Review of The Rail Ombudsman

Findings report for The Office of Rail and Road

Report from RedQuadrant

Contents

Executive Summary

The Rail Ombudsman scheme, an Alternative Dispute Resolution (ADR) scheme for railways, was launched in November 2018. RedQuadrant was asked by the Office of Rail and Road (ORR) to review the progress of the Scheme after its first year in operation. This review benefited from the contributions of a wide range of industry stakeholders as well as the Rail Ombudsman, and we thank all those who engaged with us for their cooperation. We assessed what was working well for both customers and the scheme partners from the rail industry, and identified key challenges or risks that are potentially impeding progress. The improvements recommended are intended to address these challenges, strengthen the Scheme, and enable its success.

Our research was framed by recognised principles for ombudsman schemes and best practice for good governance, as we sought to understand:

- the effectiveness of governance, contractual and other relationships between the Rail Ombudsman and its various stakeholders
- the degree to which the Rail Ombudsman is providing timely and effective redress for consumers with an efficient operating model
- the feedback loops to operators, and the degree of influence on the wider industry

The evidence underpinning our findings and recommendations was collated from an in-depth desk review covering both the Rail ADR Scheme and similar ombudsman providers, alongside best practice, benchmarking, and stakeholder interviews.

Key findings and summary of key recommendations

It is important to emphasise that the Rail Ombudsman was only established in November 2018. Since this review was carried out less than eighteen months into the contract, we assessed its early progress as well as opportunities for improvement.

Notwithstanding this we have concluded that the Rail Ombudsman is performing well in several areas:

- the KPIs identified in the contract are being met
- the train operating companies (TOCs) are satisfied with the regular support, training, and knowledge transfer which they receive from the Rail Ombudsman
- the contribution of the Rail Ombudsman to the Rail Delivery Group Complaints Working Group is both valued and encouraged
- we are reassured that the Rail Ombudsman is alive to the day to day operational issues of running an ombudsman organisation

The review focuses on three areas: governance and accountability, operations, and impact and influence. Our key findings and key recommendations in each of these areas are given below. (Detailed recommendations are outlined in the recommendations section in the main document.)

1) Governance and accountability

We note that when the Rail Ombudsman was being established, there were several complex discussions between stakeholders (including the Ombudsman Association) about the Scheme's governance arrangements, especially how lines of accountability would work in practice and how the independence of the Rail Ombudsman could be demonstrated.

The Rail ADR Scheme Council (SC) is the main body responsible for governance and assurance of the Scheme. The Scheme Council is composed of all Scheme members (the Train Operating Companies) and a "sub-committee" of independent members who represent the interests of consumers and the public. The independent members hold a majority of voting rights on most SC responsibilities, except for approving the annual budget and setting subscription fees and their apportionment.

The Scheme's governance evolved slowly during the first operational year. Meeting attendance at the SC by some scheme members and independent members, as well as the SC leadership, was inconsistent. The agendas primarily focused on the Scheme rules and the Ombudsman's start-up operations. SC meetings did not include proactive discussions of important strategic issues or assurance of the Rail Delivery Group's contract management and its relationship with the Ombudsman. While there has been some progress toward ensuring it is working effectively to protect the independence of the Ombudsman while holding it to account, our view is that the Scheme Council has not yet identified the right level of management and performance information to make good strategic decisions and to hold both the Ombudsman and the Rail Delivery Group accountable for the successful running of the Scheme. While we understand that formal voting by resolution is used to create a suitable level of independence for the Scheme, we believe this over-reliance on voting has delayed decision-making and compromised assurance.

We recommend that:

- The governance of the Scheme, via the Scheme Council, needs to be improved, with a particular focus on ensuring that the Scheme contractor and the Scheme provider can be held to account for their respective roles. A first step is to transfer the secretariat role from the Rail Delivery Group to the Office of Rail and Road. The next steps are to revise the SC's meeting agendas and improve the information the SC receives.

- The SC's assurance capability can be strengthened by changing its ways of working. The governance handbook should be revised to allow the delegation to Task and Finish Groups of matters requiring deeper analysis, such as strategic issues, critical risks or options appraisal. This will strengthen assurance by creating further opportunities for independent members to contribute their expertise and perspectives. This revision will also reduce dependence on formal voting and enable the Scheme Council to take greater responsibility for the strategic viability and long-term sustainability of the Scheme.

- Clarifying the leadership roles and responsibilities of the Scheme Council will also strengthen assurance, especially with regards to the Scheme's independence. In the longer term, the Scheme's governance would benefit from considering the addition of independent Non-Executive Directors, to take both a strategic and an assurance role.

2) Operational delivery

We believe that the Rail Ombudsman is functioning well as an ombudsman provider. Decisions are being made promptly, TOCs are broadly satisfied with the service they receive, and very few complaints have gone to the independent assessor. To further improve, we recommend that:

- the Rail Ombudsman would benefit from gaining more detailed and regular feedback from consumers, especially around the perception of and confidence in their processes being balanced, fair and transparent.

- the Rail Ombudsman investigates areas that may improve efficiency, in particular, analysing cases for early resolution and reviewing the staffing model.

3) Impact and influence

Recognising that the Rail Ombudsman is still relatively new, we do not yet see clear evidence that they are taking on the influencing role that we expect to see from an ombudsman. The purpose of an ombudsman organisation is to act as a catalyst for improvements within the industry that they serve. While some steps have been taken in this direction, we believe more needs to be done. We recommend that:

- more emphasis is placed on the Rail Ombudsman's role to provide strategic insight

- the Rail Ombudsman uses the information they hold to feed back to the industry and promote good practice

- the Rail Ombudsman adopts some more transparent ways of working and aims to adopt the same level of openness and transparency as a public sector ombudsman

1. Background, objectives, and methodology

1.1. Background

The Ombudsman Task Force developed proposals to introduce the alternative dispute resolution (ADR) Scheme. The Rail Delivery Group (RDG) led the Task Force working with ORR, Transport Focus and London TravelWatch. In November 2018, the ADR Scheme for railways, the Rail Ombudsman, was launched. Operated by Dispute Resolution Ombudsman (DRO), the Rail Ombudsman provides redress when complainants have reached the end of the internal process with a train operating company (TOC), but do not feel that their case has been resolved. This report was commissioned by the Office of Rail and Road (ORR), which was part of the original Task Force.

In order to be credible and successful, an ombudsman scheme must be transparent, timely and fully independent. The review which led to the creation of the Rail Ombudsman identified that complaint handling procedures need to ensure that they address seven essential principles to be effective, i.e. transparency; accessibility; effectiveness and efficiency; responsiveness; fairness; accountability; and improvement.

The success of the Rail Ombudsman is important for ORR in helping it to achieve two of its four strategic objectives:

- support a better service for customers
- secure value for money from the railway, for users and funders

As with all ombudsman schemes, the Rail Ombudsman's ability to contribute to the successful running of the rail networks is dependent on their ability to see trends in complaints and to work effectively with the TOCs when giving feedback. Success also depends on how much attention the TOCs pay to the outcomes of complaints by the Rail Ombudsman, and how much the Rail Ombudsman considers themselves responsible for looking at the profiles of complaints as a trigger for wider service improvements.

1.2. Objectives

This review has arisen from ORR's commitment to carry out an independent review of the Rail Ombudsman Scheme after its initial 12 months. We acknowledge that this was a start-up year for the Rail Ombudsman, with the review period covering its first full year of operations. We note that some early decisions reflect the need to set the Scheme up at speed. Aspects of the start-up year challenged some original assumptions about the Scheme's capacity and

resourcing. When the Scheme began, the anticipated demand was estimated, partly based on cases received by the advocacy bodies - Transport Focus and London TravelWatch.

As the year unfolded, the initial caseload volume was lower than projected. However, for those cases that the Rail Ombudsman did receive, more complex investigations were required than anticipated. Other changes during the year required further adaptation, such as the onboarding of additional Scheme members. TOCs and station licences were modified by ORR so that all TOCs are now required to be Scheme members. For franchise train operators, open-access operators and Network Rail membership has been a requirement since July 2019 and for other TOCs and station licence holders, since November 2019.

This review is an opportunity to take stock and make necessary corrections. We were asked to assess and comment on:

- whether the Rail Ombudsman continues to provide a timely and effective means of redress for consumers, using the terms on which it was appointed, current best practice, and the reporting relationship between the Rail Ombudsman and the relevant parties as reference points
- how industry parties including ORR, RDG, and Department for Transport (DfT) can hold the Rail Ombudsman to account for their work
- to what extent the Rail Ombudsman is working effectively with the operators, the feedback loops to operators, including whether systemic issues are being identified and fed back to the relevant authorities

In the review we were asked to take account of:

- governance requirements and compliance with ORR complaints handling guidance
- performance indicators
- transparency for consumers and operators
- effective case management including quality assurance
- feedback loops for service improvement
- mechanisms to deal with systemic issues and potential breaches of regulatory requirements by operators
- feedback to Transport Focus, London TravelWatch, and ORR
- signposting arrangements and case referral time periods

To take account of the Rail Ombudsman's role and complex governance arrangements, we have focused our review and therefore our findings and recommendations into three sections:

- governance and accountability of the ADR Scheme as a whole, with a focus on the Scheme Council
- the Rail Ombudsman operating model, taking account of their internal processes, staffing model, value for money, reporting and consumer experience measurement
- the role of the Rail Ombudsman in impacting and influencing the rail industry as a whole

1.3. Methodology

From late January to March 2020, we carried out extensive desk research and spoke to the full range of stakeholders of the Rail Ombudsman, to fully understand the role of the Rail Ombudsman within its context.
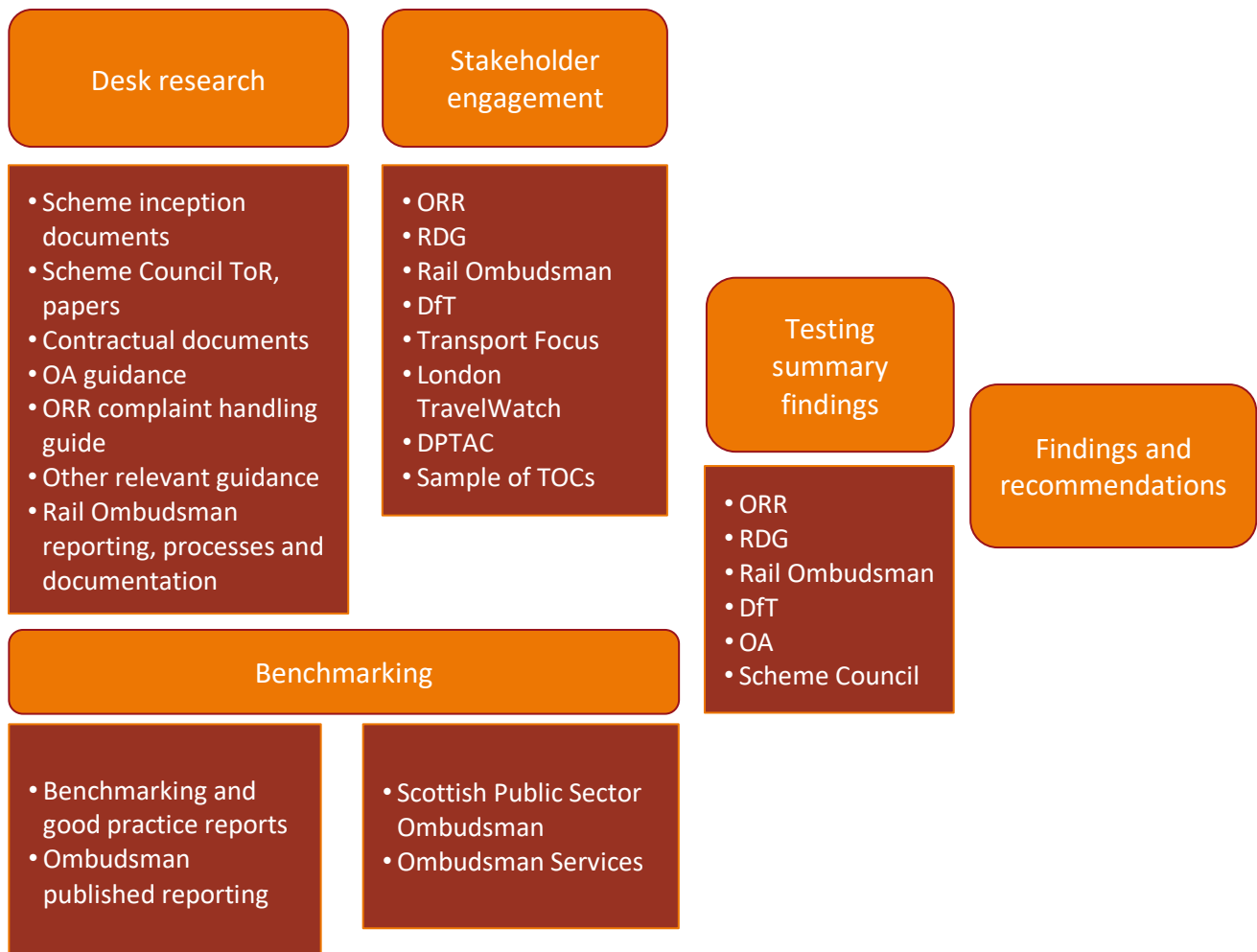

Desk research
- Scheme inception documents
- Scheme Council ToR, papers
- Contractual documents
- OA guidance
- ORR complaint handling guide
- Other relevant guidance
- Rail Ombudsman reporting, processes and documentation

Stakeholder engagement
- ORR
- RDG
- Rail Ombudsman
- DfT
- Transport Focus
- London TravelWatch
- DPTAC
- Sample of TOCs

Testing summary findings
- ORR
- RDG
- Rail Ombudsman
- DfT
- OA
- Scheme Council

Findings and recommendations

Benchmarking
- Benchmarking and good practice reports
- Ombudsman published reporting
- Scottish Public Sector Ombudsman
- Ombudsman Services

Figure 1: RedQuadrant methodology for reviewing the Rail Ombudsman

We have also informally discussed our findings and recommendations with the Ombudsman Association (OA). To place the Rail Ombudsman within the wider ombudsman context, we carried out benchmarking with other ombudsman schemes. In compiling this report, we tested our findings and recommendations with key stakeholders and took their feedback into account. Our approach is summarized in the diagram above.

We acknowledge the effect of the coronavirus global pandemic on the rail industry, the significant reduction in rail journeys and therefore the likely effect on the volume of complaints going to the Rail Ombudsman. That said, we believe that our findings and recommendations remain relevant in these changing circumstances.

2. Governance and accountability

2.1. A framework for assessing the Rail ADR Scheme's governance effectiveness

2.1.1. Ombudsman Association guidance and principles

This review of the Rail ADR Scheme's governance was informed by the Ombudsman Association's good governance principles, good governance practices for voluntary ombudsman schemes, as described by the OA, and founding documents laying out the industry and government (Department for Transport) expectations for the Rail ADR Scheme.

The independence of an ombudsman is vital to assuring customer and scheme members' confidence in the fairness, transparency and integrity of its decisions. Good governance is the means to assuring this independence.

In the context of the Rail Ombudsman, this means that the Scheme should operate independently, without direct interference or influence from those it has the power to investigate, i.e., the Scheme's members. In that way, customers will find the Ombudsman's actions and decisions to be truly independent, and therefore fair and trustworthy. Similarly, the Ombudsman's approach to reviewing and deciding customer complaints should also instil confidence amongst the Scheme members.

For this review, we examined how the Scheme's governance structures, processes and culture were assuring and protecting the independence of the Ombudsman. To guide our analysis of governance effectiveness, we started with the OA's six principles of good governance:

- independence
- fairness
- openness and transparency
- accountability
- integrity
- effectiveness

As the following diagram illustrates, these principles make clear that independence is at the core of an effective ombudsman:



Principles diagram

The following diagram illustrates the relationships between the principles of good governance, with 'independence' at the core, surrounded by four supporting principles, and 'effectiveness' surrounding them all.

Independence

Ensuring and demonstrating the freedom of the office holder from interference in decision making

Effectiveness

Ensuring that the scheme delivers quality outcomes efficiently and represents good value for money
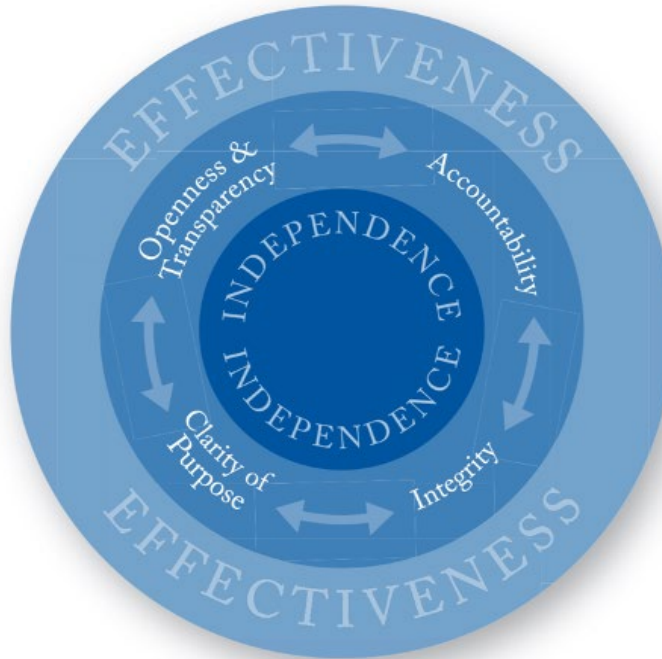
Openness & Transparency

Ensuring openness and transparency in order that stakeholders can have confidence in the decision-making and management processes of the scheme

Accountability

Ensuring that that all members of the scheme, including the office holder, staff members and members of any governing body, are seen to be responsible and accountable for their decisions and actions, including the stewardship of funds (with due regard to the independence of the office holder)

Integrity

Ensuring straightforward dealing and completeness, based on honesty, selflessness and objectivity, and ensuring high standards of probity and propriety in the conduct of the scheme's affairs and complaint decision making

Clarity of Purpose

Ensuring that stakeholders know why the scheme exists and what it does, and what to expect from it

Figure 2: Ombudsman Association six principles of good governance

The OA's principles for good governance are aimed at statutory schemes. However, we agree with the OA's view that the Rail Ombudsman Scheme, although formally established as a voluntary scheme, should nonetheless be expected to meet these principles, especially since train and station licence holders are now obliged to join the Scheme. The Office of Rail and Road introduced a licence condition requiring membership in 2019.

The OA has described good practice for voluntary ombudsman schemes.[1] Typically, a voluntary scheme covers a specific industry and would be overseen by an independent board or Council, composed of non-executive directors (NEDs). The NEDs should represent a combination of consumer, public and business interests, with the business representing a minority on the board.

2.1.2. Comparison with other ombudsman schemes

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[1] https://www.ombudsmanassociation.org/about-methods-of-establishment.php

As part of this review, we also looked at other industry ombudsman schemes to identify common features and approaches to good governance, noting similarities and differences with the Rail ADR Scheme. For instance, in other regulated industries, relevant Acts of Parliament have provided for a statutory ombudsman scheme, e.g. the energy and telecommunications industries. In these examples, the industry regulator gives its approval to the provider of ombudsman services as meeting the requirements of its criteria, and the industry members agree to join the service. For the Rail ADR Scheme, the industry's trade group, the RDG, contracts with the Rail Ombudsman on behalf of the Scheme's members, the Train Operating Companies (TOCs).

2.1.3. Analysis of Scheme governance

We assessed governance effectiveness by reviewing the Rail ADR Scheme's founding documents and considering the assurance expectations from both the industry partners and government. From these documents, the full customer complaints journey can be understood, along with the Ombudsman's specific role in relation to the sector's responsibility.

The Rail ADR Scheme is governed by a comprehensive governance handbook, which describes the agreed governance structures and processes. Given the Ombudsman's core business of complaints handling, we also referred to the ORR's complaints handling guidance and the OA Guide to principles of good complaints handling to frame our understanding of industry expectations and standards.

2.1.4. DfT expectations

The Department for Transport Minister also set out expectations for the Scheme from their perspective,[2] with many focused on the Ombudsman providing a fair and independent process which passengers can trust; and an accessible, responsive and seamless service, including:

- providing good customer experience, including a 'single front door'
- enabling industry learning through a feedback loop
- being clearly and visibly independent, and providing a service which inspires trust

As Ombudsman decisions are binding, the DfT also expected the Ombudsman to provide the train companies with a strong incentive to tackle the root causes of complaints.

2.2. The Rail ADR Scheme's governance structures and processes

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[2] Communication by email from the DfT to the Ombudsman via the RDG, 15 August 2018, following a three-way meeting between the DfT, the RDG and the Rail Ombudsman on 14 August 2018.

When the Rail ADR Scheme was established, the governance arrangements were designed to assure the independence of the Ombudsman. Still, they are acknowledged by the OA and the Rail Ombudsman stakeholders to be complex and unusual.

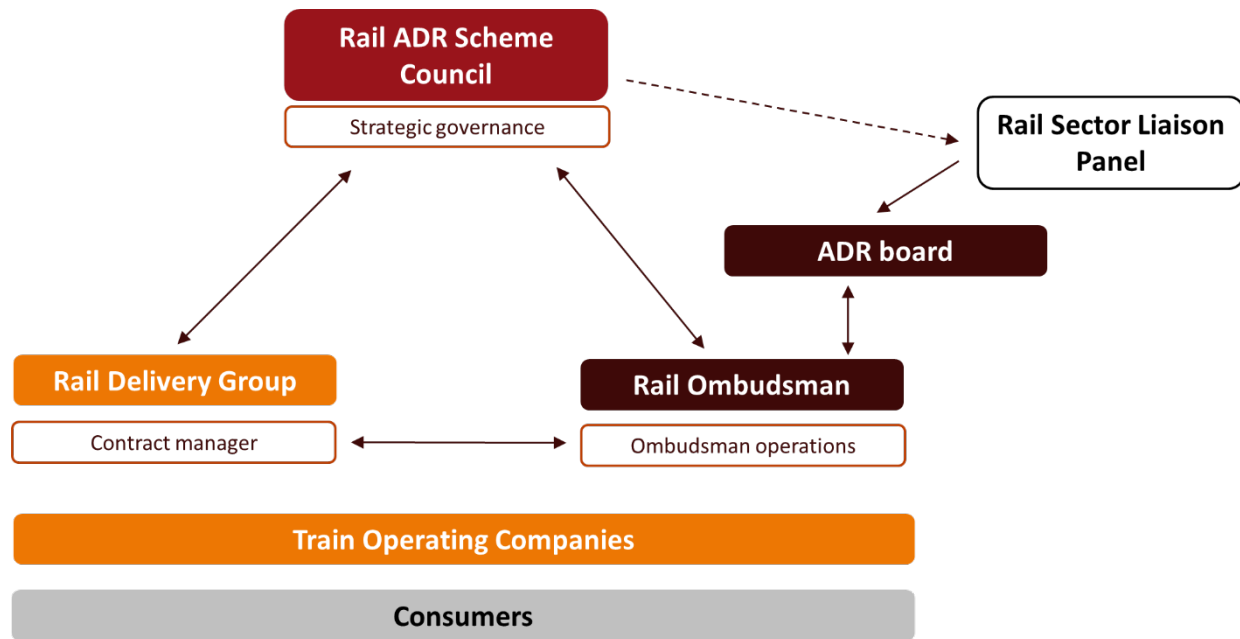The current governance structure is summarised in the diagram below:

Figure 3: Current governance structure for Rail Ombudsman

Each structural component has different roles and remits:

2.2.1. Rail ADR Scheme Council (SC)

The **Rail ADR Scheme Council** (SC) is the main body responsible for governance and assurance of the Scheme. The SC is composed of all Scheme members (the TOCs) and a "sub-committee" of independent members who represent the interests of consumers and the public.[3] While defined as a sub-committee, this term is used to describe the independent members, and they do not meet outside of the quarterly SC meetings. The SC is presently chaired by one of the independent members. The SC provides oversight of the Scheme through quarterly meetings, with the Rail Delivery Group providing the secretariat.

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[3] Independent members include representatives from Transport Focus, London Travelwatch, Disabled Passengers Transport Advisory Committee, the Department for Transport and the Office of Rail and Road.

The specific remit of the SC is:

- to provide strategic governance of the Scheme
- to oversee the RDG's administrative role in managing the Scheme
- to manage the RDG's relationship with the provider of the Scheme
- to ensure appropriate application of the scheme rules.[4]

The Council

The Council has sole responsibility for all matters relating to this Scheme including:

a) authorising RDG to act as agent, on behalf of the Scheme Members;
b) authorising RDG to appoint an alternative Service Provider;
c) authorising RDG to enter into agreements in relation to this Scheme;
d) approving any Substantive Variance to this Scheme;
e) approving any variance to the rules of this Scheme which affects the role of the Independent Members;
f) approving any variance to the Rail ADR Service Rules (the "**Service Rules**");
g) approving any Substantive Variance to the Contract other than to the Service Rules;
h) determining the amount of the Rail ADR Subscription Fee and the method of the apportionment of the Rail ADR Scheme Membership Fee for the following Contract Year and adjusting the Budget;
i) reviewing feedback on the Service from rail sector organisations and consumers; and
j) reporting to the Rail Sector Liaison Panel so that it is equipped to fulfil its consultative role.

All of the Independent Members are required to vote on (d)-(g) above and on the approval of:

(i) any Service Improvement Plan required under the Contract from the Service Provider;
(ii) the initiation of any termination procedures under the Contract on the ground of poor performance by the Service Provider; and
(iii) the appointment of any replacement Service Provider in the event of a future retendering of the Contract.

Figure 4: Scheme Council Terms of Reference and voting rules

Independence from the industry is secured through the voting arrangements, with the independent members holding a 51% majority share. Governance authority and voting rights are described in the Governance Reference Handbook for the Scheme.

The SC approves the Scheme's annual budget, plus any changes to the Scheme, service rules or contract. Decision-making by vote is set out in the list above (Figure 4), with some votes like

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[4] Rail ADR Scheme Council Terms of Reference approved by the Scheme Council on 17 June 2019.

subscription fees and the annual budget reserved for Scheme members only.[5] The SC is also expected to "equip" the Rail Sector Liaison Panel to fulfil its advisory role in relation to the Rail ADR Service Board. (More information about SC voting rights and requirements is provided in Appendix B.)

The term 'Ombudsman' can only be applied to a scheme if the OA is satisfied that it meets its criteria. During 2018, as part of discussions between RDG, the prospective Rail Ombudsman and the Ombudsman Association; the Scheme Council with its independent members was therefore adopted as a way of creating appropriate distance between the rail industry (with its trade body as the contract holder) and the Rail Ombudsman. The OA intended the SC to be like an "arms-length body", responsible for scrutinising the Ombudsman's performance.[6]

2.2.2. Rail Delivery Group (RDG)

On behalf of the Rail ADR Scheme members, the **Rail Delivery Group** (RDG) holds the contract with the Dispute Resolution Ombudsman (DRO or the Ombudsman) on behalf of the scheme members. The RDG has an ongoing relationship managing the Ombudsman's delivery of contractual obligations and Scheme performance through quarterly meetings and an annual performance review. In this structure, the Scheme Council is expected to hold the RDG to account for its management of the ombudsman contract and its relationship with the provider.

2.2.3. Rail ADR Service Board

Rail ADR Service Board is responsible for managing the day-to-day strategy and operations of the Scheme. In effect, DRO's corporate board takes on this role, which includes business planning, performance monitoring, financial matters and internal controls. The OA expects a voluntary ombudsman scheme to have a board with a majority of independent non-executive directors and to be chaired by one of them. In line with this expectation, the DRO board is contractually required to have a majority of independent non-executive directors and an independent non-executive director as chair.[7]

DRO is in a contractual relationship with the RDG, and thus, for commercial reasons, the ADR Service Board is not directly accountable to the SC. For example, although the SC approves the Scheme's annual budget to set or adjust scheme membership fees, it does not, at present, review the Service Board's annual business plan and accounts, which would be considered a management responsibility. The Service Board is also responsible for appointing the Lead Adjudicator/Ombudsman, who has several roles. S/he provides independent oversight of all

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[5] Ibid.
[6] Rail ADR Scheme letter and proposal, from John Horncastle, RDG, to Nick Bennett, OA, 24 October 2018.
[7] Governance section of the Rail ADR Scheme contract, Schedule 5.1, subsection 2.3.

aspects of case management, mediation and adjudication; publishes an annual report; and shares insights and systemic issues with the industry's regulator (ORR) and the Rail Sector Liaison Panel.

2.2.4. Rail Sector Liaison Panel

The **Rail Sector Liaison Panel** has a consultative role in relation to the Rail ADR Service Board. Meeting at least twice a year, the Liaison Panel has an advisory and not an assurance role, providing advice on "matters which require rail industry input and advice" and feedback about the Ombudsman's performance from an industry perspective.[8] The Liaison Panel "exists to perform a consultative role for the Rail ADR Service Board; as a forum for "rail industry and consumer input and advice" and to "provide input and advice on matters on the landscape affecting the Rail ADR Service".[9] The panel is expected to balance the interests of consumers and industry members in its composition; it is chaired by an independent member and has secretariat support by the Ombudsman.[10] Current membership is provided below:

Role	
Chair	Independent
Vice-chair	Rail industry
Secretary	Secretariat services provided by Rail Ombudsman
Rail ADR Scheme representation	Rail industry
Statutory appeals body representation	Consumer body
Office of Rail and Road representation	Regulator
Accessibility representation	Independent
Independent representation	Independent

Figure 5: Current membership of Rail Sector Liaison Panel

2.3. Findings

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[8] Governance section of the Rail ADR Scheme contract, Schedule 5.1, subsections 5.1-5.4.
[9] Rail Sector Liaison Panel Terms of Reference
[10] Membership of the Liaison Panel includes: an independent chair representing consumer interests, a vice chair from the rail industry, another Scheme member representing the rail industry, statutory appeals body representation, two additional independent members and the regulator ORR.

We explored how the Scheme's governance was working in practice in relation to the OA's six good governance principles and the original expectations by the industry and government. Interviews with key stakeholders helped us identify where the Scheme's governance is working well, the challenges or barriers to good governance, and opportunities for making improvements.

We reviewed the relationships between different stakeholders, formal and informal structures established to oversee the Scheme, and evidence and reports from different types of meetings held during the Ombudsman's first 14 months. Benchmarking evidence from other ombudsman providers also informed our analysis.

2.3.1. Governance in the Scheme's first year

2.3.1.1. Scheme Council

The Scheme's governance evolved slowly during the first operational year. The structural components came on board at different times. The SC took time to find its feet. While its ways of working evolved, governance capability remained relatively immature. Some aspects of the SC's remit did not feature on meeting agendas.

The inaugural meeting of the Scheme Council was in June 2019. We understand that the delay in arranging the first meeting was due to the low number of cases coming through for decision in the early months of the Scheme bearing in mind that the first cases were not eligible to be received until mid-January. The SC is expected to meet quarterly. It met again in November 2019, February 2020, and late April 2020. Meeting attendance by Scheme members and independent members, as well as the SC leadership, has been inconsistent. The SC agendas have primarily focused on the Scheme rules and the Ombudsman's start-up operations; they have not corresponded to the SC's full Terms of Reference.

As the primary assurance body for the Scheme, the SC appears to be facing twin challenges of culture and capability. During its first year, the SC was asked to approve several changes to the Scheme, some substantive but most administrative. The Scheme members we interviewed, both industry and independent members, expressed concerns that, for the more substantive matters, the Ombudsman was not providing the right level of management and performance information to make good strategic decisions. For instance, while the Ombudsman's Quarterly Reports include information about the numbers of cases and contacts, maximum compensation and industry engagement, members commented that the SC's oversight of the Ombudsman's performance would benefit from caseload data presented as trends, early insights about the Scheme and highlighting performance risks (operational and financial).

The SC agendas suggest that important strategic issues are not proactively being discussed, such as the long-term financial sustainability of the Scheme. The SC's assurance of the RDG's contract management and its relationship with the Ombudsman also did not appear on the agendas. The status of the Rail Ombudsman at the Scheme Council is unclear, e.g., when to attend the SC meeting and for what purpose. Presently, the Rail Ombudsman does not regularly attend meetings, but it was represented at the extraordinary meeting.

Although the intended function of the independent 'voting' members is to create a suitable level of independence for the Scheme, we do not think this has been successful to date. Voting was the preferred way of resolving matters during the SC's first year, but this delayed decision-making and compromised assurance. For instance, extraordinary meetings were called in November 2019 and February 2020 to vote on proposals for adjustments to the Scheme's rules, the onboarding of new Scheme members and measures regarding the budget. The voting resolutions, e.g. change request forms, did not as a matter, of course, identify the financial or operational implications of the decisions.

The urgency of tackling these issues might have been addressed more quickly and thoroughly had the SC not relied on the constraints of formal voting. At the SC meeting in January 2020, for instance, it was noted that "the Council would need more detail to be able to examine figures rigorously and ensure the figures are validated."[11] This resulted in a call for arranging a further EGM in April 2020. An alternative approach used by other governing bodies might have included delegating a deep-dive review to a Task and Finish Group in January, with a forward plan reviewed at the EGM in February. At present, the SC does not have provision to delegate matters that require in-depth review or investigation.

The size of the SC may also be interfering with good governance. The SC's meetings were held in person, with some TOCs participating virtually through teleconferencing; until the Covid-19 pandemic moved the April 2020 meeting entirely online. The number of members has not been conducive to robust discussions and effective assurance of the Scheme, i.e., the type of check and challenge observed on other boards or councils, which have fewer members.

2.3.1.2. Rail ADR Board
We sought to confirm that the majority of DRO's board directors are independent non-executives and have no ties to the rail industry. This information was not available from the Rail Ombudsman or their website, but through Companies House, we found five directors listed, with at least three of those being independent.

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[11] Scheme Council meeting minutes, 14 January 2020.

The Board's proceedings were not made available to us for this study, because of commercial sensitivities expressed by the Ombudsman's senior team. DRO told us that the Board made decisions without undue influence or interference from the rail industry; while we were not able to verify this, neither did we see evidence to suggest any compromise of the Ombudsman's independence. We did not receive the Board's conflict of interest policy.

Other ombudsman services make more information available about how they assure the fairness and impartiality of the Ombudsman's decisions. This includes consumer-orientated information on their websites or in regularly published reports about the sectors they adjudicate. For other ombudsman schemes, fulfilling the principle of openness and transparency also means publishing case studies, business plans and budgets, and in some cases, minutes from board meetings. Summary benchmarking information in these areas can be found in Appendix C.

Instilling public trust in the ombudsman's processes and decision-making also depends on who is involved. The status of independent board leadership, as well as greater openness and transparency, are critical. For instance, the Energy Ombudsman has six non-executive directors on its Board. All of them have cross-sector experience but no links to the energy industry. Information about their board appointments process is published online, along with an annual report and accounts.

2.3.1.3. Rail Sector Liaison Panel

We found that Rail ADR Scheme members and the Ombudsman held persistent expectations for the Liaison Panel as a mechanism for the industry and consumers, through their representatives, to advise the Rail ADR Board about contextual matters related to its delivery of an independent ombudsman service. Agendas and minutes from the Liaison Panel's first two meetings suggest the impact of the Panel has been limited to date. The Liaison Panel first met in December 2019 and has since met once more in March 2020.[12] The Panel's composition leans most heavily on representatives with consumer interests, with one member designated as a representative of the Scheme Council (and thus the rail industry). Attendance at the two meetings has been inconsistent.

Looking at the meeting minutes, the Panel was asked to comment on the outcomes from two perceptions surveys (industry and consumers), a draft annual report, expanding the Ombudsman's scope, the impact of COVID-19 on the industry, and ethical business practices.

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[12] It is unclear why the Liaison Panel did not meet during the first twelve months of the ombudsman scheme.

Aside from these items, we did not find evidence that the Liaison Panel provided contextual information about other operational matters of concern to the Rail Ombudsman.

We also found the link between the Scheme Council and the Liaison Panel to be tenuous. The SC's meeting minutes have not included any reference to supporting its representative on the Liaison Panel or in receiving a report of the Panel's proceedings and outcomes. We were also not able to determine if the Panel's industry member was able to contribute constructively to Liaison Panel matters, e.g., sharing industry insights or providing context for systemic issues.

In respect of governance, the role of the Liaison Panel remains confused and of limited use. While it is wholly commendable for the Rail ADR Board to seek contextual advice to improve how it runs the Rail Ombudsman, our view is that the Liaison Panel should not be misunderstood as providing assurance. Not only are its powers strictly limited to providing advice to the Rail ADR Board, but the Liaison Panel lacks the powers and authorities associated with regular governance functions.

2.3.1.4. Summary

The Rail ADR Scheme's complicated governance arrangements retain unresolved tensions between the key stakeholders about their respective assurance roles and responsibilities.

From the minutes of the SC meetings and EGMs, for instance, the SC appears to be taking a more substantial role in directing the operations of the Rail Ombudsman instead of demonstrating independent scrutiny behaviours (e.g., appropriate check and challenge).

During the Ombudsman's first year, the SC was asked to consider proposals for adjusting the Ombudsman's service model. SC members described seeking detailed evidence from the Ombudsman about how it was managing its existing resources. This focused the SC's attention onto the Ombudsman's operating model, its staffing and the costs of mediation and investigations. In doing so, the SC disregarded its role in assuring the Scheme's financial independence and overall sustainability. Scrutiny of the RDG's contract management function was also overlooked.

This misunderstanding of the differences between the SC's and the ADR Board's respective roles and responsibilities has created friction between the Ombudsman and some of the TOCs, and this, in turn, appears to have muddied Scheme members' understanding of how the Ombudsman retains its independence. Our view is there should be more unequivocal distance — i.e. tangible independence — between the Ombudsman and the train companies they adjudicate.

2.4.   Recommendations

Governance of the Ombudsman Scheme is a shared responsibility of all its members. Some of the challenges that emerged during its first start-up year arose because the Scheme's assurance structures and processes were also emergent. As the Scheme matures further, several improvements to the Scheme's governance would improve its accountability within the sector and with the public.

From our review of the evidence, and in line with the Ombudsman Association's good governance framework, three areas of the Scheme's governance have emerged as the most critical assurance gaps requiring attention:

- revising governance structures and processes to demonstrate the Scheme's independence more effectively
- creating a Scheme-wide culture that enables accountability across the Scheme, holding all partners to account for its effectiveness and sustainability
- building capability within the Ombudsman to operate as a more intelligent provider, with a focus on transparency and openness

We describe the assurance gaps, their effects on Scheme governance and how they create barriers to good governance alongside the recommendations below. The gaps perhaps reflect the relative immaturity of the Scheme's first operational year. Still, they are significant and require attention if customers, Scheme members and partners are to maintain confidence in the Scheme over the long term.

The recommendations are intended to strengthen the governance of the Scheme, and we concentrate on ways to build up the capability of the Scheme Council, which has the primary strategic governance role.

In addition, following the adoption of the recommendations, we strongly encourage the undertaking of a future governance effectiveness review. ORR and the DfT may wish to consider co-commissioning this review, perhaps in three to five years as part of a comprehensive review of the Rail Ombudsman. As an example, Ofgem has commissioned a review of the Energy Ombudsman every five years, and this review has included governance effectiveness in its scope.

2.4.1. Independence

Evidence from the desk review and stakeholder interviews suggests that the current governance arrangements and practices can be improved as they are not fully assuring or demonstrating independence. The review identified structural, process-related and behavioural patterns that, whether real or perceived, need to be addressed to demonstrate the Scheme's independence fully.

2.4.1.1. **RDG as both contract manager and SC secretariat**

In our view, though not intentionally, the RDG's dual role as contract holder and secretariat creates a potential conflict of interest, raising doubts about the ability of the SC to be "at arm's-length" and to provide full assurance of the Scheme's independence. To mirror best practice from other regulated industries, the ideal way of addressing this is for the Ombudsman to be a statutory scheme approved by ORR through legislation. This change would allow the appropriate level of independence and accountability for the Scheme and those who operate it. As an interim step, moving the secretariat responsibility from the RDG to ORR would achieve independent oversight, and this change can be adopted informally by the Scheme Council now. The new arrangement would also align with the requirements of the Ombudsman Association for assuring the Scheme's independence.

Recommendation 1a: Transfer the secretariat function for the Scheme Council to the Office of Rail and Road (the regulator).

Responsibility: Office of Rail and Road / Scheme Council

Recommendation 1b: Establish ORR as the formal sponsor of the Rail Ombudsman (through legislation if necessary).

Responsibility: Department for Transport

2.4.1.2. **SC voting**

There appears to be an over-reliance on formal voting to vary the Scheme, rather than governance practices associated with independent oversight (e.g. monitoring performance, managing risks). Evidence from other ombudsman schemes confirms that a reliance on voting arrangements to demonstrate independence is highly unusual. Revising the governance handbook would clarify which matters require formal votes and which require consensus, differentiating between major and minor adjustments to the Scheme. Requiring voting only for major changes would create the space and conditions for greater involvement of the

independent members in consensus decision-making and Scheme assurance. Limiting the types of decisions that genuinely require a vote will also improve the speed of decision-making.

Recommendation 2: Revise the governance handbook to reduce the Scheme Council's over-reliance on voting for decision-making. This will strengthen assurance by creating further opportunities for independent members to contribute their expertise and perspectives.

Responsibility: Scheme Council secretariat

2.4.1.3. **Governance practices**

This review has highlighted several instances where governance could be improved if there were greater independent oversight. One way to achieve this is to create a separate subcommittee for added assurance of the Scheme, such as an Audit and Assurance Committee. This committee would have the remit to review the detailed performance of the Rail ADR Scheme, including the RDG's administrative effectiveness and relationship with the provider. Emerging issues would be reported to the full SC by exception. We recognise that there will be resource implications for the secretariat with the additional committee to support.

Recommendation 3: Create a separate subcommittee for added assurance of the Scheme, such as an independently chaired Audit and Assurance Committee.

Responsibility: Scheme Council

2.4.2. Accountability

Based on the evidence we reviewed and the feedback from stakeholders, our view is that the SC is not yet able to fully achieve its governance role and remit with regards to accountability. We noted how initial governance practices and behaviours were limiting the SC's ability to provide assurance and demonstrate accountability. Based on this, we make the following recommendations about roles and relationships, governance capability and assurance practices.

2.4.2.1. **Roles and relationships**

While the Scheme's governance handbook lays out the responsibilities for each component of the governance structure, we detected some ongoing confusion about roles, for both individuals and organisations.

Providing role descriptions for the independent Chair and other independent members would strengthen governance processes and behaviours, and thus enhance the SC's independence. Ideally, the Chair should be supported by the secretariat to plan a forward agenda, to shape future discussions and to enable the Scheme to be proactive in its approach to governance.

Recommendation 4a: Strengthen the independence of the Scheme Council by providing role descriptions for the independent Chair and other independent members.

Responsibility: Scheme Council secretariat

Although no conflicts of interest have been apparent or observed, we note that all five independent members appointed to assure the SC's independence are stakeholders interested in improving customer experiences of the rail industry. In comparison, other ombudsman schemes include non-executive directors who are entirely independent of the industry on their governing Board or Council. The SC might consider recruiting NEDs who bring additional skills and perspectives to support good governance, e.g., audit and accountancy expertise.

Recommendation 4b: As part of a future governance effectiveness review, perhaps in three to five years' time, consider appointing additional independent members (non-executive directors) to the Scheme Council.

Responsibility: Scheme Council secretariat

2.4.2.2. Governance capability

If restructured carefully, and with forward agenda planning, the SC could address the areas previously overlooked. Additionally, the agendas and therefore, the focus of discussion should be improved to cover:

- overall performance of the Scheme, including trends in cases and types of decisions, and measures of customer experiences
- feedback from the sector about the Rail Ombudsman and its influence on upstream case handling, including system learning
- emerging issues
- proposals for Scheme changes
- approval of the annual budget.

Some of these items are specified in the existing TOR, but the agendas are not covering them in breadth or depth. We suggest a list of agenda items in Appendix D.

In addition, we did not find that the SC was actively identifying and mitigating risks to the Scheme, such as through a risk register.

Recommendation 5: Improve the capability of the SC to fulfil its governance role and remit by restructuring the SC meeting agendas. The revised agendas will clarify the distinct customer and provider accountabilities of the RDG, the Ombudsman and the SC, thus enabling the SC to function proactively and more productively.

Responsibility: Scheme Council and secretariat

2.4.2.3. Assurance practices

We found the SC's structure and style of working interfered at times with effective assurance practices. Unlike other governing bodies, there is no mechanism for delegating the exploration and resolution of complicated issues brought before the SC in the future. Allowing the SC to establish task and finish groups would ensure that critical issues are explored in-depth, problem-solving is more robust and that stakeholders and relevant experts have tested proposals brought back to the SC. Of course, there are likely to be resource implications for the secretariat to support additional committees, but the benefits to Scheme assurance should outweigh the costs.

Recommendation 6: The governance handbook should be revised to allow for delegation of matters, such as critical issues analysis or options appraisal, to Task and Finish Groups. This revision will reduce dependence on formal voting for decision-making and will enable the SC to take greater responsibility for the strategic viability and long-term sustainability of the Scheme.

Responsibility: Scheme Council and secretariat

The SC meetings appear too unwieldy to chair effectively. Too many people attend the quarterly meetings, now by teleconference, and attendance is inconsistent. Participation by the independent members is also limited. There may be a good case for considering whether a representative structure for TOCs (e.g., at a group level) might be used to reduce the size of the SC and improve its ways of working. A more manageable SC would also enable independent members to contribute more prominently to deliberations and decisions. Other ways to engage

with industry members and other stakeholders on a more consistent basis could also be explored, such as the industry workshops and events offered by other ombudsman schemes.

Recommendation 7: Consider whether the TOCs could be represented at a group level at the SC's meetings.

Responsibility: Scheme Council/RDG and TOCs

2.4.3. Openness and transparency

As a guiding principle for good governance, greater openness and transparency would instil confidence and trust between the Scheme's partners – the Ombudsman, the RDG, the Scheme members and the independent members — and with customers and the public. Promoting an accountability culture depends on greater transparency, and this review identified several areas where the sharing of information could be improved.

2.4.3.1. Scheme performance

Based on good governance practices for other governing bodies, we would have expected the SC to develop success criteria and clear strategic aims for the Scheme. In addition to formal reports, a standard option is to use a dashboard approach. This option allows the marking of achievements as well as the raising of issues or risks by exception. We propose a set of dashboard metrics in Appendix E.

Recommendation 8: Clarify what information and intelligence the SC need to fulfil its remit. The results should guide the content of reports provided at its quarterly meetings and support accountability.

Responsibility: Scheme council

2.4.3.2. Consumer focus

Aside from receiving the results from the annual Customer Experience Survey, the SC is not receiving regular information about how customers experience the Ombudsman's services. The SC should be taking an active role in setting standards for customer experiences. This role would entail helping to shape the annual customer survey, discussing the implications of the findings and setting expectations for improvement of the Scheme.

Recommendation 9: The SC needs assurance that the Ombudsman is working effectively for consumers. The SC should take an active role in setting and monitoring standards for customer experience as part of the Scheme.

Responsibility: Scheme council

2.4.3.3. Insights and learning

Given the SC's strategic governance role, we would expect information about how the industry can improve their case handling and customer experiences to be highly relevant to the SC's proceedings. Examples from other ombudsman providers, ranging from sector reports to formal publishing of case studies, illustrate how an ombudsman can effectively share insights and learning. Over time, we would expect the Rail Ombudsman to be generating industry insights in addition to the regular reports, especially on important rail customer issues.

Although it was not realistic to expect significant insights during the Ombudsman's first year, we found that learning from the Ombudsman's work was being conveyed elsewhere but not appearing on the SC agenda. For instance, we were pleasantly surprised when many Scheme members mentioned that the Ombudsman had been collating early learning and case studies and sharing this information with the TOCs, through the RDG's CWG and, more recently, with the regulator ORR. With all this informal activity, we were disappointed to find that the Ombudsman did not use the opportunity of its first Annual Review to highlight learning for the industry. We have discussed this further in the section on Impact and Influence below.

3. Rail Ombudsman operating model

3.1. A framework for assessing an ombudsman provider operating model

In this section, we focus on the operating model for the Rail Ombudsman. We have used the Ombudsman Association's key principles of good complaint handling shown below,[13] as a framework for our findings.

Key Principles

BIOA member schemes are independent of management control from organisations within their remit and are committed to our key objectives, which include the need:

- to formulate and promote standards of best practice and
- to encourage efficiency and effectiveness

In furtherance of these objectives BIOA has identified seven key principles which support schemes in our work and which people can rely upon when using our services. These are: clarity of purpose, accessibility, flexibility, openness and transparency, proportionality, efficiency, and quality outcomes.

In many cases, it is not possible to satisfy completely the needs and wishes of complainants. Incorporating these principles into the complaint-handling process will minimise unresolved issues or feelings of grievance. It may also make the organisation complained against less defensive, and increase the likelihood of achieving both resolution and organisational learning for the future.

Clarity of purpose. A clear statement of the scheme's role, intent and scope.

Accessibility. A service that is free, open and available to all who need it.

Flexibility. Procedures, which are responsive to the needs of individuals.

Openness and transparency. Public information, which demystifies our service.

Proportionality. Process and resolution that is appropriate to the complaint.

Efficiency. A service that strives to meet challenging standards of good administration.

Quality outcomes. Complaint resolution leading to positive change.

Figure 6: Ombudsman Association - Key principles of good complaint handling

In our review, we spoke to the Rail Ombudsman about their operations, reviewed their data, compared to other ombudsman providers and considered our conversations with other

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[13] https://www.ombudsmanassociation.org/docs/BIOAGoodComplaintHandling.pdf

stakeholders. The Rail Ombudsman is a new organisation, and as such has made changes to its operating model in this first year of operation; where relevant, we have mentioned these changes.

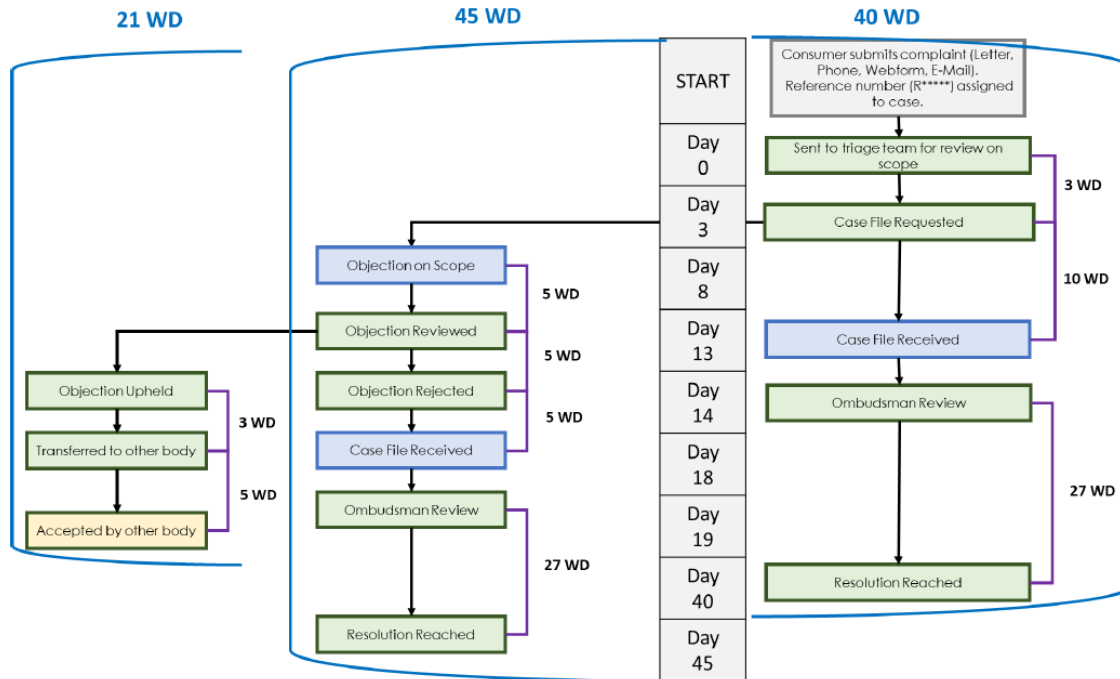The Rail Ombudsman complaints process is shown below.

Figure 7: Rail Ombudsman complaint process

3.2.   Findings

In the section below, we describe what is working well in the Rail Ombudsman's operating model and also where we have identified some potential opportunities to mature and improve operations.

3.2.1. Clarity of purpose
The Rail Ombudsman describes its purpose clearly to consumers via its website.

> *The Rail Ombudsman is an independent, not-for-profit organisation. We offer a free, expert service to help sort out unresolved customer complaints about service providers within the rail industry.*

> *Our vision is to inspire customer confidence and to deliver our service fairly to ensure the right outcome in every case. We also support the rail industry to raise standards.*

This purpose matches what we would expect to see from an ombudsman provider.

3.2.1.1. **Scope**

We found that the Rail Ombudsman staff can clearly articulate what complaints are within their remit. For consumers, they give brief information on this in their Eligibility Checklist.[14] More detail is provided in their Consumer Guide, which describes the type of complaints to which they can and cannot respond. The Rail Ombudsman is putting together suggestions of those areas where their scope could be expanded to provide a better service to consumers. They feel that consumers are particularly unhappy where their complaint, or part of their complaint, is considered out of scope. That is reflected in the consumer survey with low experience ratings for consumers whose complaint was deemed to be out of scope. Other stakeholders we spoke to did not appear to believe expanding the scope would be impactful and/or possible.

3.2.1.2. **Signposting**

The Ombudsman Association states that "Schemes should use a wide range of options for making the general public aware of their existence". TOCs, via the CWG, have been working to improve the accuracy and consistency of their signposting to Rail Ombudsman, via their websites, Passenger Charter and in complaints documentation, e.g. deadlock letters.[15] The RDG prepared a Good Practice Guide with details of what and where information about the Rail Ombudsman should be displayed. Our review of website information found that:

- the majority of TOCs provided the agreed signposting information for the Rail Ombudsman
- in some cases (30%), the information was out of date, e.g. not providing the current office hours since the reduction in opening hours
- it took between 1 and 3 clicks from the TOC home page to information about the Rail Ombudsman (Good practice guide recommends one click)
- around 50% of TOCs provided information about the Rail Ombudsman in their FAQs (Good practice guide recommends)
- there is a lack of consistency between the information TOCs, and advocacy groups are providing

Several stakeholders (both independent members and TOCs) felt that there were still some improvements to be made around signposting.

Consumers were asked about signposting in the Rail Ombudsman's first annual consumer survey. 45% of responses felt that the Rail Ombudsman was well signposted by their TOC.

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[14] https://www.railombudsman.org/making-a-complaint/complaints-we-can-investigate/
[15] A deadlock letter is the written final response from a TOC which could be in any written form e.g. a letter or email.

Details from the survey about when consumers were told about Rail Ombudsman are shown below:

- 3% - when they first complained to the Rail Operator
- 17% - during the complaints process
- 80% - when the complaint needed escalating beyond the Rail Operator

It is good practice to inform people about the Ombudsman when they first make a complaint. Since work has been done by TOCs in this area, it will be interesting to see whether responses to these questions change when the next survey is undertaken.

The Rail Ombudsman is a new organisation. Therefore, we would expect to see consumer behaviour change over time as knowledge of, and signposting to, the Rail Ombudsman improves. As can already be seen, the number of contacts to the Rail Ombudsman that need to be transferred to advocacy bodies has dramatically reduced in the first year of operation.

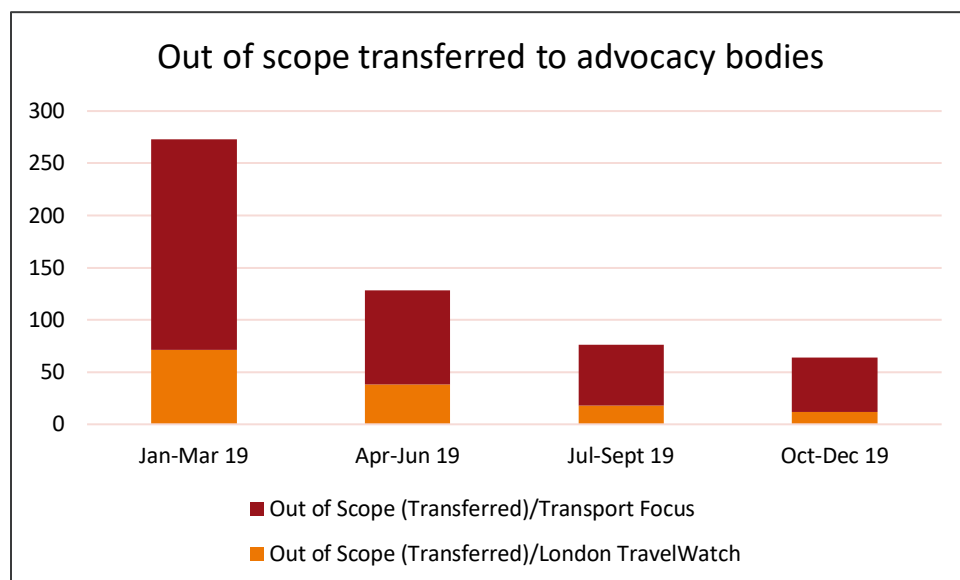*Figure 8: Chart showing out of scope transferred to advocacy bodies*

3.2.1.3. **Out of scope**

Out of scope complaints that cannot be referred on to another group (out of scope – ineligible[16]) run at around 30% of all complaints.

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[16] "Out of scope (ineligible): A complaint which is deemed ineligible for the Rail Ombudsman scheme and also for Transport Focus and London TravelWatch."

In/out of scope annual trend
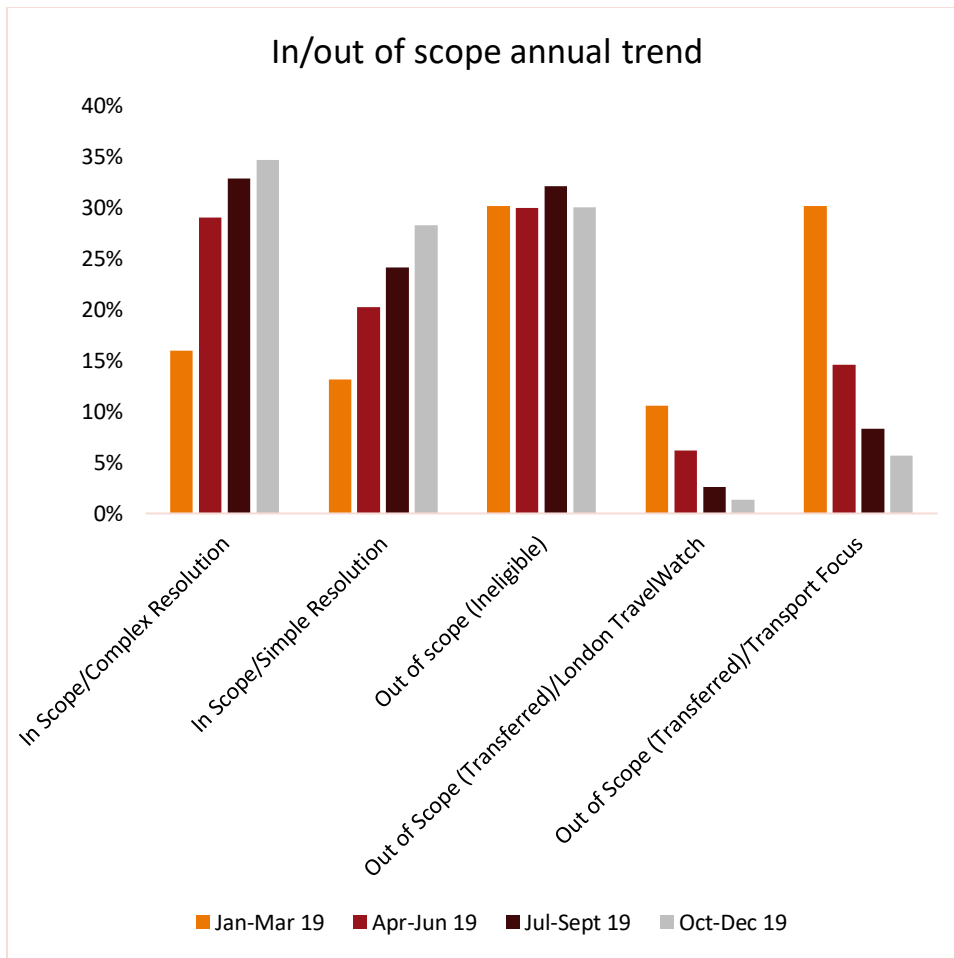
Figure 9: Chart showing in scope and out of scope l trend through 2019

We know consumers who are told that their complaint is out of scope rate their experience much lower (20% fairly/very good overall) compared to those whose complaint is in scope (50%-61%[17]).

Consistently, the most common reason (average 74%) for a complaint being out of scope is the consumer not having a deadlock letter. There is, therefore, potential to improve consumer experience and Rail Ombudsman efficiency by reducing the number of contacts before consumers have a deadlock letter by better signposting and communications.

Across 2019, 237 complaints (less than 10%) across a range of areas were out of scope for other reasons. To improve the consumer experience, it would be useful to review these cases and for the Rail Ombudsman to make specific recommendations to expand scope where appropriate.

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[17] 50% fairly or very good, 61% fairly or very good and neither good nor poor

3.2.1.4. **Raising industry standards**

Industry standards are covered in detail in the section on Influence and Impact below.

3.2.2. Accessibility

The Rail Ombudsman makes its service accessible by providing information in large print, Braille, easy-read, audio and can offer translation services or British Sign Language. 64% of consumers said the service is accessible. Abandonment rates are low (10%) for the online form once people have gone passed the eligibility criteria and 70% of consumers saw the complaint form as accessible (70%), clear (71%) and reliable (65%). These findings suggest that the online form is not a barrier to raising a complaint with the Ombudsman (although we note that the survey only went to people who had already made contact with the Ombudsman).

In addition, the Rail Ombudsman has a role in progressing complaints concerning accessibility of the rail industry, e.g. 57 complaints in 2019 related to accessibility.

In March 2020, as a measure to reduce costs for the Rail Ombudsman, the SC agreed that the Ombudsman could stop printing and distributing their 'Quick Start Guide' to stations. The responsibility for printing the Guides moved to the TOCs, therefore, consumer access should remain unaffected – we have not confirmed whether this has affected the availability of hardcopy Guides.

3.2.3. Flexibility

Consumers can learn about the Rail Ombudsman from several sources:

- the hardcopy Quick Start Guides available at stations
- train company and advocacy group websites
- Rail Ombudsman website

Unless there is a reason or preference not to do so, complainants are directed to the Rail Ombudsman online form to make a complaint. In the consumer experience survey, the majority of consumers felt that the different ways to contact the Rail Ombudsman were good (66%) and accessible (see above). That said, it is interesting to note that the Rail Ombudsman's contact profile which has 89% of complaints initiated by web (i.e. their online form) is not the same as the profile for some other Ombudsman providers. For example, the Ombudsman Services' contact split is 46% phone and 54% written (including web form (36%), emails (15%) and letters (3%)).[18] In some contact centre settings, taking initial complaints by telephone is seen to enable better data collection at the start of the process and, therefore, reduce the need to contact customers for clarification. This approach can lead to faster resolution and, thus, better

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[18] Ombudsman Services provide ombudsman services for the energy and communications industries alongside other sectors e.g. copyright.

customer experience and fewer resources needed overall. This option may be something that could be explored in more depth in consumer experience surveys and Rail Ombudsman resource analysis.

3.2.3.1. **Overall consumer experience**

Ombudsman providers are called by the Ombudsman Association to have "due regard to the overall public interest in the forward-planning and day-to-day running of the ombudsman scheme".[19] As such, understanding consumer experience is a crucial element to consider in assessing an Ombudsman provider's service.

3.2.3.2. **Consumer experience survey**

The Rail Ombudsman is required to carry out an annual consumer satisfaction survey and quarterly surveys to TOCs. Targets for consumer experience service levels were not specified in the original contract. 'Customer satisfaction measures' for ombudsman providers should be focused, as much as possible, on the *process* that the complainant went through, to avoid responses being unduly influenced by the *outcome* of a consumers' complaint. That said, dissatisfaction with the outcome is likely to influence consumers' perception of the process, which is why consumer experience with an ombudsman is likely to be rated lower than organisations that act as consumer champions. We have therefore used other ombudsman providers as the reference group for consumer experience ratings rather than transport advocacy groups.

The Rail Ombudsman has contracted Ipsos Mori to carry out consumer experience surveys annually. Only one consumer survey has taken place so far, reflecting the relatively early stage of the Scheme. This survey had 180 responses concerning in scope cases. This survey is useful as a baseline going forward. It will be important to see how subsequent surveys represent consumer experience, especially if a larger number of responses relating to in-scope cases are received.

The November 2019 consumer experience survey found that:
- 50% of consumers rated their experience as very or fairly good. This number was skewed by much lower satisfaction figures depending on whether the case was found in favour of the TOC (see table below).

- Those complainants whose complaints were out of scope were also surveyed. They were more likely to say they did not have a good experience (only 20% said they had

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[19] https://www.ombudsmanassociation.org/about-accountability.php

a good experience). Out of scope complainants are not included in the average experience figures.

Experience of using the Rail Ombudsman service		
Overall average	**50%**	**180**
Simple resolution	66%	71
Mediation	57%	60
Found in favour of TOC	21%	29
In scope	50%	180
Out of scope	20%*	202

*The out of scope responses are not included in the average experience levels

Figure 10: Table showing overall consumer experience ratings

Other ombudsman providers, who have been established for longer, appear to score a little higher in overall consumer experience, for example, Energy Ombudsman (77%), Financial Ombudsman Service (63%), Property Ombudsman (60%). More information is provided in Appendix C.

While an annual survey is useful, other ombudsman providers get more regular feedback from consumers which enhances their ability to react promptly to consumer experience and perceptions.

3.2.3.3. Outcomes

As is to be expected from an ombudsman provider, cases at Rail Ombudsman can be resolved through a range of options: early resolution, mediation and finally adjudication.

Proportions of both simple and complex outcomes have remained relatively similar throughout the first year of operations with most complaints resolved before or by mediation.

Simple resolution by outcome
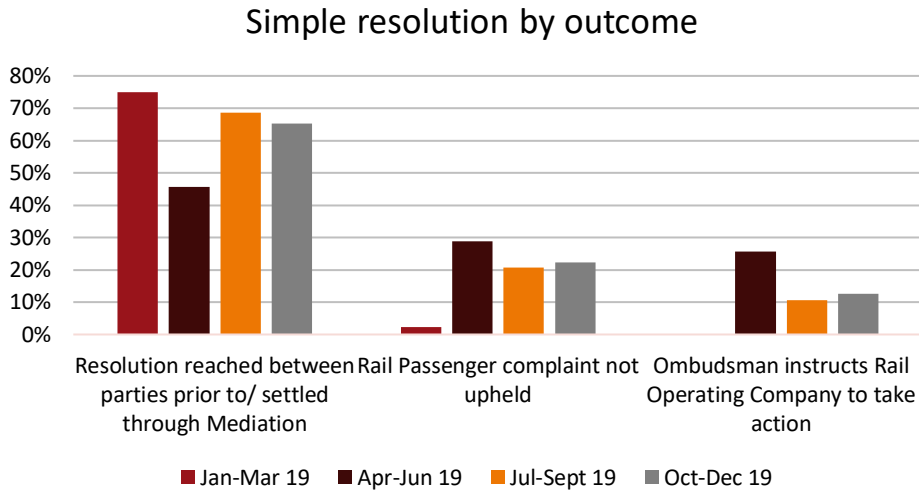
Figure 11: Chart showing simple resolution outcomes throughout 2019

Complex resolution by outcome
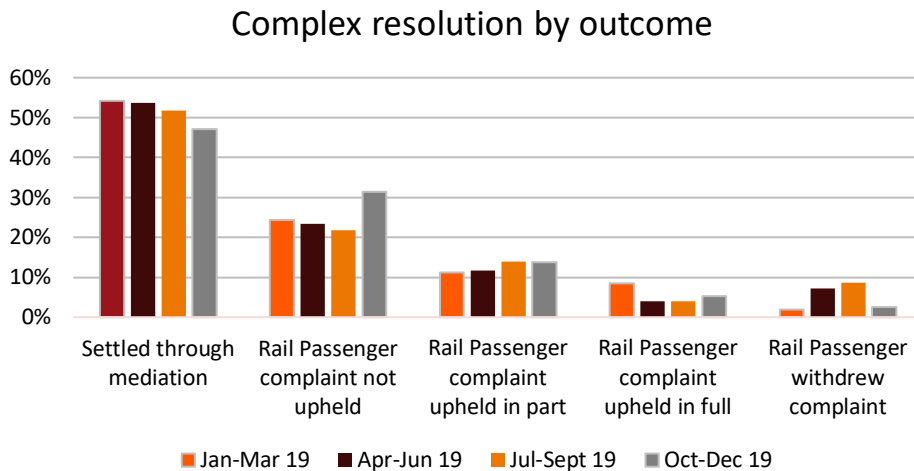
Figure 12: Chart showing complex resolution outcomes throughout 2019

As a comparison, the **Energy Ombudsman** had the following outcomes in 2018. We have provided definitions as the terminology for the Energy Ombudsman, and Rail Ombudsman differs:

- **64% upheld** - complaint was justified but the actions taken by the company to resolve the complaint were insufficient. Additional action was required.
- **6% not upheld** - the company had not made a mistake and had treated the complainant fairly. No basis for the complaint, and no remedy or award was required.
- **11% settled** - an agreement reached between the complainant and company after the complaint came to Ombudsman Services but before investigation outcome.

- **19% maintained** – i.e. companies were told to maintain their offers, no additional action.

3.2.3.4. **Redress**

For the Rail Ombudsman, a range of awards is available, including financial and non-financial such as an apology. Gesture or gift (19%) and refund (21%) were the most common awards, with the average financial compensation ranging from £71 to £96.

Award/remedy	
Non-financial (gesture or gift, apology, compensation, explanation)	35%
Financial equivalent (Complimentary service, ticket reissue)	9%
Financial (Refund, prescribed refund (delay repay))	21%
No award	23%

* Some closed complaints may have received more than one award type to reach a resolution, for example, an apology and a refund.

Figure 13: Table showing Rail Ombudsman award/remedies in 2019

While difficult to compare directly, it may be of use to see that the Energy Ombudsman recorded the following redress and rewards:

- 0% only financial
- 12% only non-financial
- 88% both financial and non-financial

3.2.4. Openness and transparency

Openness and transparency are critical for ombudsman providers to demonstrate fairness of approach, which therefore encourages consumers to be confident in the ombudsman provider. This openness and transparency extend both to what actual information is shared and the perception that this creates.

3.2.4.1. **Transparency for consumers**

The Rail Ombudsman provides information to consumers around what the Scheme can and cannot do in their consumer guidance on their website. This information is comprehensive and clearly outlines the Ombudsman process and purpose. Other Ombudsman approaches include setting out expected service standards. For example, the PHSO has a service charter[20] which is

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20 https://www.ombudsman.org.uk/sites/default/files/page/FINAL_PHSO_service_charter.pdf

considered best in class for Ombudsman providers, and they publish their outcomes in relation to this charter quarterly on their website.

3.2.4.2. Individual complaints

Consumers who have initiated a complaint can view the status of their own complaint and staff managing their case regularly communicate with them via the Complaints Management System (CMS). The Rail Ombudsman staff reported that, on the whole, their consumers seem happy with the level of contact and appreciate being kept up to date on the status of their complaint. This statement is backed up by 71% of consumers rating "keeping you informed throughout the complaint process" as good or very good. Consumers also appreciated the updates throughout the complaint process and felt they contained clear information (61%) and contained enough information (61%).

That said, consumers had lower satisfaction levels in relation to specific complaint handling:

- 53% good or very good - Understanding of your specific complaint
- 52% good or very good - The depth the consumer felt their complaint was investigated

These areas would benefit from further analysis to understand the reasoning behind consumers' responses to identify ways to improve.

3.2.4.3. Consumer perception

Both being, and being seen to be, trustworthy and impartial are critical for an Ombudsman provider. In the customer experience survey, only around half of consumers who had been through the Rail Ombudsman complaint process saw the Rail Ombudsman as trustworthy (53%), transparent (53%), impartial (49%), and fair (46%). Only 43% agreed that 'the Rail Ombudsman is balanced in its decisions'.

These results will have been influenced by the fact that 25% of respondents had cases ruled in favour of the TOC. However, despite this, we believe this suggests more analysis should be done to understand where the Rail Ombudsman is not meeting consumer expectations of an ombudsman provider and its process. This 'fairness' figure is lower than some other Ombudsman providers (see Appendix C).

It may be useful to investigate consumer experience in relation to fairness by using a range of indirect questions which focus on elements of the process rather than perceptions.

One example of good practice is The Parliamentary and Health Service Ombudsman (PHSO), which has a service charter[21] that makes commitments to those that use their service around their quality standards. They regularly survey those who use their service to measure performance against those commitments and publish feedback on their website.[22]

Case study: PHSO Service Charter
"Our Service Charter makes commitments about the service we provide at different stages of our process. We use these commitments to measure how well we are delivering our service and understand where we need to improve. We developed our Service Charter with people who have used our service and the organisations we investigate and work with, to find out what matters to them. We publish our performance on a quarterly basis. We now capture feedback from organisations we investigate as well as complainants to provide a better view of our service from those who use it." Service Charter encompasses: • Giving you the information, you need • Following an open and fair process • Giving you a good service

Figure 14: Case study example – PHSO Service Charter

Asking questions about these commitments enable PHSO to evaluate their service in relation to the Service Charter.

To measure the perception of fairness, the PHSO uses the following fairness question. These aim to enable consumers to answer specifically about the process they have been through and therefore to avoid simply a question around fairness or openness which can be more challenging to measure and compare.

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[21] https://www.ombudsman.org.uk/sites/default/files/page/FINAL_PHSO_service_charter.pdf
[22] https://www.ombudsman.org.uk/publications/performance-against-our-service-charter-201920-quarter-1-april-june

Following an open and fair process (questions 5-11 from a longer list):

- 5. We will listen to you to make sure we understand your complaint
- 6. We will explain the specific concerns we will be looking into
- 7. We will explain how we will do our work
- 8. We will gather all the information we need, including from you and the organisation you have complained about before we make our decision
- 9. We will share facts with you and discuss with you what we are seeing
- 10. We will evaluate the information we have gathered and make an impartial decision on your complaint
- 11. We will explain our decision and recommendations, and how we reached them

Figure 15: Case study example – PHSO fairness questions

Some other techniques that Ombudsman providers use to demonstrate fairness and openness include:

- regularly published case studies (many providers including Motor Ombudsman, Legal Ombudsman, Housing Ombudsman, PHSO)
- published decisions (many providers including Financial Ombudsman, LGSCO, Legal Ombudsman)
- the Chief Ombudsman and Managing Director are commercial roles and are not involved in ruling on case decisions. They are appointed by non-industry Non-Executive Directors (Motor Ombudsman)
- assurance rests with the Scheme's Board, which is required to have a majority of independent members. The NEDs do not represent the industries that fall within the jurisdiction of the Ombudsman. (Ombudsman Services)

3.2.4.4. Transparency for TOCs

Via the CMS, individual TOCs can track active cases and see the following management information: number of cases, outcomes, referrals, resolution times, potential charges and contact channels. In regular service review meetings, both parties provide information on live cases and the Rail Ombudsman shares comparative data around the TOC's performance within a comparison group and their recommendations relating to specific cases.

3.2.4.5. Published data on complaints

Quarterly data and reports, annual reports and the consumer experience survey are published on the Rail Ombudsman website. The quarterly data shares information around all complaints and can be sorted by in/out of scope, TOC, top-level complaint, outcomes. Now that the Rail Ombudsman has operated for over a year, this data would benefit from providing more trend

information and consideration of the purpose of the data to focus on what should be provided. We have shared a potential data dashboard in Appendix E.

3.2.4.6. Public governance and financial information

There is limited information about the Rail Ombudsman itself, including governance mechanisms and financial information. It is commonplace for ombudsman providers to provide information about their governance and financial reports (see Appendix C). This lack of information being publicly available may affect the public's perception of the Rail Ombudsman's openness and transparency.

3.2.4.7. Case studies and decisions

The annual review includes some consumer case studies and some case studies were published on the website in May 2019. Some ombudsman providers publish case studies more regularly. Other than the case studies, decisions are not published. Although not a requirement, some ombudsman providers publish individual decisions which may help demonstrate a commitment to openness and fairness.

3.2.5. Proportionality

Ombudsman schemes need to make choices around the most appropriate processes, and resources required to operate effectively. Quality of evidence and investigation should remain constant. The range of options available for case resolution and redress are discussed below in the section on Flexibility.

3.2.5.1. Quality assurance

It is critical that fair and accurate decisions are made by the Rail Ombudsman. In the consumer survey, only 43% of respondents felt that the Rail Ombudsman was 'balanced in its decisions'. TOCs were more satisfied with decisions – in July 2019, the majority of the TOCs said that the Rail Ombudsman:

- makes decisions that are fair and impartial (79%)
- approaches each case individually and objectively (79%)
- makes correct decisions (63%) (but 5% strongly disagree)

75% of TOCs also agreed that they "understand why a decision has been made, whatever the outcome". The consumer feedback suggests a need for more investigation around why less than 50% of consumers felt the decisions are balanced, especially since there is no appeal to the Rail Ombudsman decision. As with many other ombudsman providers, the next stage would be for a customer to take their case to the courts.

At the Rail Ombudsman, adjudications are approved at a senior level before being issued, so quality monitoring inherently takes place at this point on each written decision. At Ombudsman Services, where the volume of cases is significantly higher, internal quality assurance includes sampling cases and checking that processes were followed and decisions correctly made based on the evidence.

3.2.5.2. **Speed of resolution**

The Rail Ombudsman's average resolution time was 20.1 days which is quicker than the average for ombudsman providers (see Appendix C). We note that since all ombudsman providers are working in different environments, it will be more useful to make year on year comparisons for the Rail Ombudsman once available. Over 80% of simple cases were closed within 20 days. As expected, complex cases take longer, with 92% of cases taking between 11 and 40 days. Details are provided below:

	Rail Ombudsman			Ombudsman Services (for comparison)
Days to close	**Simple**	**Complex**		**All cases 2018**
0-10	40.76%	5.94%		Not reported
11-20	42.91%	23.41%		83%
21-30	11.34%	26.20%		15%
31-40	4.89%	43.32%		1%
41+	0.10%	1.14%		1%

Figure 16: Speed of decision – Rail Ombudsman and Energy Ombudsman

Over time, decisions have tended to take longer. The Rail Ombudsman explained that this is due to the increased number of cases in-flight simultaneously as volumes have grown, meaning that the resource for casework is spread across a higher number of cases.
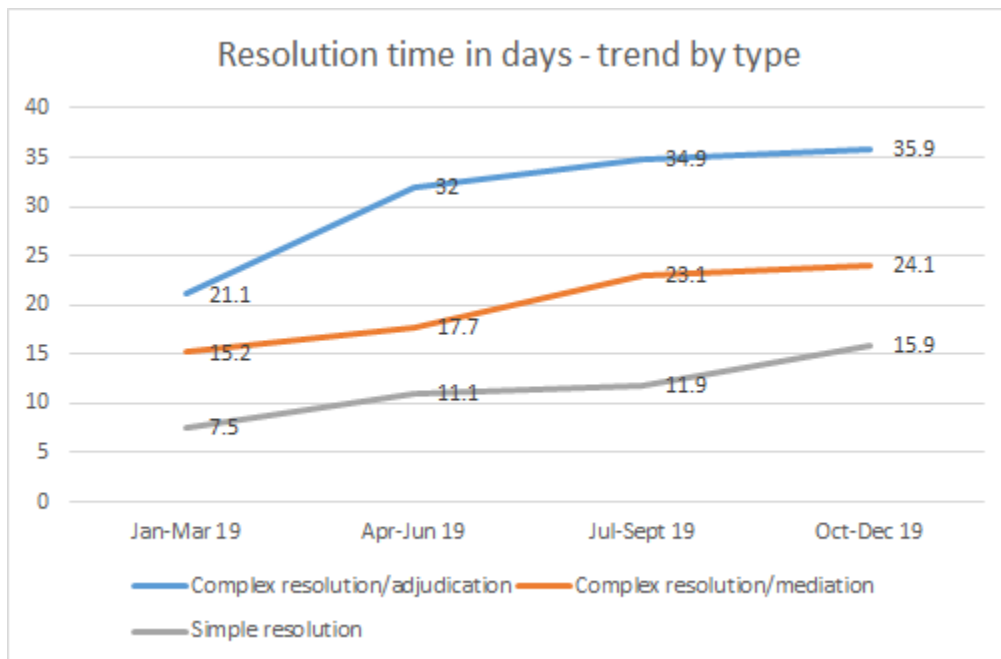
Figure 17: Speed of decision – Rail Ombudsman throughout 2019

The Rail Ombudsman has found that their Ombudsman labour investment by case type (the proportion of time spent on each type of case) is as follows:

- Out of scope 16%
- Simple cases 19%
- Complex cases 65%

There may be some opportunity to use 'echo' cases, where a new case replicates a previous one, for quicker decisions. This approach is allowed in the contract and Ombudsman good practice. The Rail Ombudsman has not yet identified any 'echo' cases and says that cases remain different and that, therefore, all require some level of investigation.

The OA Guide to complaint handling says:

> …schemes should also have procedures that allow for fast-tracking certain cases. It will be up to each Scheme to determine the criteria for fast-tracking…[23]

Some Ombudsman providers have done significant work to increase the proportion of cases that can be resolved through early resolution. This work has included identifying:

- 'echo cases' where the case is very similar to a previous case

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[23]BIOA Guide to principles of good complaint handling 3: Flexibility

- the types of cases which are usually resolved through early resolution and moving quickly to address them in that way where possible

For example, the Financial Ombudsman Scheme, (which we acknowledge is both a much larger and much more well-established scheme) now resolves around 90% of their cases at early resolution stage. Reducing the time spent on cases can provide cost savings through reduced staff time on individual cases. The Legal Ombudsman Benchmarking Report from 2011-13 notes:

"A common theme across schemes is the emphasis on informal resolution of complaints and to minimise cases requiring a formal ombudsman decision – the lengthiest and costliest option. The Financial Ombudsman, in relation to its E-money pilot, describes this as involving giving caseworkers licence to engage with the parties and just "sort it" without using the usual range of forms, and rethinking timescales to be able to engage with both sides in as near to "real time" as possible. It notes that consumers assumed that having their complaints sorted in hours or days – rather than weeks or months – was entirely normal." [24]

3.2.6. Efficiency

Ombudsman providers, should be efficient, effective and provide good value for money. Like many ombudsman providers, DRO, who operates the Rail Ombudsman is "a company limited by guarantee and not having share capital". The Rail Ombudsman receives its income from TOCs and is free for consumers to access. This income comes from a combination of subscription costs and variable costs per in scope complaint. This variable cost is designed to incentivize TOCs to resolve as many complaints as possible without the Rail Ombudsman needing to be involved. This principle relates closely to the desire to have an ombudsman to drive up customer experience within the rail industry. The Energy Ombudsman operates a similar financial model based on membership and case fees paid by energy companies. A significantly higher proportion of the Energy Ombudsman's income comes from case fees as opposed to subscriptions.

3.2.6.1. Operational key performance indicators (KPIs)

The operational KPIs in the Rail Ombudsman contract are currently used to measure the availability of service, which affects consumer experience. They are quantitative and focus on traditional contact centre measurements:

- percentage of offered calls answered and within timeframes

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[24]

http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/2013%2011%202 5%20LeOBenchmarkingReportFinal.pdf

- percentage of letters/emails/social media which have received a response in the agreed timeframe
- telephone system, website, case management system (CMS): Percentage of availability

The Rail Ombudsman is performing well against these performance measures demonstrating good availability of service and initial response times. These measures are broadly similar to Ombudsman Services.

Target service levels	Rail Ombudsman	Ombudsman Services
Calls answered	70% answered within 60 seconds 98% answered within 5 minutes	80% answered within 2 minutes
Written correspondence	95% letters which have received a response in 3 business days 95% responses sent to consumer acknowledging dispute details in 3 business days	>90% written correspondence within five business days (one week)

Figure 18: KPIs for Rail Ombudsman and Ombudsman Services

Good practice for customer contact management is moving away from this kind of operational KPIs for performance management. They can be considered as 'hygiene factors' – service providers only report to their contract manager if these measures are not met. Performance measures that more closely reflect customer experience are recommended, for example:

- **Percentage of cases resolved first-time** – in an Ombudsman provider context, this probably only applies to out of scope contacts. This metric is not currently recorded explicitly, although we understand that resolution such as signposting would be captured in the notes for that contact. The 5% of those out of scope contacts which are coded as 'already settled' could also be reviewed in order to understand why consumers are contacting the Rail Ombudsman after their case has been already settled.

- **The number of contacts per case** – this is a measure of 'customer effort' – this is not currently recorded or reported. The Rail Ombudsman has not been able to validate whether this can be provided by the CMS without manual input. It would also be useful to consider the proportion of contacts to consumers and the TOC in a case as

the Ombudsman Association mention that this can go some way to measure even-handedness.[25]

3.2.6.2. Process timelines

In the contract, there are clear KPIs around response times within the Alternative Dispute Resolution (ADR) process to complainants and TOCs:

- triage service and response to the complainant - 3 working days
- reply sent to Rail ADR Scheme Members in respect of in-scope Disputes - 3 working days
- out of scope disputes forwarded to other appeals body where the responsibility is known/accepted - 3 working days
- response to TOC objection - 5 working days
- in-scope dispute resolution - 40 working days - 45 days (if objection received and overruled)

The Rail Ombudsman told us that these timescales are broadly realistic and appropriate but highlighted that occasionally in cases where it takes investigation to understand the complaint details, three days can be tight to complete triage. Similarly, the Energy Ombudsman have 40 days (8 weeks) to complete the resolution process and said that this is necessary. They have a target of providing initial decisions within six weeks, and 80% of their cases are resolved within those six weeks.

Consumers appear broadly happy with this process as well since 75% of consumers felt that the speed with which they received their initial response was fairly or very good. Undoubtedly, the regular consumer updates throughout the process contribute to this satisfaction: 61% of consumers felt the updates throughout the complaint process contained clear information and had enough information. Ombudsman Services have a slightly shorter target time for initial resolution: Initial decision by six weeks; final decision within eight weeks (40 days).

3.2.6.3. Staffing

DRO operates several Ombudsman schemes. Some of the management and support staff are split across multiple schemes including the Rail Ombudsman namely CEO, Managing Director, HR Manager, Head of Accounts, Accounts Assistant, and Head of Marketing and Communications, Ombudsman Support. Contact advisors, assistant Ombudsman and Ombudsman, are dedicated to the Rail Ombudsman. At Ombudsman Services, who run the Communications Ombudsman, Energy Ombudsman and Parking, contact staff are trained across different sectors, using test cases.

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[25] BIOA Good Complaint Handling 6.Efficiency

When the Rail Ombudsman began, they had ten contact advisors (plus a lead) and nine Ombudsmen. The number of staff has been reduced over time, presumably due to the lower than expected case volumes and now has 5.5 contact advisors and nine Ombudsmen. Of the initial eleven contact staff ten plus one lead), four left the business, five moved roles internally, and two remain in the current team. Absence per staff member is 1.9 days per year (excluding long-term sick). This absence rate is significantly lower than averages for contact centres, e.g. 3.7 days[26] or 5.3 days[27].

At the Rail Ombudsman, inbound contacts, signposting and administrative functions are dealt with by contact advisors. Case applications are passed on to an Assistant Ombudsman for triage. The Assistant Ombudsman may in some instances close the case as a simple resolution – e.g. on administrative grounds or where a negotiated settlement has taken place between the operator and consumer. Otherwise, an Ombudsman may be assigned if the nature of the case merits it; the Lead Ombudsman has oversight of this. Cases not resolved through a simple resolution will always be passed to an Ombudsman for complex resolution. At Rail Ombudsman, all adjudications are overseen and approved by a senior ombudsman. In other ombudsman services, all of the process, up to and including simple/early resolution is completed by non-specialist customer service staff.

The job descriptions for Assistant Ombudsman and Ombudsman detail the requirement for legal qualifications, and there is a clear route of progression from Assistant Ombudsman to Ombudsman, which is facilitated by both roles requiring legal qualifications. Within the contract, staff that are working on the Member Advice line, mediation or adjudication need to be "Certified as an ADR Official, minimum LL.B bachelor of laws degree (or equivalent) and City & Guilds accredited in consumer law. We would not expect to see requirements around staffing in the contract for an ombudsman provider.[28]

There is concern from some stakeholders that this requirement for legally qualified staff for various points in the process may have created a 'gold-plated service'. This requirement is not seen in other ombudsman providers. For example, Ombudsman Services do not require their

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https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhocs/008918officeadministrationandcallcentreindustrysicknessabsenceratesuk2017
[27] CIPD Absence Management Annual Report 2016
[28] "An ombudsman scheme should be able to appoint its own staff and be free to determine the structure of its organisation."
https://www.ombudsmanassociation.org/docs/Strategic%20Position%20Statement%20May%202017.pdf

staff to be legally trained but ensure quality by focusing on training and quality assurance for their contact advisors. They say on their website:

> *We train our case handlers on the energy and communications sectors, covering relevant industry laws and practices. Some of our colleagues have experience of working in the legal sector, but we do not think a law qualification is pre-requisite for our case handlers to reach fair and balanced decisions.*

This Rail Ombudsman policy to require legal qualifications, alongside the policy to use an assistant ombudsman or ombudsman for all parts of the process from triage onwards may add additional costs into the staffing model. We have not been able to confirm whether the Rail Ombudsman model is more expensive than similar providers since we have not had access to either the Rail Ombudsman's or benchmarked providers' salary breakdown. That said, the proportion of Rail Ombudsman's costs being spent on staffing is in line with other ombudsman providers (see Appendix C).

The Ombudsman Association notes that in a potential model[29],
"…each stage has differing levels of complexity. In one typical ombudsman scheme, the 'gearing' of case-handling staff among the three stages is about:
- 15% enquiry-handlers
- 75% investigators
- 10% ombudsman

The Rail Ombudsman believes that their staffing model, including the requirement for legal qualifications, contribute to a well-motivated ombudsman and assistant ombudsman team. Certainly, rates of absenteeism are significantly lower than comparison groups, and 66% of consumers surveyed were satisfied with the professionalism of the staff. However, results from the consumer survey partly contradict this: only around half of all consumers surveyed saw staff as knowledgeable (54%), informative (53%) and helpful (54%).

3.2.6.4. Case volumes
The number of complaints (3000 cases, both in and out of scope) going to the Rail Ombudsman in its first full year was significantly lower than the 6000 cases predicted initially). This prediction was mainly based on the number of cases that were going to the advocacy bodies before the Ombudsman existed. We heard from several stakeholders that, on reflection, the volume estimates had some significant drawbacks since they were based on the volumes going

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[29] https://www.ombudsmanassociation.org/about-process.php

to advocacy bodies. Stakeholders now see that this was not necessarily a good predictor of the number of ombudsman cases and that also a bedding in time for consumers is to be expected.

Rail Ombudsman volumes steadily increased through 2019 and in January 2020, the Rail Ombudsman forecast their potential annual volumes for 2020 as:

Predictions	Total complaints	In scope
Low (based on past 20-week volume)	4300	2830
Medium (based on January volumes)	6450	4246
High (based on annual increases)	7132	4695

Figure 19: Rail Ombudsman volume forecasts for 2020

(It is important to note that these forecasts were prepared before the coronavirus outbreak so this forecast will need to be recalculated.)

3.2.6.5. Change control procedure
We note that in the contract between RDG and Rail Ombudsman, a clear change control procedure was laid out. Both parties can make change requests at their own cost. The information that must be provided is stated clearly, along with the response time of ten days to either accept, reject or ask for a modification of the request if it 'contains errors or omissions'. After resubmission, there are five days allowed to respond. There is a joint responsibility for this process, both for the provision of full information and for responding promptly. The ten-day response time has not been adhered to on previous change requests. On some occasions, the delay was due to RDG not receiving sufficient information and/or transparency around the request from the Rail Ombudsman. On other occasions, we have not seen a reason for the delay in response. This time-lag has delayed the Rail Ombudsman's ability to respond to new requirements, e.g. onboarding new TOCs.

3.2.6.6. Independent Assessor
When describing how they are independent, the Ombudsman highlights their independent Board of Directors alongside the external Independent Assessor who "is available to receive comments and concerns on the quality and standards of the Rail Ombudsman's processes" and "undertakes an annual independent assessment of the quality of the Rail Ombudsman's case handling and internal processes". Complaints that go to the independent assessor can only be

around the process and service received from the Ombudsman, not around decisions. Ombudsman decisions are binding, and if consumers do not accept the Ombudsman's decision, then their next stage is to pursue the matter in court.

We note from the Independent Assessor Report[30] in the Rail Ombudsman annual review that the Independent Assessor said that the Rail Ombudsman staff are "unfailingly polite and courteous in their communication" and that she had only received a total of four complaints about the Rail Ombudsman in 2019.

- One of these was not investigated due to the "vexatious nature of the communication to the Ombudsman who had made the determination."
- Two other complaints were not upheld since:
    - one related to service delivery by other agencies and the Rail Ombudsman had appropriately signposted them to these agencies.
    - In the other, no evidence was found that the Rail Ombudsman team had been "anything other than fair and objective in their decision making, and professional and courteous in their dealings with the passenger".
- Only one complaint was therefore investigated which was around several items including access to the independent assessor. The independent assessor observed that Rail Ombudsman responded well to this complaint and "Following an internal review, the Rail Ombudsman amended its escalation process and included a different approach to contacting the Independent Assessor."

Having only one complaint which needed to be investigated by the independent assessor is a smaller proportion than require investigation in many other Ombudsman providers (see Appendix C). The independent assessor said in her report that the Rail Ombudsman responded well to this complaint and that it demonstrated that "the scheme is prepared to listen to and act upon feedback by passengers".

3.2.6.7. Contractual quality service standards

There are two service standards in the delivery contract for the Rail Ombudsman which relate to the consumer experience. They address "continuous internal quality monitoring" requiring "a report at the end of each Service Period on its findings" and call listening to 5% of each type of call and addressing any training needs identified. The Rail Ombudsman carries out these quality checks. A quality monitoring framework is used for casework which is used to assess process compliance, for example, logging the correct information and using the correct font and responding within the time limits specified in the contract.

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[30] Independent Assessor report in Rail Ombudsman 2019 Annual Review

The training needs identified mainly related to feedback and coaching for individual staff members and insights shared across the team to ensure consistency around contact handling. Some examples we saw were taking time to deliver the greeting line at the opening of the call or avoiding the use of jargon. Written communication learning might be around layouts and structure of letters to consumers, spelling and grammar and the clear and correct labelling of documents.

3.2.6.8. **Train Operating Companies (TOCs) experience of the Rail Ombudsman**

When a case is referred and triaged by the Rail Ombudsman, the relevant TOC is charged an additional fee depending on whether the case is considered simple or complex. This approach, alongside the work responding to a case the Rail Ombudsman is investigating, acts as an incentive for TOCs to resolve complaints before the Rail Ombudsman is needed to investigate. Therefore their view of the Rail Ombudsman from a delivery perspective is relevant when considering how well the Rail Ombudsman is meeting the needs of the industry.

The Ombudsman is contracted to do quarterly surveys to TOCs. The Rail Ombudsman have so far carried out two surveys with TOCs, and a third was planned for January but was delayed due to the impact of the coronavirus pandemic on the rail industry. In the July 2019 satisfaction survey, 89% agreed that the overall service is good. TOCs appreciate the learning that is shared via the RDG CWG and the advice that is given on specific complaints. We heard from TOCs that they would appreciate more detail around the data shared, including some comparative performance across TOCs. This point is discussed further in the section in impact and influence below.

3.2.7. Quality outcomes

This section in the OA complaints handling guidance references improved outcomes for consumers, individual TOCs and the industry as a whole. Apart from one point below, we have addressed the final element of quality outcomes in the section below on influence and impact.

3.2.7.1. **The time between the original complaint and access to the Rail Ombudsman.**

We echo the proposal from the Rail Ombudsman to reduce the time between the first complaint being initiated and consumers having access to the Rail Ombudsman down from 40 days to 20 days. This proposal will provide a better consumer experience, meet the changing expectations of consumers and promote better practice within the rail industry. We know that TOCs are already close to this timeline since 95.7% complaints to TOCs were responded to within 20 days (rail reporting period 10 2018-19 to period 9 2019-20).[31] Many individual TOCs are already meeting, or almost meeting this target since 5 TOCs responded to 100% of

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[31] ORR data Complaint volumes

complaints, and 11 TOCs responded to 95% or more of their complaints in this timescale.[32] This proposal reflects the direction of travel in complaints handling and the Energy Ombudsman agreed that this would also be feasible for their energy companies.

3.3. Recommendations

3.3.1. Building on the Rail Ombudsman's clarity of purpose

3.3.1.1. Signposting

Some work has been done to improve signposting to the Rail Ombudsman, but, as provided above, we found some examples of inconsistency and out of date information.

Recommendation 10: Review and update signposting to Rail Ombudsman on the website, Passenger Charter, and complaint correspondence.

Rail Ombudsman, advocacy groups and TOCs

3.3.1.2. Reducing out of scope contacts

There remain a large number of consumers contacting the Rail Ombudsman before their case can be assessed because they do not have a deadlock letter. This both wastes Ombudsman's resources and causes frustration for consumers. The Rail Ombudsman, working with other stakeholders, may be able to identify some changes which would assist consumers. We expect that reducing the number of days that TOCs have to resolve complaints may also reduce the number of out of scope contacts due to not having a deadlock letter (see recommendation 20).

Recommendation 11: Consider what else can be done to prevent consumers from contacting the Rail Ombudsman before they are eligible, in particular before they have a deadlock letter.

Rail Ombudsman, advocacy groups and TOCs

3.3.1.3. Analysis of complaints that are out of scope - ineligible

We know that consumers are dissatisfied when the Rail Ombudsman cannot take on their complaint because it is out of scope. The Scheme would benefit from further analysis of these cases in order to identify potential areas where it could be expanded to meet consumer need better.

Recommendation 12: Review out of scope – ineligible cases (excluding those relating to no deadlock letter) to make recommendations for scope expansion to the Scheme Council.

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[32] ORR data Complaint volumes

Rail Ombudsman

3.3.2. Building on the Rail Ombudsman's <u>flexibility</u>

3.3.2.1. **Develop consumer experience monitoring**

Ombudsman providers are delivering a service to the public and need to have "due regard to the overall public interest in the forward-planning and day-to-day running of the ombudsman scheme".[33] We believe that checking in with consumers once a year is insufficient to identify and therefore respond to areas for improvement.

We recommend:

- using existing survey data as a baseline for future data collected
- more regular surveying, for example, quarterly
- using consumer experience measures such as customer effort and first-time resolution
- using this analysis to identify areas for improvement

Recommendation 13: Consider developing consumer experience monitoring to measure experience more regularly through surveying and experience measures.

Responsibility: Rail Ombudsman

3.3.3. Strengthening consumers' experience and perception of Rail Ombudsman's <u>openness and transparency</u>

3.3.3.1. **Perception of fairness**

Consumer experience data from the 2019 survey demonstrated low levels (under 50%) of consumers seeing the Rail Ombudsman as fair and impartial. This data should be used as a baseline for future surveys. It may also be useful to identify a range of questions that consumers can answer to get a more subtle view of fairness and impartiality, for example, the suite of seven questions that the PHSO uses.

Recommendation 14: Use more consumer experience monitoring to identify areas for improvement in relation to fairness and impartiality.

Responsibility: Rail Ombudsman

3.3.3.2. **Transparency**

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[33] https://www.ombudsmanassociation.org/about-accountability.php

We believe that providing more information about the Rail Ombudsman's decisions, processes, and governance are likely to give consumers more confidence that the Rail Ombudsman is operating with fairness, openness and transparency. This will also align the Rail Ombudsman more closely with other Ombudsman providers.

Recommendation 15: Publish case studies more regularly on the website to both increase the perception of openness and transparency and also help set both consumer and TOC expectations of how cases will be investigated and likely outcomes.

Responsibility: Rail Ombudsman

Recommendation 16: Publish Rail Ombudsman board membership and financial information on their website

Responsibility: Rail Ombudsman

3.3.4. Building the Rail Ombudsman's approach to proportionality
3.3.4.1. Early resolution
There may be opportunities to increase the proportion of cases that can be resolved through early resolution. This could be done both by using 'echo cases' where the case is very similar to a previous case and identifying the types of cases which are usually resolved through early resolution and moving quickly to address them in that way where possible.

Recommendation 17: Carry out an in-depth analysis of cases to identify future opportunities for quick resolution both to identify 'echo' cases and more importantly, the type of cases that tend to be able to be resolved via simple resolution.

Responsible: Rail Ombudsman

3.3.5. Progressing the Rail Ombudsman's approach to efficiency
3.3.5.1. Staffing model
We have not been able to validate whether the Rail Ombudsman is providing value for money due to it being the Rail Ombudsman's start-up year and a lack of full access to financial information for both the Rail Ombudsman and benchmarking organisations. Recommendations 17 and 18 provide a starting point for where potential cost savings could be achieved. These areas have been selected as they are parts of operation where other Ombudsman services operate differently to the Rail Ombudsman.

Recommendation 18: Consider whether cost savings could be identified in the staffing model by changing the requirement for all staff to be legally trained, reviewing the proportion of the process that contact advisors can complete and changes to process timelines

Responsible: Rail Ombudsman

3.3.5.2. Change control procedure

The ten-day response time has not been adhered to during the operation of the contract. This has delayed the Rail Ombudsman's ability to respond to new requirements, e.g. onboarding new TOCs. It is also the responsibility of the party, making the change request to ensure that full information is provided in the initial change request to avoid delays.

Recommendation 19: Ensure the change control mechanism allows for timely discussion, decision, and resolution of change control requests.

Rail Ombudsman and RDG

3.3.6. Improving the Rail ADR Scheme quality outcomes

As detailed above, this recommendation will help to meet changing customer expectations. Furthermore, the vast majority of complaints are already being responded to within this timescale.

Recommendation 20: It would be good practice to allow consumers to be able to bring their claim to the Rail Ombudsman 20 working days after the date of their first complaint.

Responsible: ORR

4. Impact and influence

4.1. The role of an ombudsman and learning from complaints

4.1.1. Ombudsman role within the industry

A crucial role of and opportunity for an ombudsman is building and promulgating the strategic oversight of potential improvements for that industry. It is useful to note that other Ombudsman providers recognize that this is an integral part of their role:

This diagram illustrates the objectives of the Local Government and Social Care Ombudsman, including one focused explicitly on system-wide impact by learning from complaints to improve local services.

Figure 20: LGSCO strategic objectives

The diagram below was developed for the Energy Ombudsman to define its three main roles. They are clear that one of the main aims of an Ombudsman is to share insights and learning to improve impact:
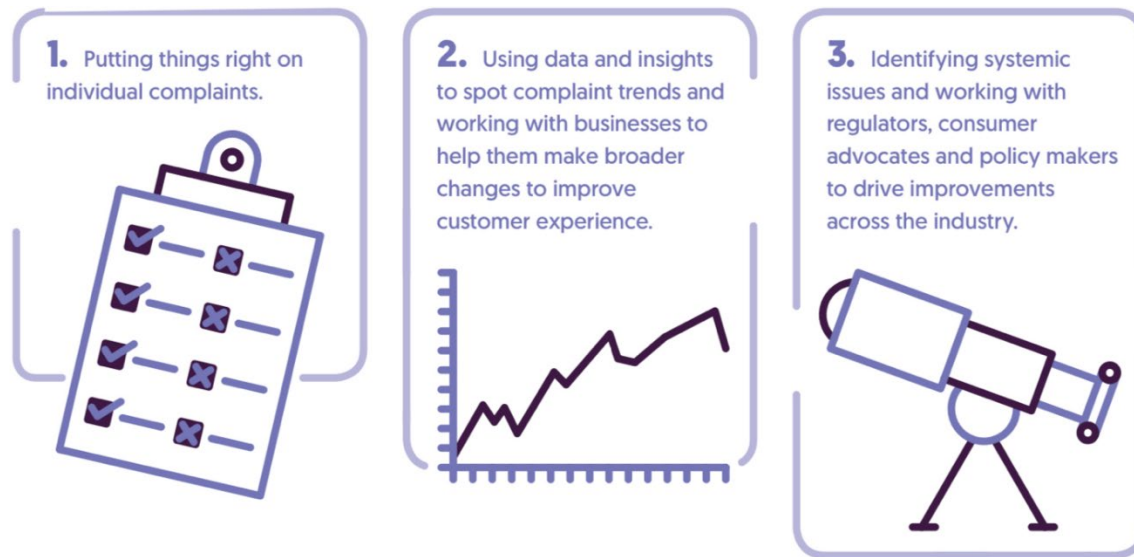
Figure 21: Energy Ombudsman – three main roles

4.1.2. Good practice examples

Some examples of good practice in relation to industry impact and influence are shown below:

Local Government and Social Care Ombudsman, provide regular briefings on systemic issues which they have identified as part of their work, and recommendations for their sector to take on board to avoid similar issues.[34]

The **Energy Ombudsman** (operated by Ombudsman Services) have formed a "tripartite" arrangement with Ofgem and Citizens Advice to progress improvements across the industry. The tripartite approach changed fundamentally what they do and how moved them to an improvement focus. They use anonymised complaints data to work with individual companies, the industry and the regulator. The aim is to use data and intelligence more wisely to influence upstream complaints handling and resolution. This tripartite arrangement does not include the companies under the Ombudsman's jurisdiction or the energy trade bodies and is separate from the trade Liaison Panel.

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[34] https://www.lgo.org.uk/information-centre/reports/focus-reports
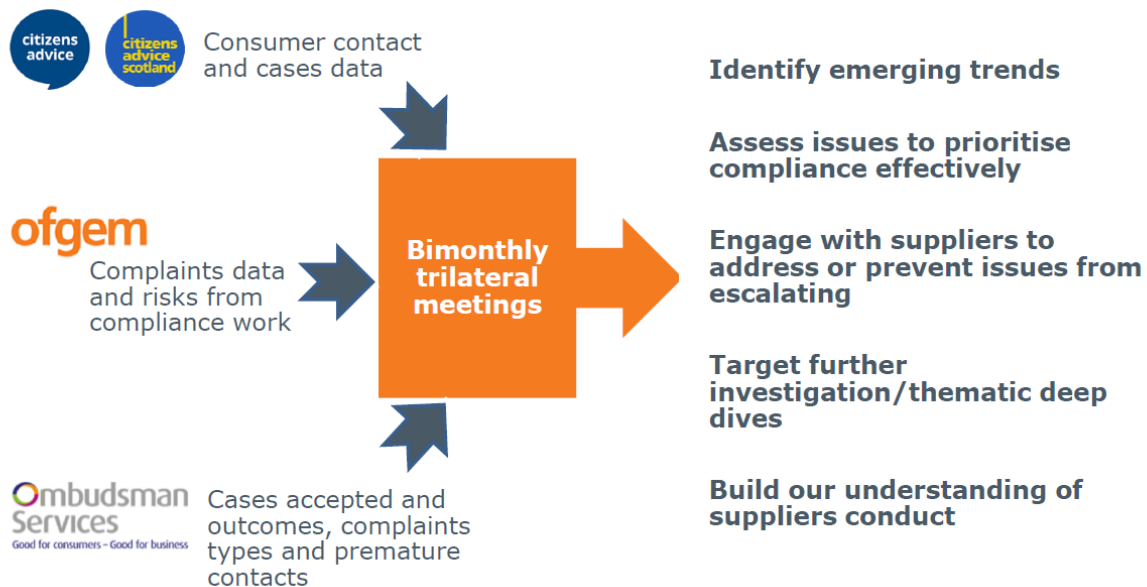
Figure 22: Ombudsman Services/Energy Ombudsman – tripartite arrangements

The **Legal Services Board** also uses a tripartite approach through The Legal Services Act 2007 which established the Legal Services Board (LSB) and the Office for Legal Complaints (OLC) as Arms' Length Bodies (ALBs) of the Ministry of Justice (MoJ). The three bodies work together to discharge their respective responsibilities as regards the Office for Legal Complaints.[35]

The **Parliamentary and Health Service Ombudsman** has just published its first annual casework report.[36] They believe it "offers valuable lessons about the importance of good complaint handling and how complaints can be used to drive improvements" and contributes towards their aim of being more transparent. By April 2021, they aim to publish most of their decisions online in an anonymised format.

The **Scottish Public Services Ombudsman** has created a model of complaints handling[37], some of which they can impose by law.

The Rail Ombudsman has started on this to influence and improve rail industry practice, and there have been positive developments. However, we think that there is more to be done to

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[35] https://www.legalombudsman.org.uk/wp-content/uploads/2014/09/171506-Tripartite-Agreement-LSB-MoJ-OLC-final.pdf
[36] https://www.ombudsman.org.uk/publications/ombudsmans-casework-report-2019-0
[37] https://www.spso.org.uk/the-model-complaints-handling-procedures

harness the insights gained by the Rail Ombudsman and to feed them back to sponsor organisations.

When the Department for Transport was outlining what their Ministers expected of the Rail Ombudsman before contract signing, they noted that it should be:

a voice for the passenger both in terms of individual passenger complaints and in highlighting more general concerns – in this regard: 'an effective feedback loop is particularly important'.

The Ombudsman Association guidance states that:

Ombudsman schemes publicly feedback the general lessons from cases they have handled, so stakeholders (including government/regulators) can take steps to improve things for the future.

This aspect of the work of an ombudsman scheme addresses all aspects of the Ombudsman Association principles: independence, fairness, effectiveness, openness and transparency, and accountability.

It is about having the freedom to use the material that has been presented to the Ombudsman scheme to encourage and champion improvements in the industry.

4.1.3. Learning from complaints

We know that complaints can act as a powerful stimulant of organisational improvement. We also know that complainants are often driven by ensuring that the circumstances that led them to complain do not occur for anyone else. When complainants are asked what they think a good outcome will be for them, they usually reference the learning for the organisation. They want the organisation to acknowledge what went on, but importantly to learn from that and change, so that other customers do not experience the same difficulties. Customers want the process to be a virtuous circle, and they hope that by raising a complaint, that they are creating a positive impact on the organisation concerned to make a change.

The Chartered Institute of Housing presents this idea in a diagram:
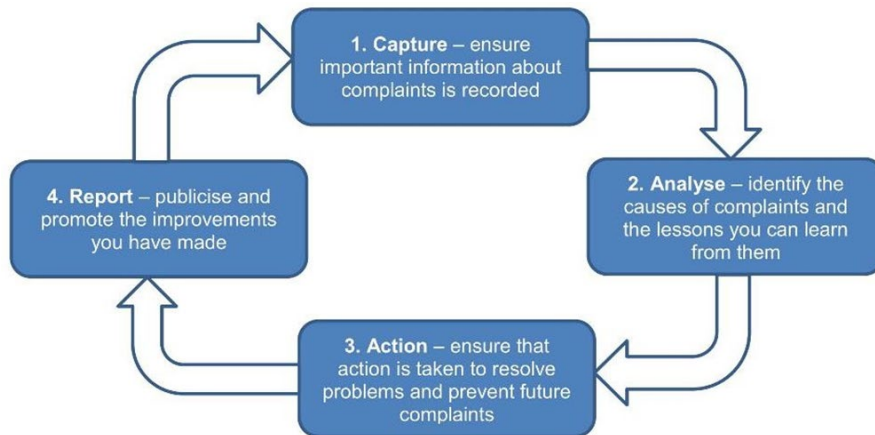
Figure 23: Chartered Institute of Housing How to learn from complaints to improve services

Queen Mary University wrote a report on first-tier complaints handling in 2018.[38] The report identified that 'Learning from complaints can provide substantial benefits for organisations and their consumers. Organisations need to have in place systems that capture the learning from complaints.'

They established this set of principles that should exist for excellent complaint handling:

- be customer-focused
- be free, simple, and easy to use
- be clearly communicated, and understood by all involved
- be responsive, timely and flexible
- be objective, impartial, and fair
- be proportionate and consistent
- be open and accountable
- put things right so far as possible
- seek early resolution
- deliver continuous improvement

We are specifically interested here in the final point: 'deliver continuous improvement'.

Of course, the right listening culture and governance arrangements have to be in place for the sector to be interested in the thematic findings from complaints, and the industry needs to have the motivation to act upon the information provided. In relation to this, the ORR guidance on complaints handling references that the following conditions need to be in place regarding organisational culture and complaints handling:

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[38] QMU_Report_On track for first tier complaint handling_30 October 2018.docx

- governance, policy, and leadership – including the degree to which the top team are engaged with complaints handling.
- how the senior team ensures feedback is acted upon and embedded into the organisation's strategies and approach as part of a commitment to continuous improvement.
- the extent to which the customer experience sits at the heart of the organisation's vision.

The overall aim here is industry improvement, from the perspective of the customer. If the complaints systems and ombudsman process is working well, we could expect to see:

- the driving up of standards in the industry
- an increase in customer focussed behaviours
- improved complaints handling within TOCs
- useful information provided to RDG/TOCs/DfT/ORR/& advocacy groups that can help with strategic planning and assist good policymaking
- improvement in safety standards

Our sense of the current state of play regarding the Rail Ombudsman is that some useful information is being shared, but that more could be done. Improved complaint handling by TOCs has been identified as a benefit since the Rail Ombudsman began. Several TOCs (including Scotrail/Abellio and Transport for Wales) gave examples where they had received detailed complaint handling assistance which had enabled them to improve their own complaints handling processes, and also to resolve complaints. Some TOCs are receiving this type of complex assistance on a daily or weekly basis.

The Rail Ombudsman was set up in autumn 2018, and, thus, is relatively new. However, we would expect that the governance processes around the Rail Ombudsman would also see their role as encouraging thematic information from the complaints to be analysed and fed back to the industry, to benefit the system as a whole.

Some more mature ombudsman providers publish all decision information by category, for example, the Scottish Public Service Ombudsman. The Parliamentary and Health Service Ombudsman recently published learning for the NHS from a review of failures in acute mental health care and treatment, and they cited missed opportunities for making things right for other patients.[39]

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[39] https://www.ombudsman.org.uk/mental-health

The LGSCO (who also publicise every decision that they take), also publishes regular 'Focus reports' dealing with systemic issues within Local Government or the social care sector, including recommendations for the sector to take on board to avoid similar issues recurring in the future.
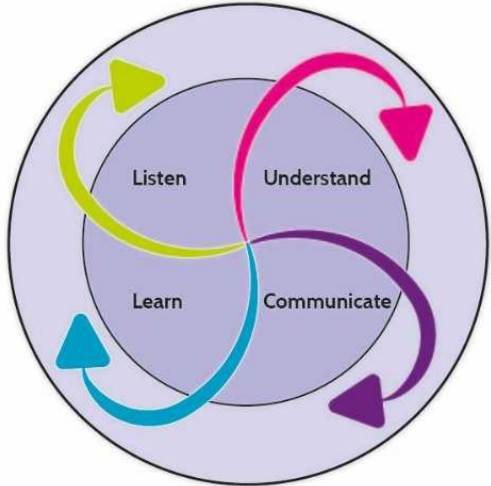
Case study: Local Government and Social Care Ombudsman	
	The LGSCO list as one of their strategic objectives: 'We use what we learn from complaints to help improve local services. They cite the strapline ' Listen - understand – communicate – learn.' The LGSCO publish every decision that they make to share learning and improve the transparency of their work. They also regularly issue thematic reports, for example, 'Housing Benefit' January 2020, where they detail their findings from a variety of complaints and make generic recommendations for local authorities as a result of their findings. These are issued as web-based (pdf) documents, so are not expensive to produce.

Figure 24: Case study example – Local Government and Social Care Ombudsman

While we acknowledge that moving to a system of publishing all decisions may not be an aim for the Rail Ombudsman, in part at least because of the resource implications, we believe that the real value comes from the thematic reporting that the LGSCO takes. The way they detail their findings from a variety of complaints and make generic recommendations is particularly useful to identify opportunities for systemic change.

4.2.   The current reporting practices of the Rail Ombudsman

The Rail Ombudsman communicate their activity and performance to stakeholders through regular reporting, the case management system, and interacting with bodies such as the Complaints Working Group.

TOCs observe the Rail Ombudsman as having a positive influence on the industry and their complaint handling processes and recognise that there is potential for this to be increased, particularly around the sharing of best practice.

The Rail Ombudsman shares recommendations with TOCs directly at service review meetings, via individual case recommendations and through regular attendance at RDG CWG. This group seems to be the preferred forum for Rail Ombudsman when sharing improvement areas with the industry.

The Rail Ombudsman has started to share trends and insights regarding case studies (based on volume and types of complaints) with the regulator regularly.

4.2.1. Internal reporting - weekly/rail reporting period

The Rail Ombudsman shares a case and contact sheet spreadsheet regularly with all stakeholders. In March 2020, this report changed from being weekly, to reporting after each rail reporting period (RRP).

This report includes weekly/RRP figures without narrative for:

- inbound and outbound contact volumes by channel
- cases raised (including weekly trend)
- cases closed (in/out of scope)
- potential in scope cases in progress
- website statistics (visits, time on website)
- number of advice calls with the weekly trend

And cumulative (since inception) figures for:

- contacts by channel by the first-level category
- contacts by second-level category
- cases raised by first and second level category
- weekly trend

Comparison to previous periods is provided for CMS cases raised and advice calls. Only cumulative figures are provided for types of cases. Providing more trend information or comparisons over time periods would make this information more meaningful.

4.2.1.1. Contact data

The Rail Ombudsman provides data on the contact channel used for case initiation. This data cannot provide much insight into consumer behaviour since consumers, where possible and appropriate, are encouraged to initiate their complaint via the web form. Overall contact numbers by channel, while useful for the Rail Ombudsman resource forecasting, provide little insight unless associated with scope decisions or case management.
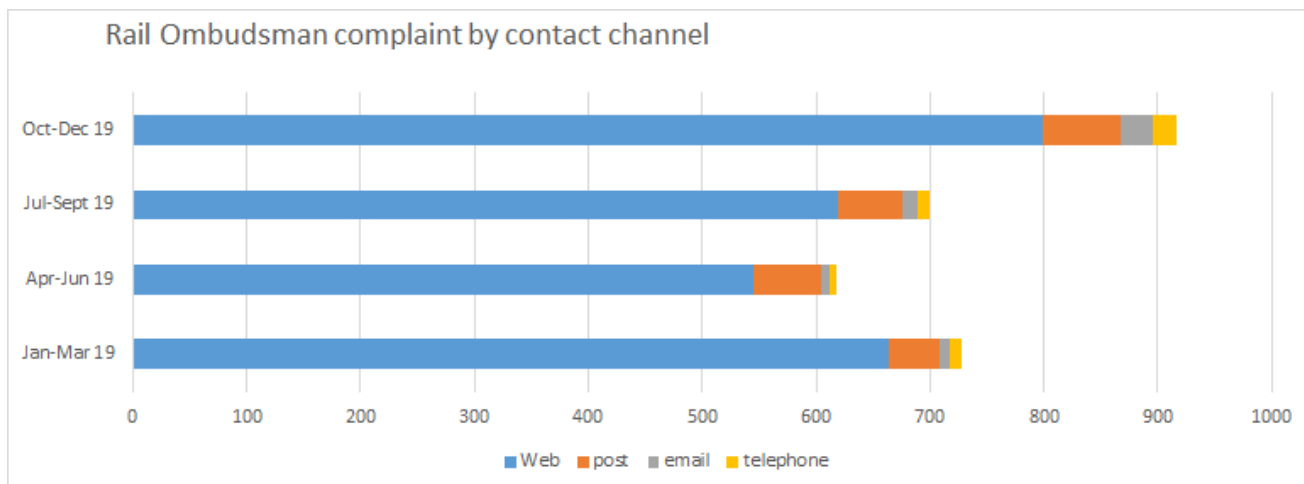
Figure 25: Table showing Rail Ombudsman complaint by contact channel

Contacts are categorised with around a quarter (28% up to week 62) being coded as one of not applicable, uncategorised or other. Uncategorised is the second-highest contact category, and this includes contacts where there is an associated case reference (e.g. calling for an update or returning a missed call) but the category is not known at the point of contact. Other than these categories, the profile of contacts matches closely to the case categories. The top three for both are delay compensation schemes, train service performance and complaints handling.

4.2.1.2. Published information

Rail Ombudsman publishes quarterly reports and data on the website and its Annual Review for 2019. As the service develops, gradually more meaningful data will be able to be presented using trend analysis, comparing with previous periods and/or years. The annual review for 2019 took as its focus the running of the scheme and missed an opportunity to provide impactful thematic or strategic insights for the rail industry itself. The annual review also did not provide information around the consumer experience. This omission is unusual as Ombudsman providers tend to include this as standard.

4.2.1.3. Industry-wide recommendations

In the Annual Report, the Rail Ombudsman makes some broad recommendations to the Rail industry as a whole relating to:

1. Reducing the time that TOCs have to resolve a dispute to 20 days
2. TOCs needing to develop a greater understanding of consumer rights and empathy - the Rail Ombudsman is well placed to offered training in these areas
3. The Rail Ombudsman engaging with TOCs more around their ethical business practice.

We feel that these industry-wide recommendations would be more impactful if they focused on specific themes coming out of complaints. For example, recommendation two would benefit

from some brief examples to explain further. We are not clear what the third recommendation means, it would benefit from being more specific with examples from particular cases. We feel thematic recommendations, for instance, around the categories that attract the highest volume of complaints, are missing here.

The Annual Review also includes some examples of specific recommendations to individual TOCs. These recommendations would have more impact if the wording was consistent and adjusted for the audience of the annual review, e.g. 'it is our recommendation that…' for each of the recommendations. This approach would have had the effect of the Rail Ombudsman taking ownership of the recommendations and starting to use their knowledge and experience to influence improvements in the industry.

The Rail Ombudsman shared four case studies on their website in May 2019 and provided two further case studies in their annual report (March 2020). Those in the annual review include broader industry recommendations which we were pleased to see.

4.2.2. Wider stakeholders (ORR, RDG, Advocacy groups)

4.2.2.1. Case Management System reporting

All stakeholders, including TOCs, have access to CMS reports. RDG, ORR and advocacy bodies have access to the "Global Data Report" which gives information on all closed cases – in-scope and out-of-scope, with the TOC identified, within whatever date range they select. Wider bodies can view all closed cases – both in-scope and out-of-scope, with the TOC identified, within any date range. This report does not include case notes or any narrative around case themes more generally. We heard that these groups were keen to hear more and have more detail of both individual cases and general insights around the industry complaints. They would like to have the material in a more usable format so that it is easier to form strategic insights.

4.2.2.2. Individual recommendations

Recently, the Rail Ombudsman has built-in more regular communications with ORR, including a regular discussion between the Deputy Ombudsman and the ORR. This dialogue has arisen from ORR wanting to understand in more detail those cases that cannot be understood simply from data sharing.

4.2.2.3. RDG Complaints Working Group (CWG)

The Rail Ombudsman were invited to attend the monthly Complaints Working Group (CWG) in June 2019. It is planned that they will attend every other CWG meeting. Their attendance has been welcomed, and their input is appreciated by the TOCs. Attendance at these meetings is cited as a demonstration by TOC members that the Rail Ombudsman is becoming a trusted partner.

The Rail Ombudsman is using the CWG to influence the individual train companies' handling of complaints by sharing case studies and practical learning. The Rail Ombudsman have used this forum to share some industry-wide improvement ideas. Examples include citing cases related to Equalities Act matters which reflected poor service and training issues and reviewing the provision of information to customers which they view as a critical area with the potential to reduce complaints.

Stakeholders that we interviewed were keen to formalise this relationship between the Rail Ombudsman and CWG and to hear regularly from the Rail Ombudsman.

4.2.3. Train Operating Companies

4.2.3.1. CMS

TOCs have restricted access to the Rail Ombudsman CMS. They use this for managing their own cases and can see summary figures for their performance. When surveyed in July 2019, 84% of TOCs said the CMS is easy to use and 95% said it was available and reliable.

4.2.3.2. Service review meetings

The Rail Ombudsman hold regular service review meetings with TOCs. The purpose of these meetings is to "To maintain open and cooperative interaction between the Rail ADR Service and Rail ADR Scheme Members and to support performance–proactively or reactively –by the Rail ADR Service and Rail ADR Scheme Members, for the benefit of all interested parties." At these meetings, MI alongside industry averages, volume forecasting, case information and insights from cases are discussed. When asked, 84% of TOCs agreed that the Ombudsman's Account Management Services met their needs.

4.2.3.3. Advice on complaints handling

TOCs spoke highly of the day to day advice provided by the Rail Ombudsman regarding complaints handling within the TOCs. They valued the breadth and depth of advice that they have access to and the training that the Rail Ombudsman provides. The Ombudsman is well placed to support TOCs with advice which thereby reduces the number of complaints going to the Ombudsman. This support was viewed as an area of success. When surveyed, 90% of TOCs said that had used the advice line agreed it was helpful. TOCs were more likely than consumers to say that the Rail Ombudsman staff are knowledgeable about their services (95%) and respond promptly (95%).

4.2.3.4. Individual recommendations

The Rail Ombudsman makes recommendations to TOCs after each case and shares these (without personal information) with wider stakeholders. It does not usually reference the ORR guidance specifically but would reference a TOC's commitment in its own Complaint Handling

Procedure (CHP) if it is relevant to the case. The ORR would like to see their guidance used as a reference. The Rail Ombudsman has recently implemented a process to follow up with TOCs to check whether the recommendation has been followed. TOCs told us that these recommendations are useful, and this was backed up by survey responses. The Rail Ombudsman has carried out two surveys with TOCs since their inception. TOCs were generally positive about the influence and impact of the Rail Ombudsman on their complaint handling. For example:

- 69% of TOCs agreed that the Rail Ombudsman helps to improve complaint handling. (Summer 2019)
- 80% of TOCs said that "Learnings gained through working with the Rail Ombudsman have assisted our ongoing resolution of escalated complaints" (Autumn 2019).

These findings are similar to those of the Legal Ombudsman who found that 79% of service providers said they had effectively shared learning/insights that year.

4.2.3.5. Training
The Rail Ombudsman provides accredited training in consumer rights and complaint handling. Training was well received with 100% of attendees saying they would recommend the training to colleagues.

4.2.4. Summary of good practice within the Rail Ombudsman regarding influence and impact
- The Rail Ombudsman has regular contact with several TOCs to look at findings and progress and now provides feedback to the regulator on case studies and trends of complaints.

- It is clear from our interactions with TOCs that they value the depth of support that they receive from the Rail Ombudsman in relation to their own complaints handling. Through the Rail Ombudsman, the TOCs have access to a level of expertise that they often do not have in-house, and several TOCs use this service on a daily or weekly basis. They appreciate the knowledge transfer that they get from the contract with Rail Ombudsman.

- The contribution of the Rail Ombudsman to the Complaints Working Group has been well received. We heard that stakeholders think that this relationship should be formalised and that the Rail Ombudsman should be encouraged to provide thematic insights and learnings to this forum.

- The Rail Ombudsman training was considered to be of high quality and had been well received.

4.3. Areas where the impact and influence of the Rail Ombudsman could be improved

4.3.1. Systemic insights and publicising those insights

The Rail Ombudsman and stakeholders would benefit from more strategic reporting that takes account of the learning available from data and will enable the Rail Ombudsman to provide the most meaningful data to stakeholders. Some of this information is provided in quarterly reviews, but the time lag between activity and reviews being shared and the lack of comparison over time limits their effectiveness. While access to the CMS is available, we heard that wider stakeholders are keen to hear more and have more detail of both individual cases and general insights around the industry complaints. They would like to have the material in a more usable format, with narrative, so that it is easier to form strategic insights.

Some independent members feel Rail Ombudsman is not sharing enough information to stimulate industry learning, and there is a lack of evidence that Rail Ombudsman acknowledges their role in formally sharing proposed industry improvements. This same learning can be used to share impactful recommendations in the next annual review.

We were pleased that many Scheme Members mentioned that the Ombudsman had been collating early learning and case studies and sharing this information with the Train Operating Companies, through the RDG's Complaints Working Group and, more recently, with the regulator ORR. With all this informal activity, we were disappointed to find that the Ombudsman did not use the opportunity of its first Annual Review to highlight learning for the industry.

Once an Ombudsman organisation reaches sufficient maturity, they should be able to start to assess their own impact as a part of the industry on which they are adjudicating. The reach of the organisation should eventually be such that the industry both respects and slightly fears its ombudsman.

4.3.2. Sharing the learning about best practice in complaints handling

The Rail Ombudsman is in a position where they can observe the quality and efficacy of the complaints handling procedures at the TOCs. They already advise TOCs on a one to one basis. We think that there is more they could be doing in terms of spreading best practice in complaints handling across the industry. Many Ombudsman providers invest in helping their sector to improve their complaints handling processes, as this assists with early resolution of

complaints and efficient learning for the organisation concerned. We think the Rail Ombudsman is well placed to occupy this space.

4.3.3. Asking for more feedback and data for continuous internal improvement

Contractual quality measures, aside from KPIs related to timeliness and responsiveness, are limited to the findings of the customer and TOC experience surveys. Regular reporting, KPIs service review and data from the case management system focus on quantitative measures only and should now also start to consider strategic and qualitative data alongside consumer experience measures.

We think that some of the metrics (KPIs) identified in the contract should be expanded to measure customer experience more directly, for example, the number of contacts per case and percentage of cases dealt with at first time resolution.

We have proposed a data dashboard which takes these elements into account in Appendix E.

4.3.4. Benchmarking of TOCs (anonymised)

We heard from some TOCs that they are interested in seeing benchmarked information from the Rail Ombudsman comparing them with other TOCs, based on the information held within the Rail Ombudsman. They are motivated by wanting to know how they are doing against others and how they can improve by learning from others. The Rail Ombudsman would need the support of all TOCs (and RDG) to provide this information. However, one solution where information is to be published about a particular TOC is to provide data for comparison TOCs, without using any company names apart from the specific TOC named. This approach would enable the TOCs to identify where they are in a 'league table', without naming and shaming specific companies.

4.3.5. Governance and accountability

It is the joint responsibility of the Scheme Council, the RDG, and the Rail Ombudsman to set the conditions for the strategic insights to be achieved and shared.

The feedback to the industry needs to take place in a culture of openness and trust. There are complex relationships at play currently, where the TOCs and the RDG are 'customers' of the Rail Ombudsman, and yet would also be the principal beneficiaries of the findings from the complaints.

The Scheme Council need to provide the sponsorship and encouragement to create a learning culture, where the Ombudsman can feedback findings which may be uncomfortable for the industry to hear.

Given the SC's strategic governance role, we would expect information about how the industry can improve their case handling and customer experiences to be highly relevant to the SC's proceedings.

Although we did not expect significant insights during the Ombudsman's first year, we found that learning from the Ombudsman's work was being conveyed elsewhere but not appearing on the SC agenda.

4.3.6. Culture and capability

We consider that the Rail Ombudsman is working in a quasi-public sector environment. While the TOCs run as private enterprises, they receive public money and customers are likely to view train services as part of the public infrastructure.

Therefore, we would like to see the Rail Ombudsman taking more steps to acknowledge the public interest side of their role. This approach would include taking the initiative to be a 'thorn in the side' as well as a supporter of the rail industry, making observations and recommendations that they think will be useful for both rail companies and customers.

For the Rail Ombudsman to make this change, we anticipate that they will need support from various stakeholders, including the regulator and the Scheme Council.

This approach could also be achieved through more knowledge transfer with other Ombudsman services and through partnership working with the advocacy groups and consumer representative groups (e.g. Which).

4.4.   Recommendations

4.4.1. Data reporting and information sharing

The Scheme can make better use of the data so it can better meet the need of stakeholders who are keen for information that can help them to see overall trends and opportunities for the industry to improve.

Recommendation 21: Improve data reporting and information sharing by focusing on the purpose of the data shared. This should include a narrative around findings. Consider the proposed dashboard in Appendix E**.**

(*Rail Ombudsman agreed with SC/RDG*)

4.4.2. Learning from complaints

We propose that the Rail Ombudsman should review the learnings from complaints on (initially) a quarterly basis and that these reports would be formally tabled at the Scheme Council. We would like to see the resulting insights published on the Rail Ombudsman website, and also in the Annual Review document.

Recommendation 22: We propose that the Rail Ombudsman reviews individual case recommendations to pull out common or thematic recommendations for the industry as a whole

 (*Rail Ombudsman/Advocacy bodies*)

4.4.3. Complaints analysis

We know that the raw complaints data is shared with TOCs, advocacy groups and the regulator. We would like to see some more analysis and narrative provided around the raw data, and the data provided to stakeholders in a format that they can clearly understand and use.

Recommendation 23: We propose that Rail Ombudsman share these thematic/strategic findings with Scheme Council and relevant stakeholders regularly.

 (*Rail Ombudsman*)

4.4.4. Raise impact and influence the role of Rail Ombudsman

We see it as the responsibility of DfT, ORR, the Scheme Council and RDG to raise understanding and expectations that this 'influence and impact' aspect is part of Rail Ombudsman's role. We think that there is scope for Rail Ombudsman to learn from best practice within other Ombudsman providers (e.g. LGSCO). The Rail Ombudsman is operating in a quasi-public sector role. This is different from other voluntary schemes, in that the public expects that there will be full transparency and openness. We would like to see the Rail Ombudsman having a more visible presence within the rail industry and starting to make observations and recommendations to improve complaints handling across the industry. We view it as the responsibility of all stakeholders, including the Scheme Council, in supporting and encouraging the Rail Ombudsman to take on this role.

Recommendation 24: Raise understanding and expectations within the industry that this 'influence and impact' aspect is part of Rail Ombudsman's role.

(*ORR/Scheme Council*)

5. Conclusions and summary of recommendations

5.1. Conclusion

The Rail Ombudsman was established in November 2018, so this review was carried out less than eighteen months into the contract.

We have concluded that the Rail Ombudsman is performing well in several areas:

- the KPIs identified in the contract are being met
- the Train Operating Companies are satisfied with the regular support, training, and knowledge transfer which they receive from the Rail Ombudsman
- the contribution of the Rail Ombudsman to the Complaints Working Group is both valued and encouraged
- we are reassured that the Rail Ombudsman is alive to the day to day operational issues of running an ombudsman organisation

In terms of our findings about the current performance of the Rail Ombudsman, we have focused on three areas: governance and accountability, operations, and impact and influence.

To summarise our findings in these areas:

5.1.1. Governance and accountability

We note that when the Rail Ombudsman was being established, there were several complex discussions between stakeholders (including the Ombudsman Association) about the governance of the scheme, and how lines of accountability would work.

- We conclude that the governance of the Scheme, via the Scheme Council, needs to be improved, with a particular focus on ensuring that the scheme contractor and the scheme provider can be held to account for their respective roles. A first step is to transfer the secretariat role from the Rail Delivery Group to the Office of Rail and Road. The next steps are to revise the SC's meeting agendas and improve the information the SC receives.

- The SC's assurance capability can be strengthened by changing its ways of working. The governance handbook should be revised to allow the delegation to Task and Finish Groups of matters requiring more in-depth analysis, such as strategic issues, critical risks or options appraisal. This will strengthen assurance by creating further opportunities for independent members to contribute their expertise and perspectives. This revision will also reduce dependence on formal voting and enable the Scheme Council to take

greater responsibility for the strategic viability and long-term sustainability of the Scheme.

- Clarifying the leadership roles and responsibilities of the Scheme Council will also strengthen assurance, especially with regards to the Scheme's independence. In the longer term, the Scheme's governance would benefit from considering the addition of independent Non-Executive Directors, to take both a strategic and an assurance role.

We have made various recommendations about the detail of how these improvements could work.

5.1.2. Operational delivery

We believe that the Rail Ombudsman is functioning well as an ombudsman provider. Decisions are being made promptly, TOCs are broadly satisfied with the service they receive, and very few complaints went to the independent assessor.

- We believe that the Rail Ombudsman would benefit from gaining more detailed and regular feedback from consumers, especially around the perception of and confidence in their processes being balanced, fair and transparent.

- We have suggested some areas for investigation that may improve efficiency, namely analysis of cases and reviewing the staffing model.

5.1.3. Impact and influence

Although the Rail Ombudsman has only been in existence for eighteen months, we do not currently see clear evidence that they are taking on the influencing role that we would expect to see from an ombudsman.

- The purpose of an ombudsman organisation is to act as a catalyst for improvements within the industry that they serve. While some steps have been taken in this direction, we think that more needs to be done to use the information held by the ombudsman to feed back to the industry and promote good practice.

- In terms of culture, we would like to see the Rail Ombudsman adopting some more transparent ways of working. While the scheme is not ostensibly funded by government funds, we believe that the public still considers the rail industry to be a 'public service'. And in that spirit, we think the Rail Ombudsman should aim to adopt the same level of openness and transparency as a public sector ombudsman organisation.

5.2. Summary of recommendations by urgency:

We have compiled all of our recommendations into this summary table using the following definitions:

- Immediate priorities - within the next six months
- Near-term actions - within the next 12 months
- Future actions - within the next 2-3 years

No.	Category	Recommendation	Responsible
Immediate priorities			
1a	Governance	Transfer the secretariat function for the Scheme Council to an impartial member, ideally the Office of Rail and Road (the regulator).	ORR/Scheme Council
4a	Governance	Strengthen the independence of the Scheme Council by providing role descriptions for the independent Chair and other independent members.	Scheme Council secretariat
5	Governance	Improve the capability of the SC to fulfil its governance role and remit by restructuring the SC meeting agendas. The revised agendas will clarify the distinct customer and provider accountabilities of the RDG, the Ombudsman and the SC. This will enable the SC to function proactively and more productively.	Scheme Council and secretariat
8	Governance	Clarify what information and intelligence the SC needs to fulfil its remit. The results should guide the content of reports provided at its quarterly meetings and support accountability.	Scheme Council
10	Operating model	Review and update signposting to Rail Ombudsman on the website, Passenger Charter, and complaint correspondence.	Rail Ombudsman, advocacy groups and TOCs
15	Operating model	Publish case studies more regularly on the website	Rail Ombudsman
16	Operating model	Publish Rail Ombudsman board membership and financial information on their website	Rail Ombudsman

18	Operating model	Consider whether cost savings could be identified in the staffing model by changing the requirement for all staff to be legally trained and the proportion of the process that contact advisors can complete	Rail Ombudsman
19	Operating model	Ensure the change control mechanism allows for timely discussion, decision, and resolution of change control requests	Rail Ombudsman and RDG
22	Impact and influence	Review individual case recommendations to pull out common or thematic recommendations for the industry as a whole	Rail Ombudsman with advocacy bodies
23	Impact and influence	Share these thematic/strategic findings with Scheme Council and relevant stakeholders regularly	Rail Ombudsman
24	Impact and influence	Raise understanding and expectations within the industry that this 'influence and impact' aspect is part of Rail Ombudsman's role.	Rail Ombudsman, RDG, ORR, DfT, advocacy bodies
Near-term actions			
2	Governance	Revise the governance handbook to reduce the Scheme Council's over-reliance on voting for decision-making. This will strengthen assurance by creating further opportunities for independent members to contribute their expertise and perspectives.	Scheme Council secretariat
3	Governance	Create a separate subcommittee for added assurance of the scheme, such as an independently chaired Audit and Assurance Committee.	Scheme Council
6	Governance	The governance handbook should be revised to allow for delegation of matters, such as critical issues analysis or options appraisal, to Task and Finish Groups. This will reduce dependence on formal voting for decision-making and will enable the SC to take greater responsibility for the strategic viability and long-term sustainability of the scheme.	Scheme Council and secretariat
7	Governance	Consider whether the TOCs could be represented at a group level at the SC's meetings.	Scheme Council/RDG and TOCs

9	Governance	The SC should seek assurance that the Ombudsman is working in the best interests of consumers. This would mean taking an active role in setting and monitoring standards for customer experience as part of the scheme.	Scheme Council
11	Operating model	Consider what else can be done to prevent consumers from contacting the Rail Ombudsman before they are eligible, in particular before they have a deadlock letter.	Rail Ombudsman, advocacy groups and TOCs
13	Operating model	Consider developing consumer experience monitoring to measure experience more regularly through surveying and experience measures.	Rail Ombudsman
14	Operating model	Use more consumer experience monitoring to identify areas for improvement in relation to fairness and impartiality.	Rail Ombudsman
17	Operating model	Carry out an in-depth analysis of cases to identify future opportunities for quick resolution both to identify 'echo' cases and more importantly, the type of cases that tend to be able to be resolved via simple resolution.	Rail Ombudsman
20	Operating model	It would be good practice to move to allow consumers to be able to bring their claim to the Rail Ombudsman 20 working days after the date of their first complaint.	ORR
21	Impact and influence	Improve data reporting and information sharing by focusing on the purpose of the data shared. This should include a narrative around findings. Consider the proposed dashboard in Appendix E.	Rail Ombudsman agreed with SC/RDG
Future actions			
1b	Governance	Establish ORR as the formal sponsor of the Rail Ombudsman through legislation.	DfT
4b	Governance	**As part of a future governance effectiveness review, perhaps in three to five years' time, consider appointing additional independent members (non-executive directors) to the Scheme Council.**	Scheme Council secretariat

Appendix A: ORR Complaint Handling Guidance

The ORR published guidance on complaints handling for licence holders in 2015.[40] Their core standards for complaints handling are shown below alongside expectations for each area. We have considered the ORR guidance when preparing this report.

Feedback mechanisms and response
- Accessibility and reach – The means available to passengers to provide feedback and the ease of doing so, taking into account the needs of all customers including those with different types of disabilities.
- Putting things right – How a licence holder demonstrates that it is listening, responding and is flexible to passengers' needs for individual complaints and systemic issues.
- Acting fairly and proportionately – How a licence holder ensures objectivity, consistency and fairness.

Structure, people and processes
- How the organisation is structured to put its CHPs into place, including identified roles and chains of accountability.
- Training programmes and communication strategies
- Published service standards in respect of complaint handling
- Reporting and reviewing arrangements – how the licence holder assures itself of and measures the ongoing effectiveness of its arrangements including internal criteria for assessing this and audit arrangements.

Organisational culture
- Governance, policy and leadership – including the degree to which the top team are engaged with complaints handling.
- How the top team ensures feedback is acted upon and embedded into the organisation's strategies and approach as part of a commitment to continous improvement.
- The extent to which the customer experience sits at the heart of the organisation's vision.
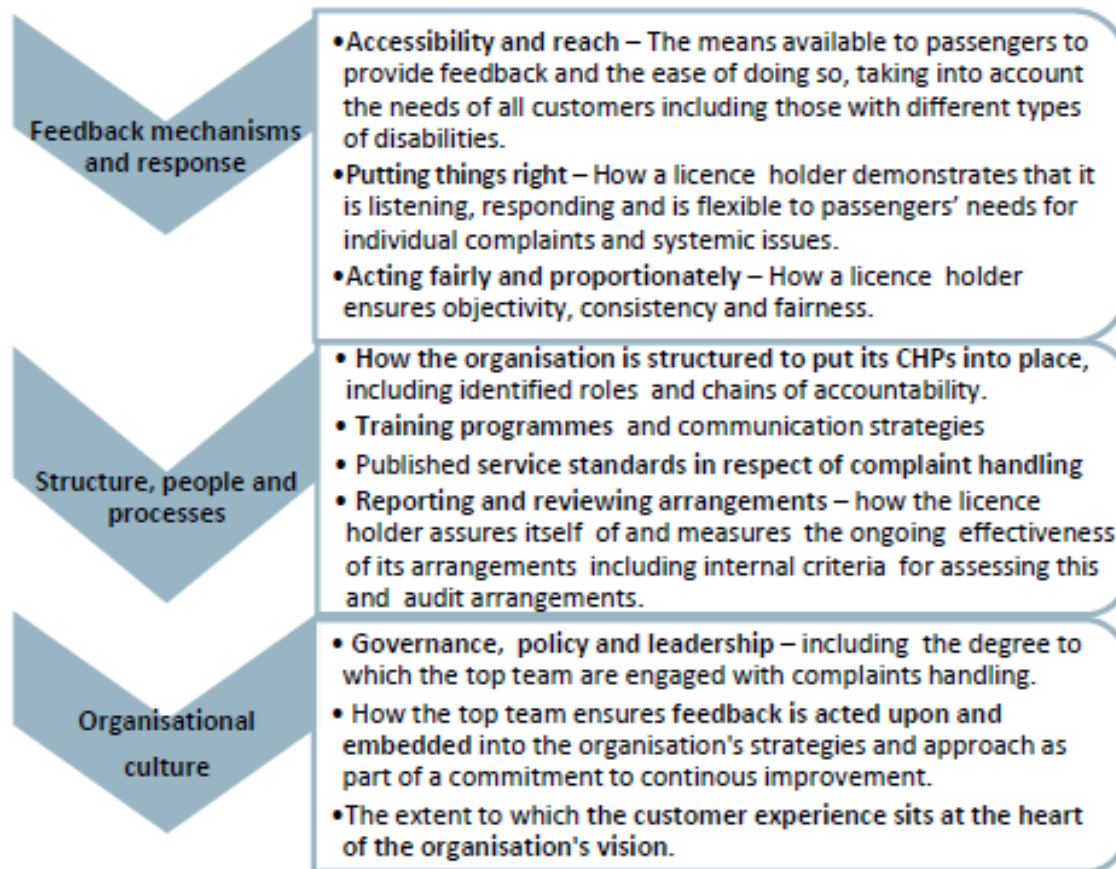
Figure 26: ORR Complaint Handling Guidance summary table

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[40] https://orr.gov.uk/__data/assets/pdf_file/0020/19370/complaints-handling-procedure-guidance-2015.pdf

Appendix B: Rail ADR Scheme Council voting information

Extracted from Governance Reference Handbook.

GOVERNANCE AUTHORITY & VOTING RIGHTS
Rail ADR Scheme Council ("Council")
Representation:
• Full Rail ADR Scheme Members.
• Licensed Rail ADR Scheme Members.
• Independent Members (currently Department of Transport, Disabled Passengers Transport Advisory Committee, ORR, London TravelWatch and Transport Focus).
Decision Making:
• For the Independent Member matters set out below ("**Independent Member Matters**"), at least 51% of the total votes cast in favour of a resolution shall be required to pass any resolution affecting any of the following: 　a) a Substantive Variance to this Scheme; 　b) any variance to the rules of this Scheme which affects the role of the Independent Members; 　c) any variance to the Rail ADR Service Rules; 　d) a Substantive Variance to the Contract other than to the Rail ADR Service Rules; 　e) approval of any Service Improvement Plan required under the Contract from the Service Provider; 　f) approval of the initiation of any termination procedures under the Contract on the ground of poor performance by the Service Provider; 　g) approval of the appointment of any replacement Service Provider in the event of a future retendering of the Contract.
• Any vote passed in relation to an Independent Member Matter shall be notified to the Regulator.
• For matters other than the Independent Member Matters: 　a) at least 51% of the total votes cast in favour of a resolution; and 　b) at least 51% of the votes cast by Full Rail ADR Scheme Members and Licensed Rail ADR Scheme Members in favour of such resolution, shall be required to pass any resolution.
Number of Votes:
• For the Independent Member Matters: 　a) each Independent Member has an equal share of 55% of the total votes exercisable at Council meetings. At the first Council meeting, there will be 5 Independent Members so each Independent Member will initially have a vote equivalent to 11% of the total votes cast*; 　b) the total number of votes cast by Full Rail ADR Scheme Members and Licensed Rail ADR Scheme Members shall be worth 45% of total votes. The vote of each Full Rail ADR Scheme Member and each Licensed Rail ADR Scheme Member present or by proxy shall be a proportion of that 45%. 　**Should the number of Independent Members increase or decrease, the 55% of total votes exercisable at meetings of the Council shall be divided equally between the number of Independent Members accordingly.*
• For matters other than the Independent Member Matters, each Full Rail ADR Scheme Member and each Licensed Rail ADR Scheme Member has 1 equal vote.
• Associate Rail ADR Scheme Members do not have any votes.

Figure 27: Scheme Council voting information - extracted from Governance Reference Handbook.

Appendix C: Benchmarking

It is difficult to benchmark ombudsman services as they work across different sectors, have different processes, publish subtly different data and are well-established to a varying degree. That said, some conclusions can be drawn from placing the Rail Ombudsman within the context of other private sector Ombudsman services. For Ombudsman services other than the Rail Ombudsman, we have used the most recent published information. Where data is not included for an ombudsman provider in one of the sections below, data was either not available, or not easily comparable.

4) Company structure

Many private-sector Ombudsmen (including Energy Ombudsman, Financial Ombudsman Service, Waterways Ombudsman, Removals Industry Ombudsman Scheme) use the same company structure as the Rail Ombudsman "limited by guarantee and not having share capital".

5) Governance

The benchmarking included comparing the Rail Ombudsman's governance structures and processes with those of other ADR Schemes, paying particular attention to voluntary schemes, rather than statutory schemes. Typically, a voluntary scheme covers a specific industry, and it will be overseen by an independent board or council, composed of non-executive directors (NEDs). The NEDs represent a combination of consumer, public and business interests, with the business representing only a minority of interests.

6) Transparency

Ombudsman service	Board/ committee profiles on the website	Board minutes on the website	Financial performance on the website
Energy Ombudsman			Consolidated within The Ombudsman Service Ltd accounts
The Financial Ombudsman Service	✓	✓	✓
The Furniture Ombudsman	✓		Companies House
Legal Ombudsman	✓	✓	✓
The Motor Ombudsman	✓		✓

Property Ombudsman	✓		✓
The Rail Ombudsman			**Companies House**
Removals Industry Ombudsman Scheme			✓
The Waterways Ombudsman	✓		Companies House

7) Scale

Volume of contacts

Ombudsman service	Total contacts in a year	Average contacts per in scope complaint[41]
The Financial Ombudsman Service	1,680,394	4.5
Energy Ombudsman	108,349	2.4
The Motor Ombudsman	59,925	13.5
Property Ombudsman	29,023	6.8
The Rail Ombudsman	**18,698**	**12.1**

Volume of complaints

Ombudsman service	In scope complaints resolved in a year
The Financial Ombudsman Service	376,352
Energy Ombudsman	45,667
The Furniture Ombudsman	8602
Legal Ombudsman	7280
The Motor Ombudsman	4456
Property Ombudsman	4246

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[41] This is simply total contacts divided by number of in scope complaints. It is provided for comparison purposes only and does not represent the average number of contacts for each in scope complaint.

The Rail Ombudsman	3000 total, 1549 in scope
Removals Industry Ombudsman Scheme	251
The Waterways Ombudsman	43

8) Staff

Costs

Ombudsman service	Staff as a proportion of total budget
The Financial Ombudsman Service	83.7%
Legal Ombudsman	78.9%
The Rail Ombudsman	**75.6%**
Removals Industry Ombudsman Scheme	68.2%
The Motor Ombudsman	59.5%

Absenteeism

Ombudsman service	Average days off sick
The Rail Ombudsman	**1.9 days**
The Financial Ombudsman Service	9.8 days
Legal Ombudsman	11.8 days

9) Decisions

Resolution time

Ombudsman service	Average days
The Rail Ombudsman	**20.1**
Energy Ombudsman	26
Removals Industry Ombudsman Scheme	27
Financial Ombudsman Scheme	34

The Furniture Ombudsman	38.7

Decisions upheld

Ombudsman service	Percentage decisions upheld
Energy Ombudsman	64%
The Rail Ombudsman	**41%**
The Motor Ombudsman	34%
The Financial Ombudsman Service	28%

10) Early resolution

Ombudsman service	Proportion of cases viewed as early resolution/simple
The Financial Ombudsman Service	90% 'informal review.'
Property Ombudsman	84%
The Rail Ombudsman	**43%**
Legal Ombudsman	36%

We note that the industry and type of case varies and this will influence how many cases can be resolved early but also that some Ombudsman providers, such as the Financial Ombudsman Service have specifically aimed to increase the proportion of cases that can be resolved by informal review.

11) Perception of fairness

Little comparison data is available as this is not consistently shared publicly.

Ombudsman service	Perception of fairness
Ombudsman Services (2015)	71.9% of Energy Ombudsman consumers felt the outcome they received was fair and unbiased, where 73.4% of respondents were satisfied with OS:Energy in general.[42]

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[42] https://innovation.ox.ac.uk/licence-details/ombudsman-satisfaction-survey/

Parliamentary and Health Service Ombudsman (2019)	69% overall score for seven questions relating to "Following an open and fair process."[43]
Legal Ombudsman (2011-2)	56% " feel they have been treated fairly by the Legal Ombudsman in relation to this complaint"[44]
The Rail Ombudsman (2019)	**"Taking into account your overall experience, how strongly do you agree or disagree that the Rail Ombudsman is…" impartial (49%) and fair (46%).**
Local Government & Social Care Ombudsman 2017/18	25% "I felt that my complaint was handled fairly."[45]

12) Independent assessor

Ombudsman service	No. of cases	Proportion upheld	Equivalent upheld overall
Property Ombudsman	1 out of 4246	1 case partially upheld	1 out of 4246
The Rail Ombudsman	**4 out of 1549**	**25% (1 case)**	**1 out of 1549**
The Financial Ombudsman Service	552 out of 376,352	54% critical or unsatisfactory	1 out of 1262
Energy Ombudsman	83 out of 4566	78% upheld or justified	1 out of 70
The Motor Ombudsman	76 out of 4456	Not known	1 out of 59 (if all raised were upheld)

13) Consumer experience

All examples apart from the Rail Ombudsman include their consumer experience data in their annual review.

Ombudsman service	Overall service

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[43] https://www.ombudsman.org.uk/publications/performance-against-our-service-charter-201920-quarter-2-july-september/performance-against-our-service-charter-201920-quarter-2-july-september-0

[44] https://www.legalombudsman.org.uk/?portfolio=customer-satisfaction-survey-results-2012-2013

[45] https://www.lgo.org.uk/assets/attach/5605/Customer-Satisfaction-Research-2017-18-FINAL.pdf

Energy Ombudsman	77% satisfied[46] "In 2018, overall customer satisfaction with the service provided by Ombudsman Services in the energy sector was 77% - up from 73% in 2017 and 63% in 2016."
The Financial Ombudsman Service	63% satisfied[47] "63% of people we surveyed said they were satisfied with our service 2018/2019"
Property Ombudsman	60% satisfied[48] "Overall, consumer service satisfaction for 2018." (51% Overall consumer decision/resolution satisfaction for 2018)

14) References

All data can be found on ombudsman websites.

Ombudsman service	Website
Energy Ombudsman (operated by Ombudsman Services)	https://www.ombudsman-services.org/sectors/energy
The Financial Ombudsman Service	https://www.financial-ombudsman.org.uk/

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[46] https://assets.ctfassets.net/46t2drav2f3e/7rZEss3IsiSOAPQf0zxhBi/36055263e2465a182bfc9fbbac0f952c/1170_Energy_Sector_Report_v3.pdf

[47] https://annualreview.financial-ombudsman.org.uk/

[48] https://www.tpos.co.uk/images/documents/annual-reports/2018-annual-report.pdf

[49] https://static.railombudsman.org/roweb/wp-content/uploads/2019/11/15131002/Rail-Ombudsman-Experience-Survey-Report-FINAL-Nov-19.pdf

The Furniture Ombudsman (operated by Dispute Resolution Ombudsman)	https://www.thefurnitureombudsman.org/
Legal Ombudsman	http://www.legalombudsman.org.uk
The Motor Ombudsman	https://www.themotorombudsman.org/
Property Ombudsman	https://www.tpos.co.uk/
Removals Industry Ombudsman Scheme	http://www.removalsombudsman.co.uk/
The Waterways Ombudsman	https://www.waterways-ombudsman.org/

Appendix D: Proposed Scheme Council Meeting agendas and papers

Topic	Owner	Q1	Q2	Q3	Q4	Notes
For the record						
Conflicts of interest	Chair	*	*	*	*	
Minutes of previous meeting (for approval)	Chair	*	*	*	*	
Matters arising	RDG	*	*	*	*	
Strategy and business planning						
Scheme strategy and sustainability plan (for approval)	RDG		*			
Annual budget (for approval)	RDG/Rail Ombudsman				*	
Emerging scheme-related issues (for discussion)	RDG					As needed
Scheme changes (for approval)	RDG					As needed
Scheme performance						
Finance and operations report (KPIs) (for discussion)	RDG	*	*	*	*	
Quality report (for discussion)	Rail Ombudsman	*	*	*	*	
Members' experiences (for discussion)	Rail Ombudsman	*		*		
Customer experiences/service charter (for discussion)	Rail Ombudsman	*		*		
Audit and assurance (reporting by exception)	AA Committee	*	*	*	*	
Scheme impact and influence						
Annual report (for approval)	Rail Ombudsman				*	
Special reports/reviews (for discussion)	SC TBC					As needed
Emerging insights for the sector (for discussion)	SC TBC					As needed
Contract management						
Emerging contractual issues (for discussion)	RDG					As needed

Appendix E: Proposed data dashboard

Stage in process	Metric	Proposed time period	Purpose	Data
Initial contact	Total contacts	Monthly trend for 12 months	See trend in demand	Data available - close to what is in regular report
Initial contact	Contacts and cases raised by first-level category	Current month	Identify any volume contacts which do not relate to cases.	Combine 2 data points in regular report - NB - within the CMS, it cannot be identified which initial contacts are linked to cases, so this gives a general impression, not accurate figures for the number of contacts per case.
Initial contact	Out of scope by appropriate and inappropriate[1] contact	Rolling current and previous two months	Acknowledge single front door activity. Identify communications, signposting needed.	In quarterly reports - propose separating from in scope.
Initial contact	Summary of inappropriate out of scope types	Narrative	Recommendations to reduce ineligible (avoidable) out of scope, e.g. signposting.	Data provided in the quarterly report, propose adding narrative.
Initial contact	Average number of contacts per in scope complaint – "customer effort."	Rolling current and previous two months	Customer experience and effectiveness measure.	Rail Ombudsman has now confirmed this cannot currently be provided with confidence.
Initial contact	Percentage first-time resolution for out of scope contacts	Rolling current and previous two months	Customer experience and effectiveness measure.	Not currently recorded. Investigate whether feasible.

Stage in process	Metric	Proposed time period	Purpose	Data
Review the signposting and TOC complaint process	TOC with high out of scope	Rolling current and previous quarter		Data is provided in quarterly reports but propose separating in and out of scope data and providing trend.
Cases raised	In scope cases raised	Monthly rolling trend for 12 months	See trend in demand	In a regular report.
Cases raised	In scope cases by first-level category	Rolling current and previous two months	Highlight where to focus improvement activity	As provided in quarterly report, but break down by month.
Cases raised	In scope cases by second-level category which have more than 50 in-scope complaints per quarter.	Cumulative for one quarter	Identify 'typical' cases and share recommendations	As provided in quarterly report, but highlight only high volume second category.
Cases raised	TOCs with the lowest proportion of complaints going to Ombudsman	Rolling annual	Identify TOCs to share good practice	As provided in quarterly report, but highlight the lowest proportion.
Cases raised	TOCs with the highest proportion of complaints going to Ombudsman (with an explanation if appropriate, e.g. exceptional circumstance)	Rolling annual	TOCs review their data in more detail	As provided in quarterly report, but highlight the highest proportion.
Cases raised	TOC with reduction in the proportion of complaints going to Ombudsman over time	Compare current and previous quarter	Identify TOCs to share any improvements in complaint handling or other areas	As provided in quarterly report, but highlight the change in proportion.

Stage in process	Metric	Proposed time period	Purpose	Data
Resolution	Average and range of resolution time by simple/complex	Rolling current and previous three quarters	Identify trends for resolution time	Data available - average as provided in the quarterly report, propose adding a range of resolution times.
Resolution	Most common first-level category cases by simple/complex	Rolling current and previous three quarters	Highlight where 'typical' early mediation cases can be identified to replicate for future cases.	Data available, not currently reported.
Resolution	Staff time spent on cases by simple/complex (not overall resolution time)	Rolling current and previous quarter	Identify trends for resolution time	Rail Ombudsman confirmed this is possible but have not yet provided.
Outcomes	Simple resolution by outcome	Rolling current and previous quarter	Identify trends for outcomes	As provided in quarterly report, adding previous quarter.
Outcomes	Complex resolution by outcome	Rolling current and previous quarter	Identify trends for outcomes	As provided in quarterly report, adding previous quarter.
Outcomes	Highlight relevant information re TOCs, e.g. those with high/low mediation proportions	Narrative	Encourage conversations around policy and good practice across TOCs	Data is provided in quarterly reports, propose adding narrative.
Outcomes	Award types and volume	Rolling current and previous quarter	Identify trends for award types	As provided in quarterly report, adding previous quarter, and providing information where more than one type of award was given, e.g. and apology *and* compensation.
Outcomes	Individual recommendations, relevant for all	Narrative	Share learning from individual cases to influence industry	Use the annual review as a basis but provide more information in a consistent format.

Stage in process	Metric	Proposed time period	Purpose	Data
Outcomes	Industry recommendations	Narrative	Share learning from overview of cases to influence industry	Provide more detail of how themes from individual cases can be expanded to overall industry recommendations.
Consumer experience	All metrics in consumer experience survey	Current with comparison to last year	Identify areas for further investigation	Data provided in the Consumer experience survey prepared by Ipsos Mori. Compare this year's data to the first survey.
Consumer experience	Key consumer experience areas	Sample of customers every month with current and previous two months data	More responsive feedback from consumers. Identify improvement or deterioration over time.	Not currently collected. Propose new, more regular, customer survey.

1 'Appropriate' out of scope is contact that should be welcomed and is likely to be related to the Rail Ombudsman providing the single front door function. (Out of scope - transferred). 'Inappropriate' contact is that which does not perform a useful function. It would include 'no deadlock letter'. (Out of scope - ineligible