Retailing	1453
Provision of Information	473
Other	7293

Other Categories

7293	
Company Policy	2051
Timetabling & Connection	368
Train Service Performance	2220
Quality on Train	1088
Environmental	196
Station Quality	150

Penalty Fares	9
Personal Injury	1
Planned Service alterations	1
Rail Cards	3
Residential Issues	1
Safety & Security	418
Staff Conduct & Availability	787

Outcomes

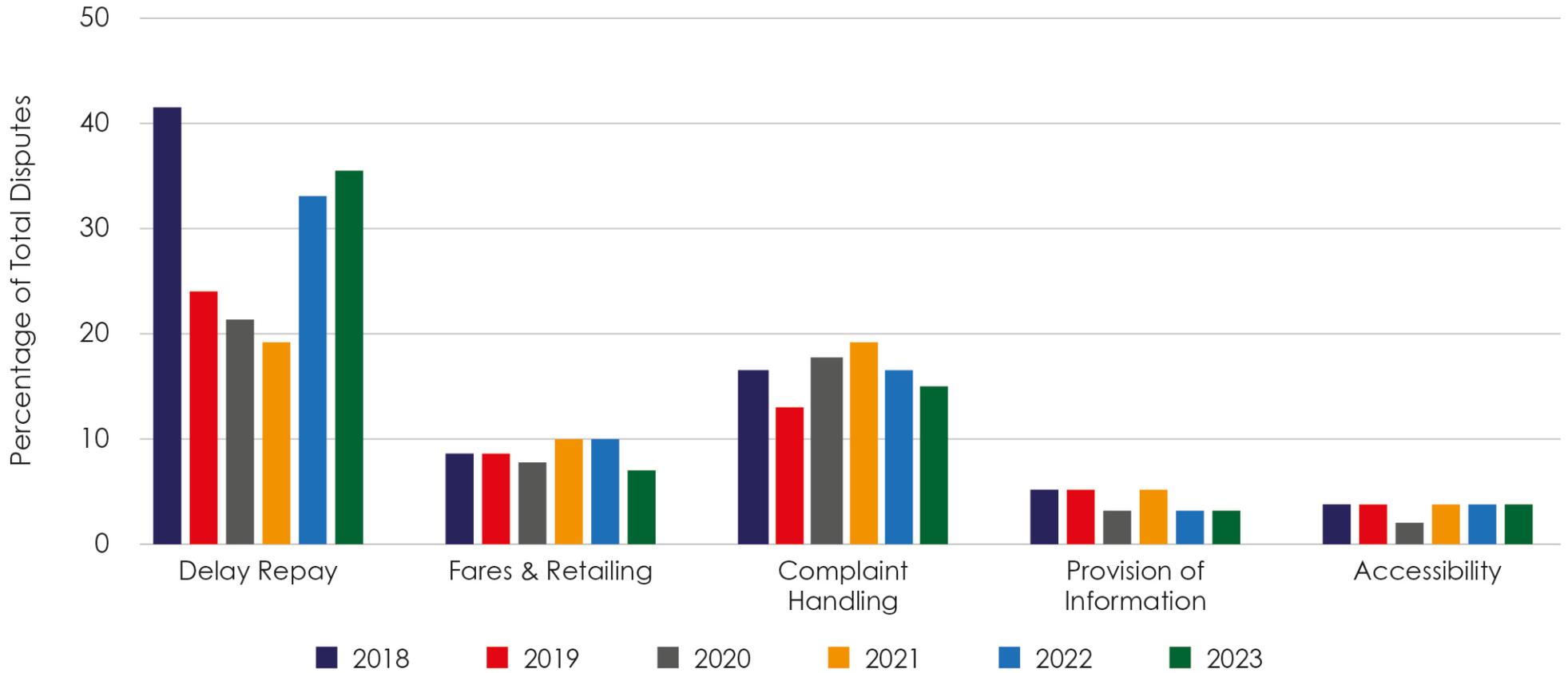
Complaint Handling	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	918	1053	498	22	145	198	£97.95
Accessibility	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	114	51	75	15	32	26	£112.4
Delay Repay	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	1839	1910	689	30	141	257	£84.06
Fares & Retailing	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	646	465	194	27	47	73	£101.4
Provision of Information	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	164	109	70	29	34	66	£66.21
Other	Out of Scope	Simple	Mediation	Upheld in Full	Split Decision	Claim Rejected	Average Award
	3095	1999	1085	55	357	690	£118.15
Totals	6776	5587	2611	178	756	1310	£100.71*

* The average award figure relates to cases principally categorised in the "lead category", and the award itself may relate to several In Scope issues

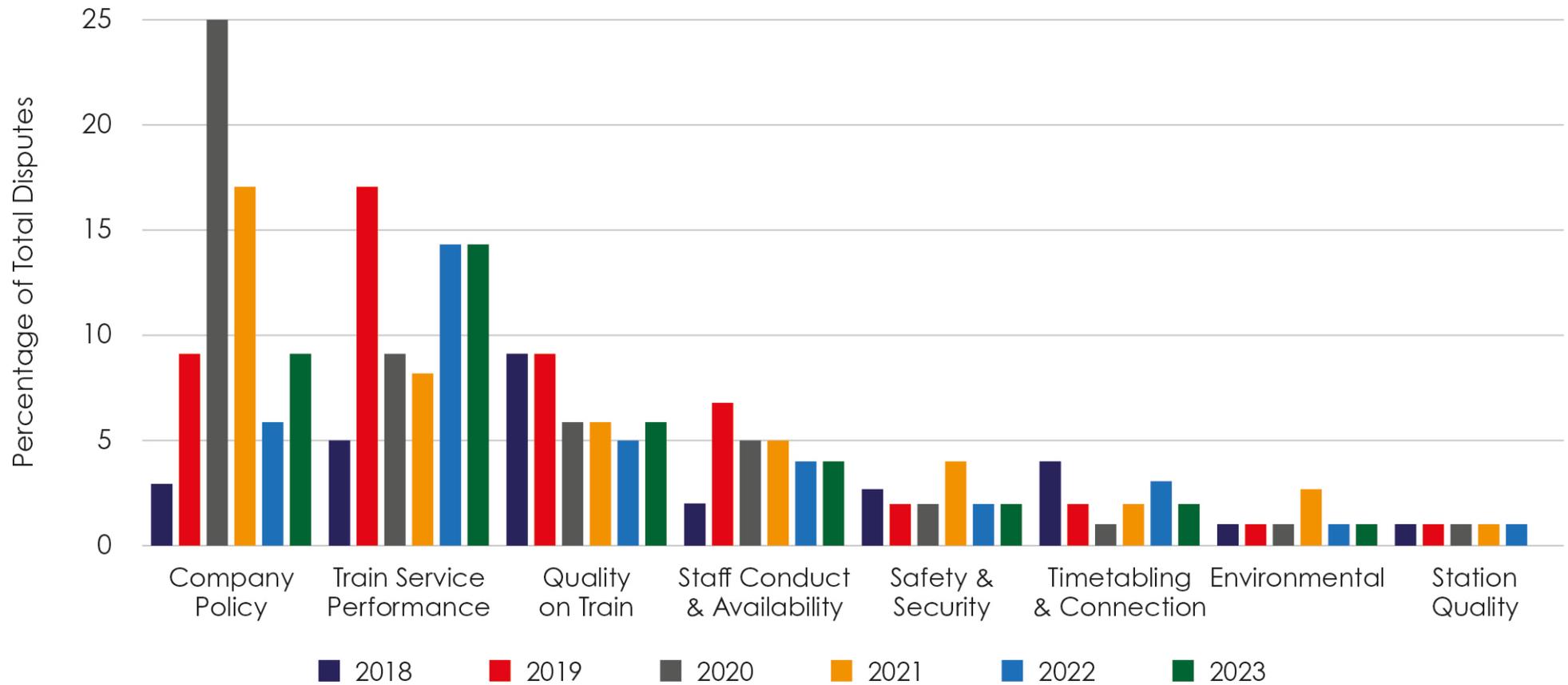
Complaint category as % of Total cases

	2018	2019	2020	2021	2022	2023	2018-2023
Delay Compensation	41	24	21	19	33	35	28
Fares & Retailing	9	9	8	10	10	6	8
Complaint Handling	17	13	18	19	17	16	16
Passenger Information	4	4	2	4	2	2	3
Accessibility	2	2	1	2	2	2	2
Company Policy	3	9	25	17	6	9	12
Train Service Performance	5	17	9	8	14	14	13
Quality on Train	9	9	6	6	5	6	6
Staff Conduct & Availability	2	7	5	5	4	4	5
Safety & Security	3	2	2	4	2	2	2
Timetabling & Connection	4	2	1	2	3	2	2
Environmental	0	1	1	3	1	1	1
Station Quality	1	1	1	1	1	1	1

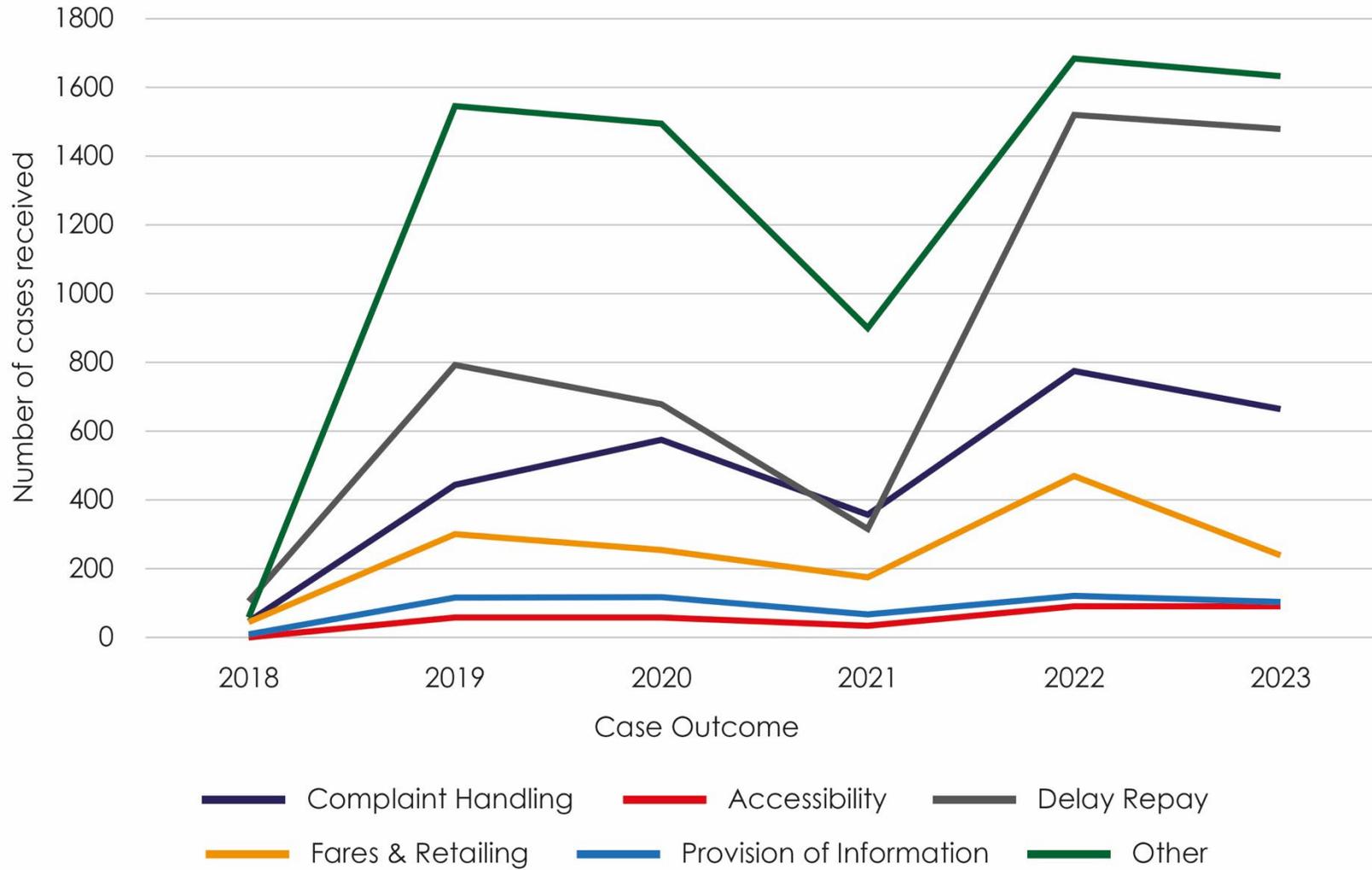
Year on Year Case Category Split



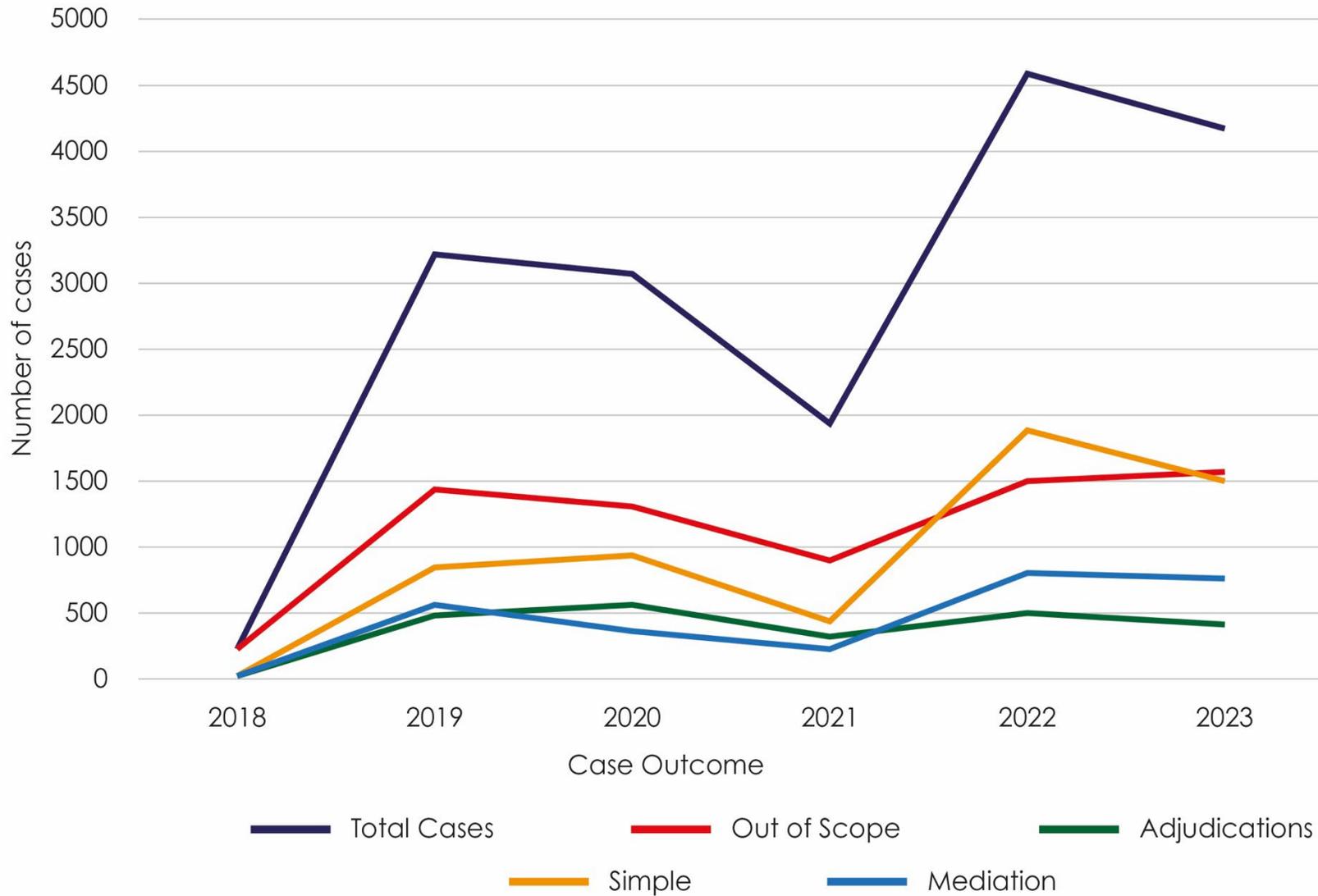
Year on Year Case Split for Other Categories



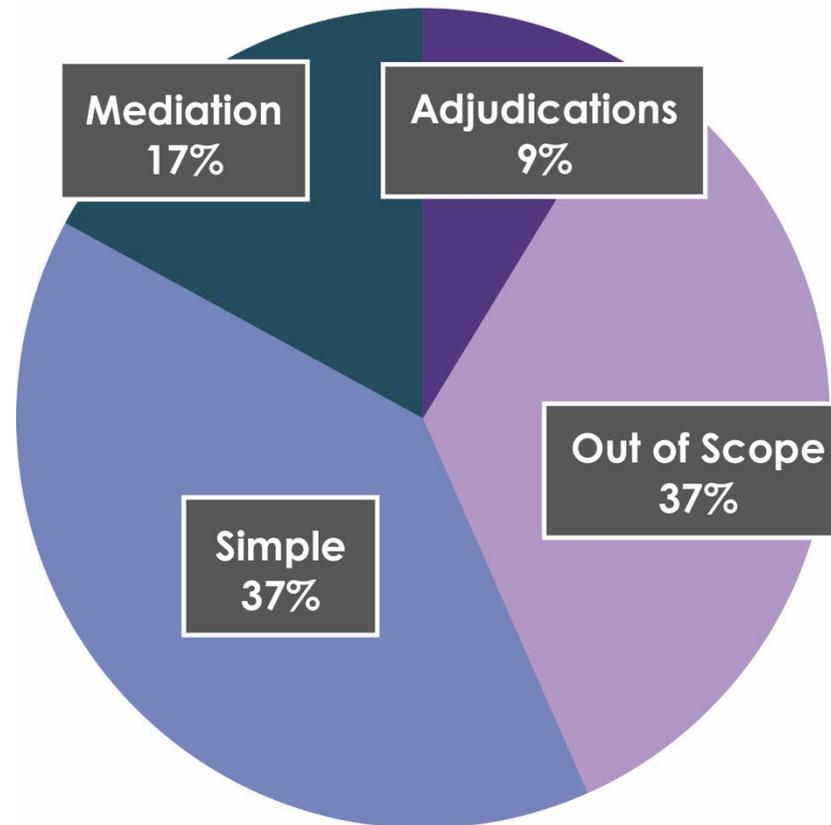
Year on Year Case Volumes



Year on Year Case Outcome Split



Last 12 months
Case Outcome Split 2023



Breakdown by RSP for the categories of interest - 2023

	Acc	CH	DR	FR	PI	Other
Avanti West Coast	6	111	219	36	15	282
C2C	2	7	6	2		8
Caledonian Sleeper Train		2	1			14
Chiltern Railways	1	11	24	5	2	36
Cross Country	1	33	157	5	1	84
East Midlands Railways	2	19	58	4	5	46
Elizabeth Line		7	17	2		8
Gatwick Express		2	3		1	6
Grand Central	1	20	37	1	5	45
Great Northern		2	41	3	3	9
Great Western Railway	8	77	155	43	4	170
Greater Anglia	5	19	32	20	7	63
Heathrow Express		4	8	5	1	3
Hull Trains		1	1	1	2	10
LNER	8	67	130	20	7	122
London Overground			5			3
London Underground		1	2	3		2

	Acc	CH	DR	FR	PI	Other
Lumo		8	17	1	2	11
Merseyrail		6				25
National Rail Enquiries		4		2		8
Network Rail	7	6	2		3	50
Nexus		2		1		5
Northern	7	27	85	13	2	107
Scotrail	5	16	23	5	5	40
South Western Railway	2	17	37	7	2	41
Southeastern	3	14	18	6	3	48
Southern		25	63	14	4	61
Thameslink	1	21	73	12	4	56
Transpennine Express	6	61	126	9	6	111
Transport for Greater Manchester		1				
Transport for Wales	8	38	43	5	5	68
West Coast Railway Co Ltd			1	1		3
West Midlands Trains	6	44	93	10	2	73



The Rail Ombudsman



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Registered Office

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