

Office of Rail and Road Complaints Handling Procedures: Consultation on guidance

Response by Transport Focus, July 2015

Introduction

Transport Focus has been involved in various working groups and meetings since ORR embarked on a thorough review of complaints handling, and we particularly valued the opportunity to provide feedback on an early draft of the consultation paper. We are pleased that many of the recommendations and suggestions made at earlier stages of the process have been taken into account by ORR and included in the draft Complaints Handling Procedure for consultation.

We welcome the fact that ORR is developing a new approach to complaints handling which puts quality at its core. This shows a move away from measures being primarily about volume of complaints, which in itself is not a true measure of whether train operators handle complaints well. A proactive, customer-focused company may well have a much higher number of complaints over a year because it promotes and encourages feedback. Conversely, a company may not value customer feedback and make it more difficult for a passenger to make a complaint, resulting in fewer complaints overall.

The role of Transport Focus

Transport Focus plays a key role in complaints handling in the rail industry. Our mission is to get the best deal for passengers. With a strong emphasis on evidence-based campaigning and research, we ensure that we know what is happening on the ground. We use our knowledge to influence decisions on behalf of passengers to secure improvements and make a difference. Resolving complaints with rail operators is a major element of our work.

Case studies of some of the passengers we have helped recently can be seen at <http://data.transportfocus.org.uk/train/complaints/tocs/> and details of the way our passenger advisors handle complaint appeals can be seen at <http://www.transportfocus.org.uk/help/rail-complaints/what-do-our-passenger-advisors-do>

Rail passengers have the right to representation through us if they have reached deadlock with a train company. We will review the complaint and try to get the passenger an improved resolution.

We find that there is much inconsistency in how the rail industry responds to passenger complaints, including at the escalated stage with us. Some train companies see the value in restoring a customer's faith in their business and are prepared to consider gestures of goodwill. Other companies appear to wish to 'stick to their guns', which makes passengers feel that those train companies are not really listening and fail to value them as customers.

We hope that the new complaints handling guidance and data measures proposed by ORR, along with a greater emphasis on the customer through the rail franchising process, will start to create a culture shift in some operators and, importantly, greater consistency of customer-service delivery across the industry.

Important points

While we come to the specific questions later, we feel that a number of specific points are worthy of special highlighting here.

Independent audit programme

ORR discusses the option to carry out an independent audit of an operator's customer complaints handling, if it has reason to believe that it is failing to act in accordance with the terms of its Complaints Handling Procedure

Transport Focus already carries out a small number of complaints handling reviews with train companies, providing feedback on best practice and areas for improvement. We follow this up with a second audit, approximately nine months later, to establish if our recommendations have been implemented and whether quality has improved.

We have previously discussed with operators and ORR the possibility of developing our product into one which could be more routinely carried out with train companies and even using the results to benchmark their customer complaints handling. This supports the ORR's approach to quality and continuous improvement. We think this could be of added value to passengers and a more proactive approach than as a reactive measure when operators are suspected to falling short of the required standards. If ORR wished to consider this matter, we should be very happy to discuss methodology, costs and resources.

Passenger satisfaction survey

Transport Focus trusts that one of the ‘big wins’ for passengers arising from ORR’s new data measures and focus on quality of complaint handling, will be the proposal that ORR should create and manage a centrally-run satisfaction survey, which passengers will receive and can complete after their complaint has been resolved.

We suggested such a process at an early stage and strongly recommended as the only true measure of whether operators are good at handling complaints – ask the people who have used the service.

Clearly there are some areas of detail to work through and Transport Focus would be happy to contribute to this work. However, we are strongly in favour of a satisfaction survey and feel there will be tremendous benefit to operators in having regular feedback on what their customers think about the service and how well they handle complaints.

Data protection

This is an important and complex area and of huge relevance to a rail industry formed of many train operators, retailers, Network Rail, as well as Transport Focus and London TravelWatch. If a passenger makes a complaint to the ‘wrong’ part of the rail industry, we all have a duty to ensure that that complaint gets to the right place quickly. However, we also must adequately protect the personal data provided to us. We hope that the rail industry can agree processes which ensure compliance with data- protection law, which also allows for customer complaints to be redirected to the right organisation as quickly as possible. While it is relatively quick to seek and receive by e-mail passengers’ agreement for their details to be forwarded to the relevant place, doing so by post is slow and incurs inevitable delays.

Terminology

- The use of ‘appeal’ is slightly ambiguous in that the identical term is used to refer to penalty-fare appeals.
- In several places the document still refers to Passenger Focus. As the organisation’s title has changed reference should now be made to Transport Focus.

Putting the guidance into practice

We understand that colleagues have already raised with ORR the matter as to how operators actually design their Complaints Handling Procedure. Whilst that permits

creative licence and for operators to decide how customer-friendly they wish to be, the risk remains that the CHPs as a whole may eventually differ greatly one from another and passengers may not easily navigate their way through them. A checklist in the pre-draft enabled operators to ensure that they had covered all aspects to be included. Whilst this was not perfect it did allow for guidance of the operators and for potential consistency which would be beneficial for passengers.

Referrals to Transport Focus or London TravelWatch

The text currently states that passengers should be signposted to one or other organisation and to Alternative Dispute Resolution 'no later than the second substantive response'. This has certainly been the practice for many years. Clearly it is well to advise passengers of our existence but there is potential, as a result of this, for issues to come to us that the operators should really strive to resolve themselves through their own escalation processes. Mention of Transport Focus or London TravelWatch could tempt dissatisfied passengers from contacting us before operators have fully addressed the complaint. At the same time this can cause resource difficulties within our two organisations.

Responses to individual questions

Question 1

Do you agree with our overall purpose and scope? In particular, do you think that the way that we have distinguished feedback from complaints is helpful?

It seems to us that the overall purpose and scope are sensible.

Especially given the increasing use of social media, it is important to distinguish between complaints and feedback, though the potential value of both must be recognised and acted upon, as appropriate. We feel that not including social media in operators' complaint data is acceptable provided the company has robust processes in place to ensure that where specific feedback deserves more than a 'tweet' in response a suitable response is given.

It is essential that robust procedures are put in place to ensure that license holders are distinguishing correctly and consistently between feedback and complaints and that both are being logged appropriately. Whilst individual license holders' procedures may differ, it is important that the basic principles that are being applied are consistent.

Operators must advise passengers how to raise issues with customer relations and make the process as simple as possible. Similarly, it is essential that referral is being made to Transport Focus and London TravelWatch, where appropriate. Our Open

Data application (<http://data.transportfocus.org.uk/train/complaints/tocs/>) depicts our current and historical metrics for complaints handling and satisfaction with the incumbent operators.

Where a complaint has been referred to Transport Focus or London TravelWatch, we would expect that any representation to a license holder made on behalf of a passenger be responded to no later than 10 days from date of submission. This demonstrates good practice. However, is currently not being applied across all license holders and merit could be seen in implementing a standard procedure regarding response times to Transport Focus and London TravelWatch.

Question 2

Do you agree that the licence holder should coordinate responses relating to third party suppliers? Please indicate in your response what the current practice is and identify any challenges arising from this proposed requirement?

Do you agree with our reasoning contained above? Are there any other categories of third party supply that you consider should be explicitly covered within this obligation?

Licence holders must coordinate responses.

We should prefer operators to resolve complaints well directly, where possible, reducing the need for intervention by third parties.

Question 3

Do you agree that the three core standards form a reasonable basis from which licence holders can develop complaint handling procedures? Please identify any areas, for example:

- a. where you would prefer more detail or additional clarity; and/or***
- b. where you consider the standards do not meet our intention to draft at sufficiently high level for licence holders to develop procedures to suit their own business models and the needs of their passengers. In particular whether the balance between specified obligations and a focus on internal culture and arrangements appears consistent with our stated regulatory approach.***

The three core standards certainly serve as a sensible basis.

CHPs need to be more than just accessible – they have to be easily accessible. One of our, and ORR's, findings from research is that people do not claim compensation because

- (a) they did not know that they are entitled to it; and/or
- (b) they did not know how to.

Consistent processes are helpful but they need to be clear. Emphasising the ease of contact is a step towards this.

Question 4:

Is the guidance around Conducting a full and fair investigation and Effective response and resolution helpful and/or sufficiently clear?

A full and fair investigation is essential and not currently something of which we see evidence across the board, particularly with regards to staff complaints. Train companies need to be able to evidence that the key elements of the complaint have been identified and considered when conducting an investigation in order to deem it valid.

An inconsistent approach to investigation at the moment often results in key points being missed or not documented.

A full explanation of findings should be provided to passengers following an investigation – this forms the basis of many of our appeals (not knowing the outcome) – and could prevent a lot of repeat contact to TOCs. Identifying and disclosing (within reason) what should have happened vs what actually happened is good practice.

Question 5

Do you consider that a CHP should contain a requirement to have an appeal handling protocol with PF and LTW?

Do you agree that we should specify some of the detail including recommended response times? Alternatively, is there other detail that you think should be included?

We welcome the proposal for protocols for TOCs and the watchdogs to resolve complaints that have reached an impasse. When passengers contact Transport Focus, they are often extremely frustrated with their experience to date. They have had a poor journey, which has led them to complain, and now they wish to complain about both the original incident and what they view to be poor complaint-handling by the operator. Complaints can take a long time to resolve. We therefore welcome the proposal for train companies and Transport Focus to agree timescales for sharing of relevant case information, a commitment to review and respond to the case and better communication about backlogs. These case-handling protocols can only be of benefit to the passenger.

In addition, we would welcome more consistent interest from operators in what drives their passengers to pursue a complaint through Transport Focus or London TravelWatch. We have much valuable feedback and sometimes a single complaint through us can highlight a much larger issue of which the company is otherwise

unaware. We hope that train companies will see the value in working positively with us to reduce the need for escalated complaints.

Question 6

Are you content with the ORR's minded proposal to drop these two previous requirements? If not give reasons.

We certainly believe that operators should have robust quality-assurance systems in place. We are less wary of the removal of the requirement to formally withdraw the requirement for *annual* review if ORR maintains its overview of effective complaint handling. However, given the length of some franchises it might be sensible to expect a revision at some point during that period.

We do not think it necessary for operators to seek ORR's consent to lengthening response timescales as a result of unforeseen or specific events. We do think that a time limit on the extension needs to be set as soon as the scale of the situation has been assessed. It is also necessary in such circumstances for operators to advise Transport Focus (and/or London TravelWatch, as appropriate). This will enable us to advise passengers when responding and manage their expectations should delays in responses occur.

Transport Focus would prefer operators to resolve complaints without intervention to third parties, if avoidable. Alternative Dispute Resolution is a complex area for rail passengers so we urge ORR and the industry to simplify the system as much as possible. Clearly operators have an obligation to provide information about ADR and signpost to the relevant ADR body. However, this must not send passengers in the wrong direction if they are unhappy with how their complaint has been handled. This would result in further frustration and delays for passengers; they should be clearly directed to us (or London TravelWatch) according to ORR's recommendations in this paper and our role and status must be clearly defined for passengers.

Question 7

Do you believe our proposed monitoring activities will be effective in ensuring compliance with the obligations? Is there any additional evidence that you would like to see included as part of this process?

Yes. Operators need to be clearly documenting the process followed and outcome of investigations to ensure compliance. Inconsistency and 'gaps' in the process are standard and it is evident that some companies currently document better than others.

In addition to being effective for compliance purposes, this could be helpful for promoting best practice, possibly tying in with the ORR satisfaction survey.

Question 8

We ask for comments on our initial approach and its impact, including both any costs and benefits that we do not identify.

We agree with the detail of the regulatory impact section.

We are aware that operators' reluctance to deal with complaints fully, or at least not to the passenger's satisfaction, could well have a cost impact upon ourselves if the number of referrals should increase.

Transport Focus, July 2015

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