



Report from the Independent Assessor - Referrals 2022



The Independent Assessor is available to receive comments and concerns on the quality and standards of the Rail Ombudsman's (RO) processes. All consumers and RSPs who have otherwise exhausted the RO's complaints process are signposted to direct their concerns to me. The IA cannot consider any decision – adjudication – made by the RO and looks only at the service provided by the RO.

In 2022, there were 4 consumer referrals and one self-referral to the Independent Assessor. The Rail Ombudsman received 4608 cases during 2022, of which 33 cases were escalated via the Rail Ombudsman's complaint process. Of these, approximately 50% progressed to stage 2 of that process and 4 consumers referred their cases to me for review.



Referral 1 Decision and service

In this case, the Consumer was seeking Delay Repay of £1.64 and in dispute with the RSP about payment. The case was closed by the Ombudsman on the basis there was no further scope for mediation and the Rail Service Provider had offered over and above Consumer entitlement before escalation.

The Consumer was advised that I was satisfied that an apology has been made for an error in the decision which stated that the £1.64 had been refunded, when technically it had only been received in rail vouchers. I noted that this was a judgement based on the evidence.

The recommendations I made to the Ombudsman were:

- 1) To consider proportionality and response to consumers, noting that this case was about such a low value. Should there be a policy for how to address, "it's not the money it's the principle" argument? This is a point to be raised with the wider Ombudsman community through the Ombudsman Association.
- 2) To consider the service complaints process and the perception caused by Stage 1 response from the subject of the complaint. The person complained of should not be the person investigating the complaint. They can be asked to give their account but not to be the investigator.
- 3) To consider more carefully how to frame a Consumer's complaint back to them to recognise that what a consumer is actually seeking may differ to the categories available on the application form.



Consumer Referral 2 Decision only

I reiterated previous comments about how the Stage 1 complaints process may be perceived as “marking your own homework.”

In this case, the Consumer was not happy that there was no right to appeal the Ombudsman decision. The IA noted that all adjudications are reviewed at a senior level before they are issued and asked that the RO provide better communication about this element of the process.

Having revised the complaint, the I advised the Consumer that I was confident that the complaint was taken seriously and investigated according to agreed processes, including considering all evidence provided to the RO.

Consumer Referral 3 (R152142) Decision only

The Consumer requested a referral to the Independent Assessor, because they were unhappy with the decision. As all issues complained of were relating to the decision the I was unable to comment, and advised the Consumer of this.

Consumer Referral 4 (R149376) Decision

The Consumer complained about the decision in this case and escalated to the IA after a drawn out service complaint.

The case was discussed directly with the me. The RO accepted that following case closure, the Consumer had received poor customer service in handling the service complaint but maintained that the decision was sound. The RSP agreed to offer an apology for the complaint handling. However, this offer was rejected by the Consumer.

Self Referral Referred following RSP complaint:

Firstly, it was noted that the draft decision was sent to the Consumer before it had been reviewed internally. This was considered attributable to human error but was found to be a procedural irregularity that requires acknowledgement. I also queried whether a system development could block the ability to send adjudications until it is approved.

I commended the RO for taking on board the member's request and referring this case to the IA. And in reviewing systems and processes to minimise future recurrence.

An Addendum was issued on this case.

Actions taken by the Rail Ombudsman

All feedback from my recommendations has been discussed at team meetings, and incorporated into one to ones meetings with team members, where appropriate, to ensure continuous improvement. Below are the improvements adopted specifically in response to the 2022 referrals.

The Rail Ombudsman has discussed and considered the service complaints process, but concluded that the Stage 1 element provides a useful opportunity to clarify queries on the decision and the person best placed to do this is the original case handler. This is borne out by the fact that approximately 50% of complaints do not go beyond stage 1. Furthermore, the majority of service complaints are related to the decision, and most complaints resolved with further explanation. That said, the RO has committed to review their complaints process and to consider implementing a different route for complaints that are solely about service and not decisions. This will involve a benchmarking exercise initially and further consultation with myself.

In order to make it clearer that all adjudications are approved at a senior level, clarification has been incorporated into the template explanation sent to a consumer as part of the adjudication stage of the process.

In response to the comments about system changes to ensure no draft decision can be sent before approval, these comments have been discussed with the system developer who is reviewing whether system changes can be made to mitigate the risk of this occurring in the future. Furthermore, the Ombudsman team has been briefed to make sure all parties are aware of any such occurrence in real-time to ensure no bias can be inferred.

In response to the self-referred complaint, the case was re-reviewed by the Deputy Chief Ombudsman and then escalated to the Chief Ombudsman who, upon discussions with the Deputy Chief Ombudsman, agreed that the basis of the decision-making process was unsound. It should be noted that the RSP also requested that I review the case, and this was fully supported by the Rail Ombudsman who were also keen to seek feedback. The Rail Ombudsman has undertaken to self-refer more cases for review in order that the feedback mechanism can be more widely used to ensure continuous improvement in complaint handling.

Further enhancements have been made to the RO Quality Checking process which will now also cover the review of cases that are still open and ongoing as well as those already closed in order that any irregularities could be picked up at an earlier point and action taken to ensure confidence in the decision-making process.



A continued theme of cases is communication and I have recommended that the RO reviews its communication approaches and style. Occasionally the correspondence with complainants can read as overly complicated and legalistic. Complainants will welcome clear communication written without jargon. I am pleased the RO is to review its template letters and offer suggestions to the team about writing clearly and concisely.

I have also been struck by the abusive nature of some communications to the RO. Staff at the RO have a right to work in an environment free from abuse and harassment. The RO should be confident about denying a service to or simply ending calls with those who are abusive to them.

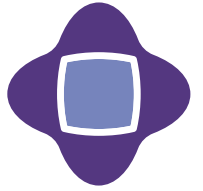
Every railway station in the country has signs explaining that abusive conduct will not be tolerated. The RO should be no different from this.

It is likely that the ongoing industrial action by transport unions will have an impact on the volume of complaints to the RO. The RO is prepared to deal with these in its customary independent, impartial, thorough and fair way.

I look forward to working with the RO in the year ahead.

Kathryn Stone OBE
Independent Assessor
February 2023

The Rail Ombudsman



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