

Rail Sector Liaison Panel

Minutes of the Second meeting of the Rail Sector Liaison Panel, held by conference call at the premises of the Rail Ombudsman, 1st Floor, Premier House, 1-5 Argyle Way, Stevenage, SG1 2AD on 19th March 2020 at 11:00.

Present:

Chair: Jon Walters

Vice-Chair: Emma Vincent

Billy Quinn

Christopher Hodges

Judith Turner

Matthew Thomas

Susan James

John Smith

Minutes prepared by Sarah Payne (Head of Customer Contact, Rail Ombudsman)

The Chair declared the meeting open at 11:00

1. Introductions and opening

An introduction all attendees on the conference call took place followed by the chair welcoming everyone to the call and thanked all for their flexibility.

Points of the agenda were outlined with AOB to follow at the end of the meeting.

2. Minutes of the meeting held on 18th December 2019

The chair asked all to confirm they had received the Minutes from the previous meeting, asked if anyone had any questions. No questions were raised, and minutes accepted.

3. Rail Ombudsman Annual Review

Feedback received from the RSLP was that the review looked fantastic, containing a good balance of information, data & case studies and an easy read.

The review will be presented to the Rail Ombudsman Board in the week commencing 23rd March.

ACTION: JT- update SJ to verify publication should the date change. BQ confirmed the date we are working to is the 26th March.

ACTION: BQ- to send an embargoed copy to RDG, ORR, DfT, TF & LTW and the Rail Scheme Council in the week commencing 23rd March.

ACTION: SJ- to provide any questions/feedback over the next two days.

4. Ethical business Regulation- An introduction by Chris Hodges

Please see the attached document; CH introduced this to the group in the context of his vision as to how it could be incorporated into the rail industry. JT updated at this point the RO have included recommendation in our Annual Review and re-engaging with the Williams review hopefully in the week commencing 23rd March. EV welcomed this as a way forward and the Panel were aligned in their agreement. CH described a potential role for the RO as guardian of fairness. It was broadly agreed that this was an action that could be taken off-line and reports made back to the panel.

ACTION: EV: Post the current situation EV will address with RDG/ORR.

5. Scope of the Rail Ombudsman

JT explained current limitations on scope and went on to explain the other areas into which this could be broadened. One of the first areas that should be considered was the reduction of the current time- line from 40 working days to 20 working days and the general consensus was that this was desirable. It was acknowledged that the OA have an appetite for the RO to lead here. Other areas for considerations included: -

- a) Third party ticket retailers
- b) Network Rail
- c) Environmental issues i.e. noise pollution, rubbish, engineering works
- d) Railcards

ACTION: JT/SJ- to draft a document for the Rail Scheme Council to approve once the time is right.

SJ commented on how well the RO have done in challenging circumstances and believed it was time to open the floodgates and enable more passenger access to the RO.

ACTION: JT- to share a document containing an initiative to provide information on byelaws and terms in an unthreatening way, with the intention of providing a better understanding amongst school children of their responsibilities and challenges they might face while using the railway, along with how they react and behave. Mike Ross has asked to be involved along with EV.

6. Feedback/Questions for the Rail Ombudsman

For this point there were no questions brought to the table. The consensus was that MT had this under control with his engagement across the TOC's.

7. Impact of Coronavirus on the Rail Industry

In view of the current situation, it was imperative for all to work together and support the passengers. The RO are applying agile principles, keeping all contact channels open so as to provide a robust transition for the passenger while deploying homeworkers.

ACTION: EV- to provide any updates received from ORR/RDG regarding refunds on advance tickets, amended timetables and any other relevant information that the RO will need to respond to passengers.

8. External Scrutiny of the Rail Ombudsman

JT updated the group on the following:

- a) DRO have had a CTSI audit in Feb 20 and, although, we are not due the RO audit until Jan/Feb 2021, this was a good dry-run for that audit. The feedback received was positive and a comment was made that that we are operating to such a high standard, we should show other ombudsman/ADR organisations how to operate.
- b) Holding a call with the Williams Review in the week commencing 23rd March.
- c) ORR Industry Review for policy and procedures feeding into RedQuadrant Monday 23rd March however to date nothing has been heard yet.

9. AOB

No additional points raised, Chair thanks everyone for their flexibility in view of the current situation, that the conference call worked well and would be the option for the next meeting, the dates offered are:

16th & 17th June

23rd & 24th June

Meeting closed 12:40

EBP & EBR Propositions

The concepts are:

- 1. Businesses should ‘do the right thing’ at all times, in relation to all stakeholders (staff, customers, suppliers, regulators, investors, communities, the environment). This is called Ethical Business Practice (EBP)**
- 2. Businesses and regulators should build relationships of trust, collaborating to achieve shared goals of protection and commercial success (Ethical Business Regulation – EBR).**

The ideas are built up from these propositions:

- People achieve more when they *work collaboratively* together (rather than when they are adversarial);
- Effective relationships are based on *trust*;
- Trust is based on evidence that a person (and both sides) can be trusted, i.e. evidence of their behaviour over time.
- Such evidence is evaluated against humans’ inherent internal ethical framework (unless the person is a psychopath or sociopath).
- Such evidence can include demonstrating what people do, and their intentions in acting, and the outcomes that they produce, not only when things go well but also when things do wrong or mistakes are made (such as do they hide bad things or seek to put them right?).
- A lot of this evidence comes from existing compliance and regulatory systems (like complying with rules and operating quality systems) but it is increasingly recognised that evidence of the culture of an organisation is profoundly relevant to how they act, and that too much focus on compliance can harm trust.
- These changes in approach mirror the change in regulatory design from rules-inspection-breach-sanction-deterrence mode to one involving principles, risk- and outcome-based modes.
- Traditional legal and economics-based theories of regulation (especially the theory of deterrence) have had to be re-thought as a result of the scientific findings of behavioural psychology and how humans behave in groups or organisations.
- New approaches are emerging involving building relationships between businesses and regulators that are open and problem-solving, based on trust on both sides, especially based on production of evidence that both sides are continually working to create and maintain cultures that are ethical.
- The organisational practice is called Ethical Business Practice (EBP) and the relationship between businesses and regulators is Ethical Business Regulation (EBR).
- One well-established example of EBP is aviation safety, where it is called ‘open and just culture’.
- Pilot studies on EBP and EBR are underway in various sectors and parts of the world. It is obviously easier to accomplish in some sectors than others. Early progress is being made in water, food, pharma, environment sectors.
- A business that adopts EBP should have the advantage that it deserves the trust of its staff, suppliers, customers, investors, regulators, communities, society. It is likely to perform and innovate well. Some evidence already indicates this. It will tend to identify and resolve problems quickly. It will have a culture of psychological safety where people can admit and examine mistakes and put things right and therefore be accountable.
- Other aspects of EBP relate to quality of leadership, the existence of shared values and a belief that ethics is everyone’s responsibility.

The basic concepts and evidence are explained in the book C Hodges and R Steinholtz, *Ethical Business Practice and Regulation: A Behavioural and Values-Based Approach to Compliance and Enforcement* (Hart, 2017). Guidance documents are currently being created by international regulatory experts in the International Network for Delivery of Regulation (INDR).

Some further summaries are at www.fljs.org/content/ethical-business-regulation and www.fljs.org/content/international-adoption-ethical-business-regulation