

Passenger Advisory Panel

MINUTES

Meeting date: 24 January 2024

10am-12pm via Teams

Present:

Jon Walters (Chair);
Susan James – London Travel Watch;
Linda McCord – Transport Focus;
Claire Walters – Bus Users Group;
Naomi Creutzfeldt – University of Westminster;
Peter Stonely – Trading Standards Consultant;
Cynthia Van der Linden – Ombudsrail (Belgium);
Owain Davies – Level Playing Field;
Judith Turner - Rail Ombudsman;
Rosie Tackley – Rail Ombudsman;
Matthew Thomas – Rail Ombudsman;
Bethany Smith – Rail Ombudsman (secretariat).

Apologies:

None.

Minutes prepared by Rail Ombudsman Secretariat.

The Chair declared the meeting open at 10am.

Action Log

Action	Owner	Status
Glossary of terms	RO	
Update on ORR testing of passenger awareness of RO.	RO	
RO advised of member survey in Spring 24 and will update Panel with findings.	RO	
Recommendations update	RO	
Webinar dates – RO will circulate	RO	
Consider whether providers may find it pragmatic to accept penalty over making changes.	All	

1. Welcome & Intros/apologies

Chair, All

JW introduced himself as Chair. All other members introduced themselves and explained their background to the panel.

2. Terms of Reference & Ways of Working

Chair, All

An overview of the new governance was explained, noting that the ORR now sponsors the Rail Ombudsman (RO) scheme, as of 26 November 2023. Previously, under the Rail Delivery Group (RDG) contract, there was a Rail Sector Liaison Panel and a Scheme Council. These are now replaced with separate Passenger and Member Advisory Panels which feed into the Rail ADR Service Board in accordance with the Terms of Reference. The plan is for these Panels to share discussions, and meet periodically, in order to ensure that the ideals and opinions of all interested parties are represented. Both Panels will discuss the needs of the RO scheme and help identify common themes. JT was present as a representative of the Rail ADR Service Board.

The ORR has been prescriptive in the way in which the panels were constituted, however there is an opportunity to evolve the starting point themes using the expertise of the members of the Panel. The purpose of this Panel is to be an advisory group with the opportunity to evaluate the work of the RO and share best practice. This creates an opportunity to help drive positive outcomes within the rail Industry.

Housekeeping



The meetings will be three to four times per year. JT commented from a Board perspective that the aim was to draw on the expertise of the members, and there is a potential for subgroups to explore key issues in more depth, as appropriate.

The members commented on the use of jargon within the rail industry, and JT advised that a glossary would be compiled to aid with this.

3. Rail Ombudsman Update

RT/MT/JT

a. Operational Update

MT provided an operational update and advised that the RO has now entered a business as usual phase beyond the implementation of the new contract, aside from some ongoing activities associated with implementation such as bedding in the new panels. The Member Panel will also be meeting soon, and consists of ten members representing the scheme members, with Julie Allan (Govia Thameslink Railway) chairing this.

This panel will also be used to progress the new approach to recommendations based on discussions carried out last year with the industry and the ORR, with the aim of increasing the impact of recommendations and being prescriptive where appropriate, but also adopting an approach to recommending analysis and engagement on potential improvement areas, allowing room for a range of perspectives and insights. As the Panel minutes will be published on the RO website, this will promote tracking and also closes the feedback loop from a consumer perspective.

The ORR are embarking on user testing the consumer experience. The scheme member survey will be sent out in the spring.

MT shared a PowerPoint and discussed case volumes. It has been a relatively stable year and so far, this financial year, 3,300 cases have been closed. The dominant case themes continue to be linked to delay compensation, train service performance and customer service.

There has been a new piece of work tracking the offers made by the industry in comparison to the awards made by the RO. Early data shows that, on average, the amounts offered are similar to the case resolution, although the industry average is higher. MT was asked if this has always been the case, and anecdotally he advised that operators are known to have used the RO decisions as an outline in responding to complaints on similar topics. When questioned, MT also advised that, the Members' Panel will have remit to review the recommendations and the reporting on them.

The recommendations will also be shared with the industry's Redress and Support Group to facilitate ongoing conversations. With this approach, the RO are expecting traction in terms of industry feedback. SJ commented that, as part of their collaboration, Transport Focus and London Travel Watch would like to be involved in discussions about recommendations. MT was questioned on industry responses to recommendations. MT advised that the new approach, which enhances the opportunity for industry engagement following the making of recommendations, was expected to promote interaction.

b. Case Studies from the Ombudsman (RT)

Other Train Operating Company (OTOC) transfers

The OTOC transfer process enables train companies to transfer complaints/claims to the correct party. This is to reduce complexity and inconvenience for the consumer, who may not send their claim to the correct party, due to confusion about the process.

OTOC transfers are a common theme within casework. RT noted recommendations dating back to 2020 on this topic. In 2020, a consumer specifically requested an industry review of this process. RT commented that it is clear from previous discussions on this topic that this an ongoing theme that is being considered by the rail industry. Therefore, this is a good forum to reignite that discussion from a consumer perspective.

Industry recommendations on this topic have included suggestions for a single portal for all complaints and claims to reduce the Rail Service Provider (RSP) administration in triaging and transferring claims. Also to enable an early decision on where the claim sits. In the absence of this, a more standardised approach is recommended which provides clear follow up details when a transfer has been completed and enables Train Operating Companies (TOCs) to illustrate more easily to the consumer/RO if a transfer has been accepted by the other TOC.

The most recent recommendations were in the latter part of 2023. For example, the RO recommended that the RSP should provide relevant contact details to the complainant, when transferring a claim to another rail provider, so the complainant is clear on their new point of contact for any ongoing queries.

This is applicable when RSPs provide the consumer with the name of the train company to which the case has been transferred, but not always a relevant contact for future follow-up. This can create uncertainty for a consumer about how to aid progression of their claim/complaint and feeds into unnecessary delays in resolving the original claim.

Cases surrounding this topic generally cover issues such as:

1. Neither RSP will take responsibility and they continue to pass the complaint back and forth, and the consumer receives no resolution. This is particularly common in cases where there is an abandoned journey on the return portion, and the RSPs cannot agree on whether it is a delay repay or a s30 refund of the whole ticket.

RT explained that a Section 30 refund is an entitlement under the National Rail Conditions of Travel – it enables a full refund for an abandoned journey due to disruption, with no administration fee applied. Any refund must come from the retailer.

RT noted that technical advice has confirmed that either delay repay or a refund can be paid if the consumer takes the first part of the journey but has to complete it by taxi or other means. This will depend on who the consumer claims from first.



2. The consumer does not receive contact from the other RSP (receiving the transfer), makes contact and is told that the claim was never received.
3. The RSP provides evidence of a transfer to the other RSP, but the receiving party still denies receipt and neither will accept the claim.
4. The RSP refers the consumer to another party, but does not transfer the complaint or claim. This results in more administration for the consumer.

RT shared an RO case example in which the RSP's response was that the consumer was told to contact the RSP to whom the case had been transferred. However, the case had not been transferred. As part of the RO mediation, the RSP offered to transfer the claim, and the consumer accepted this as a resolution.

RT also shared an accessibility case study on this topic. This was a case involving multiple providers. RT confirmed that Accessible Travel Policies ("ATP") require a coordinated approach in responding to an accessibility claim, but the RO still see some that are passed between RSPs.

In this case, the consumer had arrived on an inbound flight to an airport and requested assistance for their journey on arrival. This journey involved changes and multiple service providers. Although they were assisted onto the first train, there were issues at connecting stations. The consumer complained to the RSP and the complaint was passed between the different providers involved in the journey.

As the original RSP was the first point which arranged assistance, it was considered reasonable that the consumer contacted them in the first instance to complain. The account and evidence suggests that the assistance provided by RSP staff was carried out correctly. However, the booking was not logged, which contradicts the requirement for an audit trail, as noted in the RSP's Making Rail Accessible Policy.

The consumer provided evidence of the correspondence, with all operators denying responsibility. There was no evidenced booking, but the journey originated with the RSP. The lack of booking was found to be a key factor in prolonging the complaint journey for the consumer. The consumer's first complaint was very timely, but remained unresolved nine months later, despite proactive chasing.

This case went to Adjudication and the consumer was awarded a written apology and compensation of £150. The award was for the time and trouble in navigating this complaint, and a lack of an audit trail against which to assess unbooked assistance provision.

Discussion points arising:

- The opportunity for a single portal for all claims.
- Whether providers may find it pragmatic to accept a financial penalty over the implementation of recommendations, and related to this feedback loops to give the Rail Ombudsman sight of the impact of recommendations.
- Multi-operator complaints and solutions to issues, and the role of cross-sector collaboration and how industry forums and panels play a key role.
- The complications when buying a train ticket and the industry taking responsibility to make sure that the consumer is directed to the correct place, as they are not going to always know who should be responsible for retailing a ticket or providing



compensation. RT highlighted the role of the RO on cases such as these; the RO can open concurrent or consecutive cases against different members who may be accountable, in order to fully consider who is liable. It was suggested that fragmentation rail Industry contributed to escalation, which causes issues for the end user when claiming or complaining.

- Whether jargon had an impact. RT advised that misunderstanding does occur. This is one reason for recommending a triage system.
- Ticket retailers operate with a different licence, and therefore do not have a responsibility to pay delay repay, only refunds for cancellations and they will not re-issue administration fees. Suggested that there is a lack of knowledge for consumers, especially if they are actually seeking compensation for onward travel as they do not know where they should complain to. RT noted that third-party retailers are not part of the RO scheme, and only Transport Focus deals with third-party retailers. However, there have been instances in which consumers have been passed between providers, including third-party retailers, and the member has agreed to pay via the RO scheme.
- Belgium has one national rail company, which makes it easier, but they also have to follow European Union regulations, which the UK does not have to follow. The single market states that, when you lodge a complaint, the first place you complain to has to help you. However, with international transport this does not always happen and that is when the Ombudsman gets involved to determine liability. They also take complaints against third-party retailers and agree that these tend to be more complicated complaints.
- Would the RO look into recommending standardised messaging about who is responsible for the claim? It was suggested this would help passengers contact the right place in the first instance. RT advised that automatic acknowledgements differ depending on how someone contacts the train companies – there are different routes of contact depending on whether the claim is a refund or delay repay. There is a lot of standardised messaging. One of the main reasons for separating the different types of claims is to make it easier for all parties but confusion still arises. RT acknowledged that since the RO was set up in 2018, the messaging provided by the different train companies has improved, however there is still an inconsistent approach, depending on how contact is made, and to which rail company.

Lost Property cases

Lost property was suggested by a RO Scheme Member as a topic of discussion. It is not the subject of many recommendations, but has been an emerging topic, possibly related to the cost of living. RT described the case studies, as follows:

In one case the consumer was traveling with two suitcases and upon vacating the service they noticed that one of the suitcases was missing from the luggage rack. The consumer spoke with the Train Manager at the time, and raised a claim, but the suitcase was never found. The consumer argued that they were obligated to leave their belongings within the storage racks and their seat did not allow a clear view of the area. This case was complicated by CCTV concerns raised by the consumer, because the incident had previously been reported to the British Transport Police ("BTP"), and the consumer was given differing reports on CCTV from the BTP and the RSP. The RO could not comment on communications with BTP. The RSP reported that



their investigation found that the bag was removed during the journey by another consumer alighting the service.

In this case the consumer was seeking £2,500 (the RO's maximum award limit), advising that the financial value of items stolen was around £3,000. The RSP offered £100. The adjudication made no award, because there was no proof of the contents in the suitcase nor that the RSP had contributed to the loss of the item. In a similar case, a lost suitcase was said to contain cash, but had a similar outcome.

These cases are being considered as potentially useful case studies in order to help manage consumer's expectations if carrying high value items. Also, to highlight what is good practice from an industry perspective.

Discussion points arising:

- Comparable recent complaint about a passenger leaving their earbuds on the bus. They were able to track them to the bus garage, and subsequently alleged that a staff member took them. The police were involved. LTW cannot make an allegation of theft and they have to navigate the issue sensitively. Remits can require careful navigation; the only scope for the RO on these cases is to review if there is evidence that the RSP acted in a way that made the incident worse.
- The Belgian Ombudsman also cover lost property under their remit and that they have made industry recommendations because there is no option but to leave luggage on the platform and take a seat on board. This makes it impossible to keep an eye on it. They have identified that the system does not work, and there is a commitment to look into a system for checked luggage. They also have cases where property is lost, found, then lost again, and these are always difficult cases to handle.
- Many such cases come down to proof for what was in the luggage. The TOC takes some responsibility when they have located the property and entered it into their system, according to the details provided by the consumer.

c. Training

JT advised on the training that the RO currently offers. This includes the two-day City and Guilds Consumer Law and Customer Service course. The RO also offers webinars on various topics, which she confirmed the panellists were welcome to join. The next industry training will be in April and there will be some short courses being scheduled. Previously there have been webinars on the Equality Act 2010 and the Consumer Rights Act 2015. Invitations will be issued to the panellists for them to join when the next one is arranged.

Discussion points arising:

- It is important that the train companies consciously work within the framework of Consumer Rights law, recognising that "small print" terms could potentially be unfair. If they make decisions based on commercial cost, they have to be prepared to accept commercial risk.

d. Recommendations

RT advised of Industry recommendations that have been made since November 2023. These will also be discussed at the Scheme Member Panel, and further feedback provided in subsequent panels.

The following recommendations were put forwards as examples:

- The RO recommends that the industry considers the potential misunderstandings that can occur if a consumer relies on Condition 5.2 when travelling on an Advance ticket. This case involved a neurodivergent consumer who relied on 5.2 in isolation (without reference to the NRCot) and believed that they should be allowed to travel on any other service if their train was cancelled.
- The RO recommends that the industry considers in discussions at the RO Member's Panel whether more specific guidance, published information and/or training is required on the topic of rollator use when travelling by train. This recommendation arose from a case in which the consumer alleged unsafe disembarkation with their rollator because they were told to walk backwards with their rollator. There was no published information and the ATP was found to be largely silent on the use of rollators which created difficulty in assessing the validity of the RSP's actions.
- The RO recommends that the RSP and industry considers whether there should be a local and/or industry-wide change on how to note potential limitations in providing assistance, such as assistance to a seat without reservations. In this case, the consumer wanted to reserve a particular seat on a service which used to have reservations. They booked assistance for help in getting a seat. The assistance booking noted the consumer's specific requirements, which were to sit on a table with seat with their carer and assistance dog only. This service did not have a reservation facility, and this was noted. However, the difficulties in providing the consumer's specific request were not highlighted on the booking form and therefore it was not clear that the consumer was made fully aware of these limitations when booking. The way it was noted made it seem as if a seat would be provided on the selected service.
- The RO recommends that the industry should discuss the potential learnings arising from this complaint about assistance during disruption such as Industrial Action and whether there are merits in providing more standardised public information on this topic. On this occasion, there was an allegation of failed assistance because a station Help point was not answered, and the Assistance Travel Lounge was closed due to Industrial Action. In reviewing this claim, there was nothing found within the ATPs to advise of what can be expected if assistance has been prebooked and there is known disruption such as strike action. Also, there was no advice about what to do if a booked service is affected. RT noted that technical advice from the industry on this case had confirmed that this is because best endeavours are used, but it was considered that some management of expectations could be useful within the ATP. In this case, the Adjudication made no award, because assistance was provided despite the issues highlighted.
- RT noted that there have since been further cases where short notice disruption has been used as a reason for reduced assistance provision without notice to the consumer.

Action – RT to provide an actions update at the next meeting.

4. Advisory Statements to Rail ADR Service Board

All

There were no questions or feedback to be relayed to the RO Board on this occasion. It was noted that this would be a standing agenda item.

5. Question to the Panel: Best practice examples of capturing people's accessibility needs when bringing a claim

JT, All

Points arising from the Panel:

- It can be difficult to get full detail on accessibility needs, as some people will not divulge everything. They may also be deterred by form-filling. It can be easier if a conversation is prompted by asking if there is anything that can be done to help. Often, complaints are about something different, but accessibility plays a part in the passenger's experience, and this is the type of complaint they want to capture. CW noted that there is currently no Disability Access Ambassador for rail.
- Language used can be an issue, especially in the Social Model of Disability. Within this, people are often not aware of the options available to them. An access statement at the start, advising on the support that is offered may help to combat this point.
- Citizens Advice lists the adjustments that are available, and state that they are able to tailor the complaint journey depending on the needs of the individual. Their primary driver is looking at what they can do to get the best outcome for the consumer.
- There is a need to bear in mind conflicting needs, as helping one person may harm another. The focus should be on making the system inclusive to all, not just the one. The '80-20 approach' was highlighted – to aim for 80% of the time to satisfy all users, but recognise that 20% of the time there will need to be a different approach to ensure certain individuals are not blocked from accessing the service.
- JT stated that the RO are considering how to capture people's requirements in regard to the application process and changing this to get these requirements noted as early as possible. Some people will not wish to advise of their needs, but there will also be some that will request reasonable adjustments at first contact. However by trying to pick the needs up at the first opportunity, it means that everyone who has contact with the consumer will be aware. This also allows the RO to consider where there may be gaps in the process, and identifying these to make sure that others that may not bring a complaint for accessibility reasons have these needs met in the future.

6. Panel input on data, feedback and summary report content and format

MT, All

MT stated that due to the contract change, there has been an opportunity to review the format and content of reporting. For example, the published Industry Report and the Performance Summary report, which will be provided to the panellists. This would show how the RO is performing against its KPIs, tracked over time. Additionally the

feedback reporting format would emphasise insight around recommendations, with the audience being Scheme Members, Statutory Appeals Bodies and the ORR.

The Industry Report was circulated in advance and MT presented key information from the previously established Feedback Report via screenshare. MT invited thoughts and views on the established reporting: asking does it meet stakeholder views and meet needs.

Discussion points arising:

- Context behind the graphs shown e.g. if a company is getting more complaints, does this mean that they are a bigger company, or that they are performing poorly on complaints. And if there are so many out of scope cases coming in, is this attributable to a lack of information or the consumer not reading what is out there? MT discussed the established approach whereby in addition to presenting the actual volume of RO referrals, the report also includes normalising of complaint numbers by use of data operators provided to the regulator. Different operators take different approaches to how they handle complaints. Looking at the number of cases coming to the RO in isolation is too simplistic. Some companies take the approach that they are happy for the RO to look at the case, as they are confident with how they have handled it and are seeking independent validation and closure. An alternative view is that prompt resolution appears to be the priority. Important insight from the data is looking at the outcome of the claims.
- Whether there were targets in relation to the data presented.
- Whether type of travel and connecting services compared to tickets purchased. For instance, looking at the impact of what happened as a result of passengers not being able to travel.
- Denoting impact of decisions.
- Data in isolation needs to be treated with caution, it does not show the full picture. Decisions are made in favour of the consumer in a very low proportion of Adjudications, but this is significantly influenced by the considerable opportunity provided at Simple Resolution or Mediation stage to resolve cases that may otherwise result in that outcome. Case studies can provide potentially relevant learning for both consumers and members.
- Feedback related to the report format and contents: "useful" / "simplicity", "easy to digest".
- JW asked that any further comments should go directly to MT, due to time constraints.

7. Brief Initiative Updates

a. Root Cause Analysis

SJ/MT

SJ advised that the Root Cause Analysis Subgroup, formed under previous arrangements and comprising SJ, MT and Julie Allan (Chair of the Scheme Member Panel), will continue. In the last meeting they discussed avenues for analysis and noted that there are limitations in terms of the impact that might be expected with regard to root causes such as signal failure, but staff complaints or retailing issues, are examples of tangible topics that could be addressed in the Subgroup in order to help passengers and the industry. They are looking to see if there is any way that they can have an impact before a complaint is made by looking from the very beginning. JA

is able to provide the members' perspective to assist with this, as well as the fact that she is the chair of the Scheme Member Panel.

MT noted that RO recommendations and insight work is driving the analysis. The ultimate root cause is often related to train service performance.

SJ added that passengers can have an issue that is not caused by a RSP, and instead by a party managing a station or infrastructure issues. SJ stated that the SABs are currently having discussions with Network Rail as to whether they should be involved.

b. Example Project: Young Persons Train Guide

JT

JT provided the link to the guide: <https://static.railombudsman.org/roweb/wp-content/uploads/2022/03/03142649/Young-Persons-Train-Guide-Resource-Pack.pdf>

This project arose as a result of previous panels, and has since been added to PHSE curriculums in a number of schools in the Merseyside area. JT also discussed the 'Getting to the Match' project, a collaboration which is currently under development with a number of partners arising out of an initiative with Level Playing Field, the aim of which is to create a central hub aimed at facilitating travel to away fixtures for disabled football fans.

8. AOB

None.

9. Date of next meeting – to be arranged via email.

JW thanked all attendees for a productive first meeting.