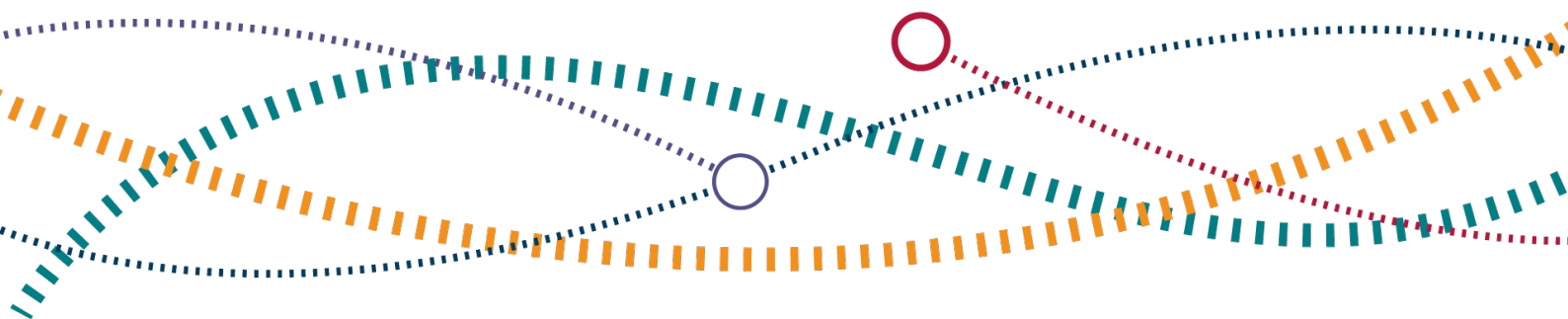




Complaints Code of Practice Revised draft for consultation

28 June 2022



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1. Complaints Code of Practice

Overview

- 1.1 Train and station operators are required, by their operating licences, to establish and comply with a Complaints Handling Procedure (CHP).
- 1.2 A good complaints handling procedure should:
 - (a) resolve individual complaints promptly and fairly, taking account of the reasonable interests of the complainant, including providing compensation/redress as appropriate; and
 - (b) lead to continuous improvement, so that ~~in the medium term~~ the root causes of complaints are addressed and systemic solutions are put in place
- 1.3 Complaints provide valuable customer feedback and insight. They offer an opportunity to improve processes and service delivery, helping to maintain or even increase customer patronage, loyalty and satisfaction. They can also provide an early warning that something is not working, or that passenger expectations have changed over time, or simply help to identify problems and improve service provision.
- 1.4 This Complaints Code of Practice (CoP) defines good practice principles and core minimum requirements that all licence holders must deliver through their CHP, and draws attention to wider good practice that licence holders should consider. ~~This Complaints Code of Practice (CoP) sets out good practice requirements in relation to complaints handling arrangements for passengers.~~ **Licence holders must establish and comply with a CHP that complies with this Code.**
- 1.5 Licence holders may go beyond the requirements set out in this CoP. We do not expect licence holders to discontinue or reduce existing policies where their existing standards exceed those of the CoP.
- 1.6 ORR shall monitor licence holders' compliance with this CoP. Where ORR considers it necessary, it will investigate incidences of non-compliance and/or poor performance and escalate as appropriate in accordance with the relevant ORR policy.
- 1.7 **New text:** ORR shall maintain and review the efficacy of this CoP and monitor licence holders' performance to ensure that passengers benefit from the standards

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established by this CoP. ORR will consult on any proposals for substantive changes to the CoP and will publish a revised CoP, as it considers appropriate, following such consultation. ~~ORR shall maintain this CoP and monitor how it is working in practice. ORR will consult on proposals for any substantive changes to it, should we deem these are in the interests of passengers, and will publish a revised CoP, as it considers appropriate, following such consultation.~~

Scope and definitions

Scope

- 1.8 Unless otherwise stated, the provisions of this CoP apply to all licence holders who have a complaints handling obligation in their licence.
- 1.9 The requirements of this CoP do not affect licence holders' other legal obligations or passengers' legal entitlements, including those established in consumer law, contracts, or other licence conditions.

Claims Allocation and Handling Agreement (CAHA)

- 1.10 The Claims Allocation and Handling Agreement (CAHA) is an industry agreement regarding the allocation of liabilities and the handling of claims relating to issues such as property damage and personal injury. CAHA is outside the scope of this CoP. Licence holders may however choose to use their complaints handling procedure to publicise information on how members of the public can submit such claims. Where claims are handled within customer service departments, operators should ensure that mechanisms are in place for identifying claims and for handling them in accordance with CAHA.

Definitions

- **Complaint:** For the purposes of this CoP a complaint is defined as: *“Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy where a response or resolution is explicitly or implicitly expected.”*
- **ADR:** Alternative Dispute Resolution
- **ATP guidance:** Guidance for train and station operators on Accessible Travel Policies, as published by ORR
- **CAHA:** Claims Allocation and Handling Agreement
- **CHP:** Complaints Handling Procedure

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- **CRM:** Customer Relationship Management system
- **UK GDPR:** UK General Data Protection Regulation
- **NRCoT:** National Rail Conditions of Travel
- **RIDDOR:** Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

Ownership of complaints

- 1.11 A complaint about a specific train, ticket office or station shall be owned by the licence holder responsible for that train, ticket office or station. The licence holder responsible includes third party or agency staff working on behalf of the licence holder.
- 1.12 A complaint about a delay will be owned by the licence holder on whose train the passenger was travelling when the delay occurred. This ~~holds true~~ **remains the case** even where the impact of the delay arises on another part of the journey i.e., where a delay leads to a missed connection or results in a dispute over ticket validity on a later train.
- 1.13 A complaint about a ticket sale will be owned by the licence holder which sold the ticket. A complaint against a third party ticket retailer should be handled by the third party retailer.
- 1.14 From time to time licence holders may receive complaints **on matters** which relate to ~~a~~ third party suppliers ~~on matters~~ such as security personnel, cleaning and catering staff, revenue protection services, suppliers of rail replacement services or car parking providers. Where licence holders receive a complaint about a third party supplier, they must work with their supplier to coordinate a response.
- 1.15 For complaints involving more than one licence holder, the receiving licence holder should (where reasonably practical) coordinate a single response on behalf of all the licence holders involved. If the bulk of the issue(s) rest with another licence holder it is acceptable for the receiving licence holder to **make arrangements** to have the complaint passed to the more appropriate party. The complainant must be informed when their complaint is transferred to another licence holder.
- 1.16 **For complaints about multi-modal travel where the substance of the complaint does not fall within the ownership of the licence holder or other licence holders, licence holders are encouraged where possible to signpost the complainant to the appropriate organisation where they can raise their complaint.**

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1.17 In coordinating a response to complaints, the licence holder should be aware of its responsibilities under the UK GDPR and any other relevant data protection requirements. Nothing in this CoP guidance is intended to alter, replace or impose upon those obligations.

1.18 Network Rail customer relations will handle complaints relating to:

- services provided by Network Rail at the stations which it operates (Managed Stations); and
- Network Rail as infrastructure manager operator (for example, complaints from local residents about line-side fencing, or complaints from car users about a level crossing)

~~1.19 Complaints about Network Rail as a supplier (for example, where a signal failure causes delay) will be handled by the receiving licence holder in line with its own CHP.~~

1.20 Some licence holders may use third parties to handle complaints. Where complaints handling is outsourced, licence holders remain responsible for ensuring compliance with the requirements of this Code of Practice.

The complaints handling procedure

~~1.21 Complaints provide valuable customer feedback and insight. They offer an opportunity to improve processes and service delivery, helping to maintain or even increase customer patronage, loyalty and satisfaction. They can also provide an early warning that something is not working, or that passenger expectations have changed over time, or simply help to identify problems and improve service provision. (Text moved to 1.3)~~

Organisational culture

1.22 Good complaints handling requires strong and effective leadership. Those at the top of an the organisation should take the lead in ensuring good complaints handling, with regard to both the practice and the culture. According to good practice senior managers should: ~~Senior managers should:~~

- (a) set the complaints handling procedure, and own both the policy and the process
- (b) be responsible and accountable for complaints handling (text moved up from clause e)

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- (c) give priority and importance to good complaints handling, to set the tone and act as an example for all staff
- (d) ensure that complaints handling staff are trained and empowered to deliver a good complaints handling service, and that this is embedded in the organisation's overall recruitment and training strategies respectively
- (e) develop a culture that values and welcomes complaints as a way of putting things right and improving service
- (f) ensure that effective governance arrangements underpin and support good complaints handling
- (g) ensure complaints are dealt with through a clear and accountable complaints handling process
- (h) ensure learning from complaints is used to improve service

Principles of good complaints handling

1.23 The following sets out ORR's view on the key principles that underpin a good complaints handling procedure. They are intended to support licence holders when establishing their CHP. A good complaints handling procedure is:

- (a) customer-focused: it puts the complainant at the heart of the process – complainants should be listened to, respected and treated with courtesy
- (b) accessible: the complaints process should be well-publicised, easy to understand, and easy to access for those who need to use it
- (c) simple, timely and responsive: the process should be simple, with as few stages as necessary. Complaints should be dealt with promptly, and within clearly published timescales that are communicated to complainants at the outset. Where timescales cannot be met, complainants should be informed and kept updated on progress
- (d) objective, impartial and fair: the process should be objective, impartial and evidence-based. It should also be transparent – meaning decisions should include explanations as to how and why they were reached
- (e) effective: the process should provide quality outcomes, allowing for full and fair investigation, proportionate to the circumstances of the complaint. It should ensure consistency in the way similar complaints are handled.

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Decisions should address all points of the complaint and be able to offer an appropriate range of remedies

- (f) focused on early resolution: the process should aim to resolve complaints at the earliest opportunity, to the complainant's satisfaction, wherever possible and appropriate, and seek to gather all ~~of~~ the necessary information at the outset
- (g) open and accountable: operators should publish clear and accurate information about how to complain, the scope of complaints that can be considered, and what customers can and cannot expect from the complaints handling process, including timescales and likely remedies, and how, when and where to take things further if necessary
- (h) committed to continuous improvement: feedback from complaints is acted upon to drive continuous improvement in passengers' experience of rail. Data from complaints should be used to measure performance, identify trends and highlight problems so they can be solved before they escalate, with the overall objective of contributing to the continuous improvement of service delivery.

1.24 Management information on complaint volumes, trends and underlying causes ~~must should~~ be regularly viewed ~~by senior management at Board level~~ so that systemic issues can be identified and addressed. ~~Senior management means those who effectively direct the business of the licence holder, which may include members of the governing Board.~~

1.25 ORR may seek evidence as part of any compliance monitoring activities that ~~senior management:~~

- (a) ~~is aware of and understands the volume, type and reasons for passenger complaints; and~~
- (b) ~~is taking sufficient action to address issues; and~~
- (c) ~~is using the information to drive continuous improvement in passengers' experience of rail.~~

1.26 Licence holders must ensure that all complaints handling staff (including outsourced staff) are made fully aware of the contents of the licence holder's CHP and ~~must have that there are~~ processes in place to monitor continuing staff awareness and compliance.

~~1.27 The remainder of this Code sets out what a complaints handling procedure “must” contain or what licence holders “must” or “shall” do, as a minimum. It is also intended to set out good practice and what a good CHP “should” contain or achieve.~~

Provision 1: Information for passengers

Purpose – to promote passengers’ awareness of the complaints process and how to complain

- 1.28 Licence holders must ensure information about how and to whom to complain is prominently displayed:
- (a) at stations;
 - (b) on websites; ~~and~~
 - (c) on social media, for those licence holders who have a social media presence
- 1.29 At multi-operator stations publicity ~~must, where practicable, should~~ make clear the different contact points for complaints about different services.
- 1.30 Material relating to the promotion of complaints handling, and the complaints handling procedure itself, ~~must should be~~:
- (a) avoid technical terms – or explain these where they must be used ~~free from any industry jargon~~
 - (b) ~~be~~ presented in plain ~~language English~~
- 1.31 The complaints procedure must make clear how a complaint can be made, to whom it should be sent, and what the essential information is that a complainant needs to provide. It must also set out the licence holder’s target timescales for responding to complaints.
- 1.32 Licence holders that provide rail services in Wales should be aware of their existing legal obligations concerning the provision of information on complaints in both English and Welsh languages.
- 1.33 ~~We consider it good practice for all~~ licence holders ~~should to~~ make their working languages known to passengers via their CHP, along with any provision that they are able to make to respond to complainants in languages other than English.

- 1.34 Licence holders ~~must shall~~ make available free of charge a current copy of the complaints procedure to any person who requests it.

Provision 2: Receiving complaints

Purpose – to set out how passengers can access the complaints process

In person

- 1.35 It is good practice for all customer-facing rail staff, including sub-contracted staff, to be trained to receive and pass on complaints. **This means that customer-facing rail staff should be able to signpost people to the complaints process if they are unable to deal with the complaint themselves.**

In writing

- 1.36 **Whilst licence holders are not required to provide paper complaints forms on request, they must be able to accept written complaints via non-digital means (i.e. via letter/post) and ensure that the contact details for doing so are published within their complaints handling procedure and on their website complaints page.**

Websites

- 1.37 Information on how to make a complaint must be easily accessible on the licence holder's website via a direct link to ~~its a~~ complaints page, to be displayed on the licence holder's homepage.¹ ~~The homepage link must clearly contain the word "complaint" or "complaints."~~
- 1.38 The linked to complaints page must display clear information about:
- (i) how to make a complaint, and the different contact methods available
 - (ii) the essential information that passengers need to provide
 - (iii) what passengers can expect from the complaints process, including the timescales involved; this should include advising complainants of the anticipated resolution time for their complaint where this might differ from the licence holder's published targets
 - (iv) the licence holder's membership of the relevant ADR scheme, should passengers wish to appeal the outcome of their complaint

¹ Website accessibility requirements are set out in ORR's ATP Guidance: see A2.5.1

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- (v) a link to the licence holder's CHP, and any further information ~~the licence holder feels is relevant~~

- 1.39 All forms of feedback are valuable. For example, feedback that is not necessarily a complaint could still help to drive improvement. Licence holders are therefore encouraged to invite wider feedback and praise via their complaints page.
- 1.40 Licence holders ~~are also encouraged to should also~~ provide a link from their complaints page to any Frequently Asked Questions (FAQs) page(s) that they host.

Social media

- 1.41 The CHP must set out the licence holder's policy on handling complaints raised via social media. ~~Licence holders should provide complainants with the option of having their complaint dealt with via social media where that is the complainant's preferred mode of contact, and where it is practical and feasible to do so. Where this is not practical or feasible, the licence holder should, where possible and practical to do so, offer to raise the complaint on the complainant's behalf, and transfer it to the appropriate team.~~
- 1.42 Where a complaint is made via social media and the licence holder cannot resolve it on the spot, the licence holder must, as a minimum, assist the complainant in making a complaint by signposting them to the appropriate channels. ~~Where high volumes of complaints are received on social media (such as during periods of disruption, for example) and it is not feasible for licence holders to respond to them on social media, we expect licence holders to use their social media channels to signpost users to further information about the complaints process.~~

Call centres and customer relations teams

- 1.43 Licence holders must ~~be able to accept complaints by telephone and~~ publish the hours within which customers can make a complaint by telephone. At all other times licence holders should ensure that callers are met with a recorded message which clearly sets out opening times.
- 1.44 The choice of access routes for telephone complaints ~~must should~~ include a landline or freephone or low ~~cost call~~ access number, e.g. 0800 or 0345.

Equality and diversity

- 1.45 Licence holders must make appropriate and proportionate provision for customers who need assistance in accessing and using the complaints process.

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- 1.46 A copy of the CHP must be made available in alternative formats, on request, within a reasonable time period.
- 1.47 Licence holders must ensure that carers, support workers and guardians are able to act/advocate on behalf of a passenger with the passenger's permission/authority. Complainants who may need help in lodging or progressing a complaint must also be able to nominate a representative to act on their behalf and represent them throughout the process.
- 1.48 All licence holders should ensure they are aware of their obligations under the Equality Act 2010 and any other relevant legislation.

Provision 3: Recording complaints

Purpose – to set out the requirements on record keeping for complaints

- 1.49 Licence holders must record all complaints on a customer complaints database or Customer Relationship Management system (CRM). It must be capable of recording the following information, as a minimum:
- (a) the date on which the complaint was received and the contact method via which it was received
 - (b) the identity and contact details of the complainant
 - (c) what the complaint is about
 - (d) the status of the complaint
 - (e) the date on which the complaint was resolved or otherwise closed
 - (f) ~~the basis on which the complaint was resolved or otherwise closed~~ the number of days taken to respond to complaints, and an ability to calculate average response times
 - (g) the volume of complaints signposted to ADR ~~due to deadlock or expiry of the ADR timescale~~
 - (h) have the ability to retain complaints records for an appropriate period of time ~~that will~~ allow complaints to be reopened, if necessary, ~~and report on the~~ number of reopened complaints
- 1.50 Where complaints are handled by an outsourced provider on its behalf, licence holders must ensure that they have appropriate access to the outsourced

provider's systems for the purposes of monitoring the quality of complaint handling.

Provision 4: Responding to and investigating complaints

Purpose – to set out the requirements for responding to and investigating complaints

1.51 Licence holders must:

- (a) provide all complainants with an acknowledgement and complaint reference/tracking number as appropriate **and make a full response to 95% of all complaints within 20 working days**
- (b) when acknowledging a complaint, include a link to their complaints handling procedure, or inform the complainant where a copy can be obtained, as appropriate
- (c) advise the complainant of the timescales for a response – either when the complaint is acknowledged or as soon as practical thereafter. This should include advising the complainant of the anticipated resolution time for their complaint where this might differ from published targets.

1.52 On receiving a complaint **it is good practice to** ~~the licence holder should:~~

- (a) if it is not clear, clarify at the outset what outcome the customer wants
- (b) consider the nature of the complaint and whether it requires immediate prioritisation and/or escalation – for example, does it involve a safety-related issue that requires immediate action?
- (c) give discretion to customer-facing staff to resolve complaints on the spot, without reference to senior management. ORR does not expect such ~~face-to-face~~ on-the-spot resolution to be considered as a complaint for compliance or data recording purposes

1.53 **If the licence holder requests further information from the complainant, and the complainant does not respond within ten working days, the licence holder may close the complaint. They must inform the complainant that they have done so and how the complainant can get in touch with the licence holder if they wish for their complaint to be re-opened.**

RIDDOR

- 1.54 Where complainants allege they have sustained an injury as a result of the licence holder's operations, consideration should be given to whether the incident is reportable to ORR under ~~RIDDOR the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)~~.

Delays in handling complaints

- 1.55 Where a complaint cannot be answered fully within published timescales, licence holders must ensure that the complainant is made aware of the reason for the delay. ~~Where these circumstances arise, licence holders must update the complainant on their progress in resolving the complaint every ten working days.~~
- 1.56 The licence holder must inform ORR and the relevant ADR scheme in circumstances where it is likely to experience a widespread failure to adhere to the required timescales ~~(40/30/20 working days)~~ for signposting to ADR. This information must include:
- (a) the reason for the failure
 - (b) the expected duration
 - (c) the plans in place to remedy the situation
 - (d) the procedures in place to ensure that the quality of responses is maintained
 - (e) the steps taken to advise affected complainants

Provision 5: Resolving complaints

Purpose – to set out the requirements in relation to the resolution of complaints

- 1.57 Licence holders must ensure that all complaints are resolved by which we mean there are no outstanding actions required on the part of the licence holder.
- 1.58 ~~In order to ensure quality of complaints handling~~ Licence holders ~~must should~~ ensure the response ~~is~~:
- (a) ~~is~~ clear and easy to understand, and provided in a way that is passenger-centred and non-confrontational
 - (b) avoids technical terms – or explains these where they must be used

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- (c) addresses all the issues raised and demonstrates that each has been fully and fairly investigated
- (d) includes an apology where things have gone wrong, and sets out any **other** redress offered
- (e) identifies any areas of disagreement and **if appropriate** explains why no further action can be taken
- (f) explains that if the complainant is not satisfied with the outcome of the complaints process, they may seek a review by the relevant ADR scheme

1.59 Licence holders remain free to make their own judgements on what is appropriate to the circumstances of the complaint and the complainant. For example, a response could be appropriately dealt with by telephone (even if the original contact was in writing).

Dealing with frivolous or vexatious complaints

1.60 Licence holders must:

- (a) have internal procedures that clearly define the circumstances in which correspondence will be terminated where it considers the complainant's ongoing communication to be frivolous or vexatious
- (b) advise the complainant of the contact details of the relevant ADR scheme where a complaint has been terminated for these reasons
- (c) ~~Licence holders should~~ record any such complaints that have been terminated for these reasons

Compensation and redress

1.61 Licence holders must set out the remedies they may offer as part of the complaints process within their complaints handling procedure, **including a reference to alongside** those relating to delay or cancellation as required under the National Rail Conditions of Travel (NRCOT), franchise/contract obligations or other relevant legislation. The range of remedies must include, as appropriate:

- (a) an apology
- (b) the award of compensation
- (c) an explanation of what went wrong

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(d) a practical action to be taken to correct the problem

- 1.62 Licence holders should also specify that complainants may have additional rights under the Consumer Rights Act 2015 and, if relevant, their own passenger's charter.
- 1.63 Operators with a licence condition that requires them to have an Accessible Travel Policy (ATP) have obligations under ORR's ATP guidance to provide details on the availability of redress when assistance has not been delivered as booked. Licence holders are encouraged to include in their CHP where passengers can find out further information about these arrangements.

Escalation

- 1.64 Licence holders must set out in their complaints handling procedures arrangements for escalating complaints when a passenger has asked for their complaint to be escalated or when the licence holder determines that it is appropriate. This must include the relationship between the escalation process and the complainant's right of appeal (see below).
- 1.65 The escalation process should also consider alignment with any relevant industry good practice, for example, in relation to the handling of safety-related contacts from the public.

Provision 6: ADR

Purpose: to set out how licence holders must promote awareness of and signpost to the relevant ADR scheme

- 1.66 When ADR membership is specified as a condition of their licence, licence holders are required to become a member of the relevant ADR scheme and comply with the requirements of Provision 6 below. ~~It is a condition of their licence for train and station operators to be a member of the relevant ADR scheme.~~

Promoting awareness of ADR

The CHP

- 1.67 Licence holders' CHPs must contain details of the relevant ADR scheme where a complainant can go if not satisfied with the response provided by the licence holder.

Websites

- 1.68 Licence holders' websites must provide information about their membership of the relevant ADR scheme. As a minimum this must include:
- (a) contact details including website address (and, where possible, logo) for the relevant ADR scheme within one click of the licence holder's homepage
 - (b) the role of the scheme and how it can assist complainants

Complaint acknowledgements

- 1.69 ~~All Written~~ acknowledgements of complaints (including **telephone**, letter and electronic communications) must explain that the licence holder is a member of the relevant ADR scheme, an impartial service who can assist when complaints remain unresolved, and signpost complainants to where they can find out further information about the scheme.

Signposting to ADR

- 1.70 An ADR letter informs complainants of their right to take an unresolved complaint to the relevant ADR scheme. An unresolved complaint is one where the complaint has not been resolved to the complainant's satisfaction, or a response has not been provided within the **timescale** agreed ~~[40/30/20 working day]~~ **timescale with the relevant ADR scheme after which the complainant has the right to access ADR.**
- 1.71 Licence holders must immediately issue an ADR letter when all of the following criteria are met:
- (a) it has told the complainant the outcome of its investigation
 - (b) the complainant has told the licence holder that the outcome has not resolved the complaint to their satisfaction
 - (c) the licence holder does not intend to take additional steps to resolve the complaint that would produce a different outcome (i.e. ~~e.g.~~ the complaint is "deadlocked")
- OR
- (d) if the complaint **remains is** unresolved **and the required number of days have elapsed after which the complainant has the right to access the relevant ADR scheme, at [40/30/20] working days after the date the complaint was first made,** licence holders must immediately issue an ADR letter informing the

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passenger of their right to take their complaint to the relevant ADR scheme at this stage. Unless advised otherwise by the complainant or the **relevant** ADR scheme, the licence holder may continue to engage with the complainant with the objective of resolving the complaint.

1.72 ADR letters must include **all of** the following details:

- (a) that the complainant has the right to go to the ADR scheme
- (b) it is independent and free of charge
- (c) the possible outcomes include: an apology; an explanation of what went wrong; a practical action to be taken to correct the problem; a financial award
- (d) its decision has to be accepted by (is binding on) the **licence holder rail company** but not the complainant
- (e) where the **licence holder operator** continues to investigate the unresolved complaint, the reasons why the complaint remains unresolved and the steps it is taking to reach a solution

Provision 7: Reporting

Purpose: to incentivise good complaints handling through transparent reporting, and to monitor performance

1.73 **Unless 1.75 applies**, licence holders must collect and publish data on their performance in handling complaints on key metrics quarterly including performance on response times on handling complaints, to cover:

- (i) Percentage of complaints resolved within 10 working days
- (ii) Percentage of complaints resolved within 20 working days
- (iii) Average response times for **resolving handling** complaints

1.74 Licence holders may add narrative information to explain the reasons for their performance.

1.75 **Licence holders with average complaint volumes lower than a threshold to be specified in the annual reference guides for ORR Core Data compliance reporting must publish data on the key metrics set out in 1.73 annually.**

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- 1.76 As an international operator the requirements of clauses 1.73 and 1.75 do not currently apply to Eurostar but it remains subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations.
- 1.77 All licence holders must also ~~publish information~~ ~~report and~~ ~~publish data~~ annually on their continuous improvement activities and how they have actively used and applied learning from complaints within their business. **These reports must:**
- (i) report the key issues that passengers have complained about
 - (ii) demonstrate how licence holders have actively used and applied learning from complaints within their business
 - (iii) describe the impact of improvement activities
- 1.78 For licence holders who are subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations, the requirement in clause 1.77 can be fulfilled as part of the publication of the annual service quality report.
- 1.79 The information set out in clauses 1.73 to 1.78 must be published on the licence holder's website. For ease of access this could be hosted on the licence holder's complaints page.
- 1.80 Licence holders must inform ORR when the data fulfilling 1.73 to 1.78 has been published, and where it has been published by providing a hyperlink to ORR.
- 1.81 ORR will also collect and publish data on the quality and timeliness of licence holders' complaints handling procedures.
- 1.82 ORR will provide further information on these reporting requirements via its reference guides for Core Data compliance reporting, including those that will apply to licence holders subject to the guide for station only operators or non-scheduled passenger services.
- 1.83 Licence holders must collect and provide ORR with data on complaints and complaints handling as set out in ORR reference guides for Core Data compliance reporting.
- 1.84 The ORR may wish to conduct research with complainants to learn more about their experiences. Data protection concerns must be properly addressed to allow this. Licence holders should consider ways in which the complainant could be

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advised of this eventuality, for example by informing complainants that they could be contacted by the regulator or third parties operating on its behalf, and providing a tick-box option to opt-out if the complainant does not wish to be contacted.

Provision 8: Training, resourcing and quality assurance

Training and development

- 1.85 Licence holders must have complaints handling training programmes and training plans in place for all staff dealing with complaints.
- 1.86 Training must be designed to ensure that:
- (a) complaints handling staff have the capabilities and competencies (knowledge, skills, experience and abilities) needed to handle complaints in accordance with this Code of Practice.
- 1.87 As a minimum this training should cover:
- (a) customer service;
 - (b) complaints investigation and resolution skills; and
 - (c) recording and maintaining complaints records.
- 1.88 Licence holders ~~must should~~ provide refresher training at regular intervals and in response to evidence that complaints are not being dealt with effectively.
- 1.89 Where complaints handling functions are outsourced, licence holders must ensure that the requirements in 1.85 are met.

Complaints handling resources and quality assurance

- 1.90 Licence holders must:
- (a) ensure that they allocate and maintain adequate resources to receive, handle and process complaints ~~to comply with the requirements of this CoP in a timely manner~~
 - (b) give reasonable consideration to what contingency measures may be required to deal with exceptional spikes in demand
 - (c) have controls in place to monitor the quality of its complaints handling and to take remedial action where failures are identified.

Annex A: Draft licence condition

As previously set out in our consultation in August 2021 there are two legislative regimes for licensing operators of railway assets:

- the Railway (Licensing of Railway Undertakings) Regulations 2005 – that require the operator of passenger trains or freight trains in Great Britain to hold an appropriate Railway Undertaking licence (if issued after 1 January 2021, or, alternatively, a European licence issued before that date), and comply with the conditions included in a Statement of National Regulatory Provisions (SNRP)
- the Railways Act 1993 (the Act). Section 6 of the Act makes it an offence to act as the operator of a railway asset without holding a Railways Act licence or licence exemption.²

The drafting below uses the **model SNRP/Licence** to illustrate how we intend the Complaints Handling Condition to look in respect to SNRPs/Licences going forward. Proposed changes to the text are illustrated in red text below. We will issue a statutory consultation in due course. We note that some operators have a bespoke position in respect to parts, or all, of the Complaints Handling Condition and we will be in touch ahead of the statutory consultation to discuss this.

Please note that we are concurrently consulting on proposed amendments to the clause on Alternative Dispute Resolution in this Condition. This may affect the wording currently shown in clauses 5 and 6 in the model Complaints Handling Condition below. Please refer to [draft Rail Ombudsman Operating Model – Proposals to implement a new Rail Ombudsman operating model and amended licence condition](#) for more information on the proposed amendments and how you can respond to them.

Model Condition Proposed Amendments

1. The [SNRP/Licence] holder shall establish and thereafter comply with a procedure for handling complaints relating to licensed activities from its customers and potential customers. ~~and~~ The procedure shall comply with the Complaints Code of Practice,

² Railways Act licences cover station, network, non-passenger and light maintenance depot licences, and 'small scale' passenger train licences that cover local and regional services

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and shall also comply with article 27 of the PRO Regulation (~~the “Complaints Procedure”~~).³

~~2. The [SNRP/Licence] holder shall not establish, or make any material change (save in respect of paragraph 3(b)), to the Complaints Procedure unless and until:~~

~~(a) the PC and, where appropriate, LTUC has been consulted; and~~

~~(b) the [SNRP/Licence] holder has submitted the Complaints Procedure, or (as the case may be) the proposed change, to ORR and ORR has approved it.~~

~~3. Where ORR requires the [SNRP/Licence] holder to carry out a review of the Complaints Procedure or any part of it or the manner in which it has been implemented, with a view to determining whether any change should be made to it, the [SNRP/Licence] holder shall:~~

~~(a) promptly carry out a review and submit a written report to ORR setting out the results or conclusions; and~~

~~(b) make such changes to the Complaints Procedure, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph 3(a) and consulted the [SNRP/Licence] holder, the PC and, where appropriate, LTUC.~~

~~4. The [SNRP/Licence] holder shall:~~

~~(a) send a copy of the Complaints Procedure and of any change to it to ORR and the PC and, where appropriate, LTUC;~~

~~(b) in a place of reasonable prominence at each station at which trains operated by the [SNRP/Licence] holder are scheduled to call, display or procure the display of a notice giving the address from which a current copy of the Complaints Procedure may be obtained; and~~

~~(c) make available free of charge a current copy of the Complaints Procedure to any person who requests it.~~

5. Alternative Dispute Resolution:

³ For Railways Act station and passenger train licence holders, omit the wording “and shall also comply with article 27 of the PRO Regulation”

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

6. For the purposes of this Condition:

“Relevant ADR Scheme” means:

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

“Successor Scheme” means:

- such other alternative dispute resolution scheme as is notified to ORR by the [licence/SNRP] holder under sub-paragraph (c)(iii) above, and is

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accepted by ORR as providing suitable protection for the interests of passengers.

“Complaints Code of Practice” means

- the Complaints Code of Practice published by ORR, as amended from time to time.

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

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

“Designated Competent Authority” means:

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

~~“ORR’s Guidance” means:~~

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

~~—~~

Annex B: Table of changes – draft Complaints Code of Practice

B.1 The revised draft Code of Practice published above shows all changes from the version that [we published](#) for consultation in August 2021, in red text. The table of changes in this Annex highlights material changes only, i.e. those that have the effect of amending or substantively clarifying, requirements for operators. Minor changes, including reordering of clauses and edits for plain language reasons, are not included.

Original paragraph number	Original content	New paragraph number	Proposed new content
5.3	This Complaints Code of Practice (CoP) sets out good practice requirements in relation to complaints handling arrangements for passengers. Licence holders must establish and comply with a CHP that complies with this Code.	1.4	This Complaints Code of Practice (CoP) defines good practice principles and core minimum requirements that all licence holders must deliver through their CHP, and draws attention to wider good practice that licence holders should consider. Licence holders must establish and comply with a CHP that complies with this Code.
New, after 5.23	n/a	1.16	For complaints about multi-modal travel where the substance of the complaint does not fall within the ownership of the licence holder or other licence holders, licence holders are encouraged where possible to signpost the complainant to the appropriate organisation where they can raise their complaint.

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Original paragraph number	Original content	New paragraph number	Proposed new content
5.31	Management information on complaint volumes, trends and underlying causes should be regularly viewed at Board level so that systemic issues can be identified and addressed.	1.24	Management information on complaint volumes, trends and underlying causes must be regularly viewed by senior management so that systemic issues can be identified and addressed. Senior management means those who effectively direct the business of the licence holder, which may include members of the governing Board.
New, after 5.31	n/a	1.25	ORR may seek evidence as part of any compliance monitoring activities that senior management: <ul style="list-style-type: none"> (a) is aware of and understands the volume, type and reasons for passenger complaints; and (b) is taking sufficient action to address issues; and (c) is using the information to drive continuous improvement in passengers' experience of rail.
5.35	At multi-operator stations, publicity should make clear the different contact points for complaints about different services.	1.29	At multi-operator stations publicity must, where practicable, make clear the different contact points for complaints about different services.
5.36	Material relating to the promotion of complaints handling, and the complaints handling procedure itself, should be: <ul style="list-style-type: none"> (a) free from any industry-jargon (b) presented in plain English 	1.30	Material relating to the promotion of complaints handling, and the complaints handling procedure itself, must: <ul style="list-style-type: none"> (a) avoid technical terms – or explain these where they must be used (b) presented in plain language

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Original paragraph number	Original content	New paragraph number	Proposed new content
5.41	All customer-facing rail staff, including sub-contracted staff, should be trained to receive and pass on complaints.	1.35	It is good practice for all customer-facing rail staff, including sub-contracted staff, to be trained to receive and pass on complaints. This means that customer-facing rail staff should be able to signpost people to the complaints process if they are unable to deal with the complaint themselves.
New, after 5.41	N/a	1.36	In writing Whilst licence holders are not required to provide paper complaints forms on request, they must be able to accept written complaints via non-digital means (ie. via letter/post) and ensure that the contact details for doing so are published within their complaints handling procedure and on their website complaints page.
5.42	Information on how to make a complaint must be easily accessible on the licence holder's website via a direct link to a complaints page, to be displayed on the licence holder's homepage. The homepage link must clearly contain the word "complaint" or "complaints."	1.37	Information on how to make a complaint must be easily accessible on the licence holder's website via a direct link to its complaints page, to be displayed on the licence holder's homepage.
New, after 5.43	N/a	1.39	All forms of feedback are valuable. For example, feedback that is not necessarily a complaint could still help to drive improvement. Licence holders are therefore encouraged to invite wider feedback and praise via their complaints page.

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Original paragraph number	Original content	New paragraph number	Proposed new content
5.45, 5.46	<p>Licence holders should provide complainants with the option of having their complaint dealt with via social media where that is the complainant's preferred mode of contact, and where it is practical and feasible to do so. Where this is not practical or feasible, the licence holder should, where possible and practical to do so, offer to raise the complaint on the complainant's behalf, and transfer it to the appropriate team.</p> <p>Where high volumes of complaints are received on social media (such as during periods of disruption, for example) and it is not feasible for licence holders to respond to them on social media, we expect licence holders to use their social media channels to signpost users to further information about the complaints process.</p>	1.41, 1.42	<p>The CHP must set out the licence holder's policy on handling complaints raised via social media.</p> <p>Where a complaint is made via social media and the licence holder cannot resolve it on the spot, the licence holder must, as a minimum, assist the complainant in making a complaint by signposting them to the appropriate channels.</p>
5.47	Licence holders must publish the hours within which customers can make a complaint by telephone. At all other times licence holders should ensure that callers are met with a recorded message which clearly sets out opening times.	1.43	Licence holders must be able to accept complaints by telephone and publish the hours within which customers can make a complaint by telephone. At all other times licence holders should ensure that callers are met with a recorded message which clearly sets out opening times.
5.48	The choice of access routes for telephone complaints should include landline or freephone or low call access number, e.g. 0800 or 0345.	1.44	The choice of access routes for telephone complaints must include a landline or freephone or low cost access number, e.g. 0800 or 0345.
5.53	Licence holders must record all complaints on a customer complaints database or Customer Relationship	1.49	Licence holders must record all complaints on a customer complaints database or Customer

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Original paragraph number	Original content	New paragraph number	Proposed new content
	<p>Management system (CRM). It must be capable of recording the following information, as a minimum:</p> <ul style="list-style-type: none"> (a) the date on which the complaint was received and the contact method via which it was received (b) the identity and contact details of the complainant (c) what the complaint is about (d) the status of the complaint (e) the date on which the complaint was resolved or otherwise closed (f) the basis on which the complaint was resolved or otherwise closed (g) the volume of complaints signposted to ADR (h) have the ability to retain complaints records for an appropriate period of time to allow complaints to be reopened, if necessary 		<p>Relationship Management system (CRM). It must be capable of recording the following information, as a minimum:</p> <ul style="list-style-type: none"> (a) the date on which the complaint was received and the contact method via which it was received (b) the identity and contact details of the complainant (c) what the complaint is about (d) the status of the complaint (e) the date on which the complaint was resolved or otherwise closed (f) the number of days taken to respond to complaints, and an ability to calculate average response times (g) the volume of complaints signposted to ADR due to deadlock or expiry of the ADR timescale (h) have the ability to retain complaints records for an appropriate period of time that will allow complaints to be reopened, if necessary, and report on the number of reopened complaints

5.55 (a) Licence holders must:

- (a) provide all complainants with an acknowledgement and complaint reference/tracking number as appropriate

1.51 (a) Licence holders must:

- (a) provide all complainants with an acknowledgement and complaint reference/tracking number as appropriate and make a full response to 95% of complaints within 20 working days

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Original paragraph number	Original content	New paragraph number	Proposed new content
5.56	<p>On receiving a complaint the licence holder should:</p> <p>(a) if it is not clear, clarify at the outset what outcome the customer wants</p> <p>(b) consider the nature of the complaint and whether it requires immediate prioritisation and/or escalation – for example, does it involve a safety-related issue that requires immediate action?</p> <p>(c) give discretion to customer-facing staff to resolve face-to-face complaints on the spot, without reference to senior management. ORR does not expect such face-to-face on-the-spot resolution to be considered as a complaint for compliance or data recording purposes</p>	1.52	<p>On receiving a complaint it is good practice to:</p> <p>(a) if it is not clear, clarify at the outset what outcome the customer wants</p> <p>(b) consider the nature of the complaint and whether it requires immediate prioritisation and/or escalation – for example, does it involve a safety-related issue that requires immediate action?</p> <p>(c) give discretion to customer-facing staff to resolve complaints on the spot, without reference to senior management. ORR does not expect such on the spot resolution to be considered as a complaint for compliance or data recording purposes</p>
New, after 5.56		1.53	<p>If the licence holder requests further information from the complainant, and the complainant does not respond within ten working days, the licence holder may close the complaint. They must inform the complainant that they have done so and how the complainant can get in touch with the licence holder if they wish for their complaint to be re-opened.</p>
5.58	<p>Where a complaint cannot be answered fully within published timescales, licence holders must ensure that the complainant is made aware of the reason for the delay.</p>	1.55	<p>Where a complaint cannot be answered fully within published timescales, licence holders must ensure that the complainant is made aware of the reason for the delay. Where these circumstances arise, licence holders must update the complainant on their progress in resolving the complaint every ten working days.</p>

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Original paragraph number	Original content	New paragraph number	Proposed new content
5.61	<p>In order to ensure quality of complaints handling licence holders should ensure the response is:</p> <ul style="list-style-type: none"> (a) clear and easy to understand, and provided in a way that is passenger-centred and non-confrontational (b) avoids technical terms – or explains these where they must be used (c) addresses all the issues raised and demonstrates that each has been fully and fairly investigated (d) includes an apology where things have gone wrong, and sets out any other redress offered (e) identifies any areas of disagreement and explains why no further action can be taken (f) explains that if the complainant is not satisfied with the outcome of the complaints process, they may seek a review by the relevant ADR scheme 	1.58	<p>Licence holders must ensure the response:</p> <ul style="list-style-type: none"> (a) is clear and easy to understand, and provided in a way that is passenger-centred and non-confrontational (b) avoids technical terms – or explains these where they must be used (c) addresses all the issues raised and demonstrates that each has been fully and fairly investigated (d) includes an apology where things have gone wrong, and sets out any redress offered (e) identifies any areas of disagreement and if appropriate explains why no further action can be taken (f) explains that if the complainant is not satisfied with the outcome of the complaints process, they may seek a review by the relevant ADR scheme
5.63, 5.64	<p>Licence holders must:</p> <ul style="list-style-type: none"> (a) have internal procedures that clearly define the circumstances in which correspondence will be terminated where it considers the complainant’s on-going communication to be frivolous or vexatious (b) advise the complainant of the contact details of the relevant ADR scheme where a complaint has been terminated for these reasons. 	1.60	<p>Licence holders must:</p> <ul style="list-style-type: none"> (a) have internal procedures that clearly define the circumstances in which correspondence will be terminated where it considers the complainant’s on-going communication to be frivolous or vexatious (b) advise the complainant of the contact details of the relevant ADR scheme where a complaint has been terminated for these reasons.

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Original paragraph number	Original content	New paragraph number	Proposed new content
	Licence holders should record any such complaints that have been terminated.		(c) record any such complaints that have been terminated.
5.65	<p>Licence holders must set out the remedies they may offer as part of the complaints process within their complaints handling procedure, alongside those relating to delay or cancellation as required under the National Rail Conditions of Travel (NRCoT), franchise/contract obligations or other relevant legislation. The range of remedies must include, as appropriate:</p> <ul style="list-style-type: none"> (a) an apology (b) the award of compensation (c) an explanation of what went wrong (d) a practical action to be taken to correct the problem 	1.61	<p>Licence holders must set out the remedies they may offer as part of the complaints process within their complaints handling procedure, including a reference to those relating to delay or cancellation as required under the National Rail Conditions of Travel (NRCoT), franchise/contract obligations or other relevant legislation. The range of remedies must include, as appropriate:</p> <ul style="list-style-type: none"> (a) an apology (b) the award of compensation (c) an explanation of what went wrong (d) a practical action to be taken to correct the problem
New, after 5.66	N/a	1.63	Operators with a licence condition that requires them to have an Accessible Travel Policy (ATP) have obligations under ORR's ATP guidance to provide details on the availability of redress when assistance has not been delivered as booked. Licence holders are encouraged to include in their CHP where passengers can find out further information about these arrangements.

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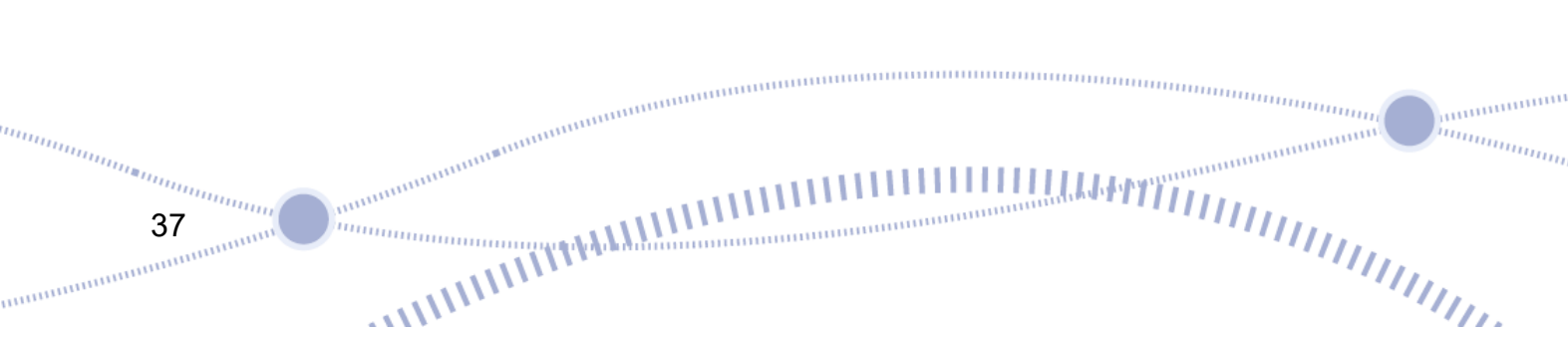
Original paragraph number	Original content	New paragraph number	Proposed new content
5.69	It is a condition of their licence for train and station operators to be a member of the relevant ADR scheme.	1.66	When ADR membership is specified as a condition of their licence, licence holders are required to become a member of the relevant ADR scheme.
5.72	Written acknowledgements of complaints (including letter and electronic communications) must explain that the licence holder is a member of the relevant ADR scheme, an impartial service who can assist when complaints remain unresolved, and signpost complainants to where they can find out further information about the scheme.	1.69	All acknowledgements of complaints (including telephone, letter and electronic communications) must explain that the licence holder is a member of the relevant ADR scheme, an impartial service who can assist when complaints remain unresolved, and signpost complainants to where they can find out further information about the scheme.
5.76	<p>Licence holders must collect and publish data on their performance in handling complaints on key metrics quarterly including:</p> <p>(a) Performance on response times on handling complaints, to cover:</p> <p>(i) Percentage of complaints resolved within 10 working days</p> <p>(ii) Percentage of complaints resolved within 20 working days</p> <p>(iii) Average response times for handling complaints</p>	1.73	<p>Unless 1.75 applies, licence holders must collect and publish data on their performance in handling complaints on key metrics quarterly including performance on response times on handling complaints, to cover:</p> <p>(i) Percentage of complaints resolved within 10 working days</p> <p>(ii) Percentage of complaints resolved within 20 working days</p> <p>(iii) Average response times for resolving complaints</p>
New, after 5.76	N/a	1.75	Licence holders with average complaint volumes lower than a threshold to be specified in the annual reference guides for ORR Core Data compliance reporting must

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Original paragraph number	Original content	New paragraph number	Proposed new content
			publish data on the key metrics set out in 1.73 annually.
New, after 5.76	N/a	1.76	As an international operator the requirements of clauses 1.73 and 1.75 do not currently apply to Eurostar but it remains subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations.
5.77	Licence holders must also (a) report and publish data annually on their continuous improvement activities, and how they have actively used and applied learning from complaints within their business.	1.77	All licence holders must also publish information annually on their continuous improvement activities, and how they have actively used and applied learning from complaints within their business. These reports must: (i) report the key issues that passengers have complained about (ii) demonstrate how licence holders have actively used and applied learning from complaints within their business (iii) describe the impact of improvement activities
New, after 5.77	N/a	1.78	For licence holders who are subject to the reporting requirements of Regulation (EC) No 1371/2007 (as amended) on rail passengers' rights and obligations, the requirement in clause 1.77 can be fulfilled as part of the publication of the annual service quality report.

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Original paragraph number	Original content	New paragraph number	Proposed new content
New, after 5.77	N/a	1.79	The information set out in clauses 1.73 to 1.78 must be published on the licence holder's website. For ease of access this could be hosted on the licence holder's complaints page.
New, after 5.77	N/a	1.80	Licence holders must inform ORR when the data fulfilling 1.73 to 1.78 has been published, and where it has been published by providing a hyperlink to ORR.
New, after 5.77	N/a	1.81	ORR will also collect and publish data on the quality and timeliness of licence holders' complaints handling procedures.
5.85	Licence holders should provide refresher training at regular intervals and in response to evidence that complaints are not being dealt with effectively.	1.88	Licence holders must provide refresher training at regular intervals and in response to evidence that complaints are not being dealt with effectively.
5.87	<p>Licence holders must:</p> <ul style="list-style-type: none"> (a) ensure that they allocate and maintain adequate resources to receive, handle and process complaints in a timely manner (b) give reasonable consideration to what contingency measures may be required to deal with exceptional spikes in demand (c) have controls in place to monitor the quality of its complaints handling and to take remedial action where failures are identified. 	1.90	<p>Licence holders must:</p> <ul style="list-style-type: none"> (a) ensure that they allocate and maintain adequate resources to receive, handle and process complaints to comply with the requirements of this Code (b) give reasonable consideration to what contingency measures may be required to deal with exceptional spikes in demand (c) have controls in place to monitor the quality of its complaints handling and to take remedial action where failures are identified.





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