

Scheme Member Panel

MINUTES

Meeting date: 27/02/2024

12:00 – 14:00 via Teams

Present:

Julie Allan - Govia Thameslink Railway (Chair)
Joanne Ferguson – Scotrail
Mike Ross - LNER
Lynsey Flack - Greater Anglia
Jason Ness - GWR
Paul Jackson - Hull Trains
Micky Ball - RDG
Nicola Mayers - Network Rail
Julie Balmain – Nexus Tyne and Wear Metro
James Shuttleworth - West Coast Railways
Judith Turner – Rail Ombudsman
Rosie Tackley – Rail Ombudsman
Matthew Thomas – Rail Ombudsman

Minutes prepared by the Rail Ombudsman secretariat.

The Chair declared the meeting open at 12pm.

A) Introductions

Panel members introduced themselves and explained their background to the Panel.

B) Terms of reference and member visions. (ALL)

The Chair, Julie Allan (JA) emphasised the role of the Panel. Joanne Ferguson (JF) was introduced as Vice Chair. JA outlined the three core objectives:

- Advising the Rail ADR Service Board on emerging trends and issues from the perspective of relevant representatives of the Panel;
- Advising the Rail ADR Service Board on how the Rail ADR Service can deliver on its objectives and functions, especially within its role of driving continuous improvement in the rail sector;
- Identifying opportunities to expand the work of the Rail ADR Service, for example, by suggesting different ways of working.

Matthew Thomas (MT) acknowledged the objectives of the Panel and recognised the value of access to the experience that exists within the Panel. The RO is keen to focus

on its role to drive continuous improvement within the industry. The Panel is a key element for feedback on the delivery of the Rail Ombudsman service.

Judith Turner (JT) mentioned the Passenger Advisory Panel that sits alongside this panel. Its members represent a broad range of consumer interests. The agendas are coordinated to align where appropriate. It would be important for both Panels to cooperate.

Discussion points arising:

- All have a desire to increase customer satisfaction – joint working between Panels is key.
- Micky Ball (MB) referred to a meeting last year attended by RO and industry on the approach to making/actioning recommendations. Linking with the Passenger Panel will help to achieve positive results from recommendations. JA agreed that recommendations are important but are not always something that the industry can deliver.

C) Operations update and insights (RO)

MT noted that the RO are outside the new contract implementation phase, with some final elements to bed in, such as this Panel, reviewing reporting and an opportunity to engage the industry more proactively on the recommendations we make arising from casework. The update covered:

- ORR are conducting a programme of testing/survey work – there is a piece covering awareness and perception of the Ombudsman, and also some accessibility and user testing. The Independent Consumer Experience Survey that Ipsos conduct on behalf of the RO is currently underway. The first half of this year is expected to include lots of independent evaluation and learnings from the ORR.
- The RO will be launching the Member Experience Survey during the Spring – MT stressed the importance of collecting member feedback especially at this time.
- Recent change of roles – introduction of new Account Manager to Scheme Members.
- RO focus on case closure times, which is driven to a significant extent by responsiveness on the part of RO, member and consumer. RO is keen to work with the industry proactively to achieve prompt closures and consider joint ways of working to maximise efficiency. For example, RO has been promoting case conference calls as an effective method.
- Review of Case Management System (CMS) solution.

Statistics and insights:

- 2023-24 has been a relatively stable year with about 3,900 cases closed so far. The dominant themes remain consistent (noting a slight reordering of the top three over the last few quarters): Delay Compensation, Train Service Performance and Customer Service are the main drivers of contact. That picture still holds true for the small number of cases where RO adjudicates and fully upholds the passenger's claim.

- Limited timescale analysis of industry's valuation of complaints, on average, is similar to the RO's. The industry tended to be more generous in its offers (where the industry offered something and RO awarded something). There are instances where the industry does not offer anything. In around 50% of those cases, RO agreed nothing was due.
- Overall, the total amount offered in mediation was slightly higher than the total amount awarded. This does not factor in apologies and explanations, which can be important parts of industry offers or RO awards. This dataset will continue to build and will give members and stakeholders further insight.

Discussion points arising:

- Consumers may find it difficult to accept that the RO awards are usually lower than that which the RSP (Rail Service Provider) has offered. JA was interested to know how RO explains that back to the consumer. MT advised the Panel that the RO make it clear to consumers that all offers come off the table for the RO to adjudicate. JT explained that it is not unusual across Ombudsman schemes that awards may be less than that which has been previously offered. In all cases, we inform the parties at every stage what their rights are, and that the Ombudsman process is not a binding process for them, and they can withdraw at any stage. JT also explained that RO are considering the value of a separate adjudicator, who was not involved in the mediation.
- Positive that RSP's are thinking along the same lines as the Ombudsman, with the industry noting that entitlement and expectation can differ. JT explained that, regardless of data, each case has to be reviewed in isolation. Each case will go through an independent process and as a result the consumer will receive their entitlement whether that is in line with the RSP was offering or not. Rosie Tackley (RT) and JT explained that expectation management is an important part of the initial contact with consumers.
- The ADR process allows RSPs to look at how they handle cases because complaint handling is also scrutinized by the Ombudsman. Panel noted some TOCs prefer to see complaints through to their natural conclusion and not just settle claims financially. Monitoring offers versus awards, can highlight if the RSP is offering too much or too little. Also, an RO referral can help the RSP learn whether the complaint was handled correctly.
- Whether RSPs could learn from how the RO manage expectations? When an Ombudsman case is finished and an outcome is delivered, the value is that the RSP rarely have to deal with that case again. Even if what the RSP previously offered the consumer is more than the RO award. JT pointed out that this links to the value of an ombudsman scheme providing a wholly independent view.
- Can RSPs uphold a previous offer if different to the Ombudsman award? RT advised that RSPs are obliged to fulfil an award, and any offers outside of the award would be at the RSP's discretion. JA highlighted that it would be good to consider standardising processes within the industry on this approach.

- Award and expectation is something the rail industry struggles with. Could the Passenger Panel explore the viewpoints of consumers and identify trigger points for the biggest disparities in expectation versus entitlement?

JA concluded this section by acknowledging that there is considerable interest in what the train companies offer vs consumer expectation. JA highlighted that the statistics provided by MT show that Delay Repay is one of the top complaints. JA asked if further breakdown would be possible to enable the Panel to focus attention on identifiable problem areas. MT confirmed that this data is available.

D) Industry insights (All)

JA referred to the changing retail environment, and an open landscape for third-party retailers: a challenge is that retailers describe refunds and compensation claim processes differently. This is further complicated by digital tickets.

Discussion points arising:

- JT agreed and stated that this is something the Ombudsman sees as well as the statutory appeal bodies, noting that this issue was discussed at the Passenger Panel. JT explained that she has recently flagged third-party retailers with the Rail Minister when asked about widening the RO remit. This is because claims become more complex when different parties are involved, particularly when some are not RO members.
- MB stated that the ORR have explored bringing retailers into the Ombudsman scheme and RDG are supportive of this. MB reported that the rail industry is always considering ways to communicate better with retailers. If retailers are displaying wrong information, it is not right that the consumers are then being directed to the RSP's complaints process.
- RT agreed with the above points and advised that RO tend to see claims passed between train operating companies and retailers with disputes on who should be liable. RT stated that when the argument is between two members that can easily be managed through the RO process, making a judgement on each. However, when a third-party retailer is involved, it isn't as simple because the RO can only make a judgement regarding one party.
- JA highlighted that it would become increasingly difficult to handle complaints appropriately, as more third-party retailers enter the marketplace. JA noted that at least 40% of tickets used on the GTR route are sold by the third-party retailers.
- MR noted that on occasion tickets are sold for services that do not exist which will prompt a complaint against the RSP.
- The Panel agreed that this was a topic of interest for both Panels and stressed the importance of establishing clear lines of responsibility and accountability for all parties. JA commented that as part of this, members need points of contact within the different retailers.

All Panel members presented updates relevant to their operations – full detail omitted for brevity. A key output was discussion of the best format for keeping the RO informed

on industry changes. RT advised that the RO receive industry staff briefs and Ombudsman have access to the industry's Knowledge Base. JT highlighted a change to the RO's response form which asks the member, if relying on legislation or industry practice, to specify this within the response. RT noted that the principal concern when reviewing each case would be consideration of how any policy or term is communicated to consumers.

E) Data reporting (MT)

MT referred to the RO's published quarterly Industry Reports and will also be releasing a Feedback Report for industry, ORR and SABs. The Industry Report is a statistical report. The latter is a contract requirement that is about analysis of cases for more qualitative insight and particularly providing visibility of the recommendations made.

The Industry Report, and also an example of the previous Scheme Council report, were circulated in advance.

In addition, this Panel (and the Passenger Advisory Panel) will be presented with a Summary Performance Report, which is a 6-month view of performance against KPIs and narrative around any dominant themes.

The RO wants the Industry and Feedback reports to be complementary to each other. It is envisaged that both will be produced on a quarterly basis. There is a lag time on the Quarterly report (mirroring ORR statistical releases). The Feedback report will potentially follow the same format for the purpose of reading across, but shouldn't necessarily rule out the opportunity to look at the very latest insight in it.

This Panel is an opportunity to get industry insights on the subjects for which the RO has made recommendations. Ideally Feedback Reports should be compiled with recommendations based on discussions at this panel (subject to timings/logistical considerations). The RO will present on the subjects identified for further discussion and then compile the feedback report based on, not only insight from the particular case, but also from industry perspectives on that type of issue, knowledge of what may already be being done on it etc.

Feedback from the Passenger Advisory Panel included a request for a greater narrative element / more case study focus. This is what the RO envisage the Feedback report will provide. There is the potential to lift elements of the Feedback report to create some website content that complements the report.

Reviews thus far have suggested that the data in the Quarterly report is comprehensive as a whole industry report. There is opportunity to include some explanatory text on the outcome structure – 'Simple', 'Mediation', what the adjudication outcomes mean, to help readers better understand the nuances of case outcomes.

MT noted that this is important in the context of looking at stats as indicators of performance, especially in relative terms. Different TOCs approach complaints in different ways according to their circumstances.

MT sought operator views on formatting and content, noting that a key aim of reporting is to support the industry in terms of its performance on complaints.

Discussion points arising:

- JA explained that at GTR they produce reports for specific departments which create actions. JA mentioned creating trends in the reports can be helpful. As an example, delay compensation is the dominant in-scope category, so more detail within the reporting could provide greater insight.
- JT mentioned the potential for future CMS development which would mean that the RO has the facility to provide more information on the data produced.
- Paul Jackson (PJ) highlighted that there are a number of legal companies targeting the industry which might be the reason why the number of accessibility complaints are declining with the RO.
- JA commented that the RSP's handling of accessibility complaints could be an agenda item in the future, noting that a lot of effort and resource will be put into handling these complaints, but large amounts are paid to settle claims. It would be good to share best practice and successes in handling such claims. Also, threats of legal action could be a topic of conversation for the future.
- MR has noticed that there is particular law firm targeting the industry and has seen an increase in these claims. JA commented that it is always disappointing when a case goes to court.

F) Rail Ombudsman's recommendations to the industry (All)

RT presented an update on casework recommendations.

Discussion points arising:

- Both Panels will discuss recommendations and this Panel has a particular benefit in its ability to report on actions.
- Sharing information between both panels can be useful but may not always help in the event that there are disagreements in terms of how practical a recommendation is.
- A discussion point for the future could be the National Rail Conditions of Travel.
- Neither Panel is there to approve recommendations, but discussions are important so it's clear why certain recommendations may or may not be possible. Recommendations may be subject to pragmatic constraints impacting uptake.
- Suggestion that recommendations should be discussed with the members before an Adjudication is circulated to all parties, allowing the train company to provide further information and will mean consumer expectations are better managed. RT acknowledged this but confirmed that it would not be impartial do this, presented pragmatic considerations around timescales and advised that this could be captured in the RSP's response to the recommendation.

G) Scheme Member Experience Survey. (MT)

MT advised that the RO are launching the scheme member survey during the spring and that the established format will be followed.

Action log

Action	Owner	Status
Circulate recommendations as part of the papers for next meeting.	RO	Ongoing
Share results of Member Satisfaction Survey when published	RO	Open, pending publication
Could the Passenger Panel explore the viewpoints of consumers and identify trigger points for the biggest disparities in expectation versus entitlement	RO	Open