



OFFICE OF RAIL AND ROAD

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Dear Stakeholder

ORR's¹ conclusions to the consultation on Draft guidance on complaints handling procedures for licence holders, 2015

1. Thank you for your response to the *Draft guidance on complaints handling procedures for licence holders, 2015*, which closed on 29 July 2015. We received 24 responses in total and respondents included train operators, as well as passenger bodies, charities and the Department for Transport (DfT).
2. Respondents were supportive overall of the package of proposals in the consultation paper and recognised that clear benefits would arise for consumers, as well as for industry, who will benefit from greater insight from the perspective of those who use their services. However, some raised specific concerns about how we have addressed the potential impacts, in particular on smaller operators such as open access operators. We have considered this in the Impact Assessment published alongside this response.
3. There may also be some costs for initial implementation and set up, for example if changes are made to operators' websites. However, we expect the overall cost impact to be low, in particular when considered in the context of the requirements we have removed from the existing guidance. In accordance with the principles of better regulation we have carefully considered the proportionality of our proposed changes to the outcomes we wish to achieve. We consider there to be a net benefit to the consumer and to businesses themselves as we move toward a more outcomes based system of regulation with consumer satisfaction at the heart of our objectives.
4. We have retained some key features from the existing guidance, in particular detailed specification on:
 - Including information about how to make a complaint in all major publications and at stations;

¹ From 16 October 2015 our legal name is changed to Office of Rail and Road.

- Making comment/complaint forms available on request, for example, on trains which carry guards or conductors;
 - Having minimum opening hours at call centres and a recording system for out of hours;
 - Providing telephone numbers at local telephone rates or free/low call;
 - Responding to 95% of all complaints within 20 working days. Where licence holders have set themselves and published more challenging targets, to provide full responses to at least 90% of complaints within that published target.
5. Discussions with Transport Focus and London TravelWatch indicated support for these features remaining and consultation responses provided no evidence for change in these areas.

Clarifications on compliance monitoring

6. Some important points around how the new guidance will work in practice were raised by respondents. London TravelWatch had concerns that detailed reviews of Complaints Handling Procedures (CHPs) will not take place and that licence holders may lack the incentive to comply fully with their procedures as they near the end of the franchise. A concern was raised regarding the possibility that ORR could consider enforcement action against an operator that had complied with its own approved procedure, in particular where ORR might decide its objective of continuous improvement in passengers' experiences of rail was not being met by the CHP. One respondent thought monitoring arrangements should not be referenced in the CHP itself. Some respondents asked for more detailed information on monitoring and enforcement and considered the guidance does not give a full picture as there are parallel discussions on the collection of core data in the area of complaint handling. Others raised the importance of alignment between DfT and ORR on the final guidance.
7. We consider that section four of the guidance on compliance monitoring clearly sets out how ORR will monitor compliance and steps that ORR might take when concerned that individual CHPs may not be supporting our objective of continuous improvements in passengers' experience of rail. We believe that providing this information within the guidance is in line with our statutory duty to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance. It also provides transparency to licensed operators about how ORR will assure itself of continuing compliance, for example, in the absence of annual approval of CHPs.
8. However, to clarify, and for the avoidance of doubt, monitoring arrangements are not a feature that we expect to be articulated within the procedures themselves.

9. Licence holders must have a procedure approved by ORR. Our guidance does not place absolute requirements upon licence holders, however ORR, as far as possible, will assess proposed CHPs against its contents. Further, when considering whether or not to approve a CHP, ORR will expect the procedure to have regard to the principles set out in our guidance. Licence holders must comply with their procedures once they have been approved.
10. This is an outcomes based approach and ORR will be measuring the success of the procedures by the indicators set out in the guidance and by way of core data that we have been discussing with licensed operators separately. Whilst ORR will approve the initial CHP, it is important to note that through the licence condition² we may also require a licence holder to carry out a review of its CHP, or any part of it or the manner in which it has been implemented. Where our ongoing monitoring work identifies areas of concern we would expect to engage directly with licence holders in the first instance. However, if we do not consider the CHP is delivering the outcomes specified in the guidance we would consider using the licence condition to institute a review, and where necessary, to require changes to the CHP.
11. Ultimately non-compliance with a licence condition, to have in place an approved CHP and comply with it, could also potentially lead to enforcement action as set out in ORR's Economic Enforcement Policy and Penalties Statement.³

The process for submitting a compliant CHP

12. A number of respondents asked for greater clarity on how they can satisfy us as to the adoption of the 'cultural model' principles by way of a passenger facing CHP. We envisage that licence holders will develop and submit a description of the internal processes they will follow to assure ORR they are fulfilling the requirements of the guidance. These should be submitted separately to the passenger-facing CHP. We will consider whether it would be useful to licence holders for ORR to provide further guidance on what these documents should contain. These documents should be drafted with sufficient detail and explanation so as to provide us with the comfort we need that the principles in our guidance are being adopted, managed and sustained in order for us to sign off on a procedure.
13. We accept that this is a new approach to approval and our intention is to hold a workshop before Christmas to develop the process in discussion with licence holders.

² The licence condition is attached at Annex B.

³ The current Economic Enforcement Policy and Penalties Statement can be found here: http://orr.gov.uk/_data/assets/pdf_file/0018/4716/economic-enforcement-statement.pdf

Next steps

14. The final guidance will take effect from 30 September 2015. There will follow a transitional period where we ask a number of licence holders to review their CHP against the new guidance and submit the CHP to ORR for approval. We will contact these licence holders individually.
15. We will then look to see where any difficulties may have arisen in the process, and for examples of good practice that can be shared. As we have said above, we plan to hold a workshop before Christmas to discuss these issues. We will also be discussing with ATOC and the passenger bodies the potential development of appeal protocols, setting out elements such as timescales within which the licence holder will respond to the passenger body and how the appeal will be managed within the organisation.
16. We will be writing to licence holders separately with a proposed timetable for submission of revised CHPs to ORR. Licence holders' current CHPs will remain in force until their new CHP has been submitted to ORR and approved.
17. At this time we are also asking all licence holders to send us the contact details of the person who will be responsible for submitting the revised CHP to ORR.
18. The final publication of this guidance marks the end of a lengthy period of consultation and we thank respondents for their contributions and the collaborative approach that we have encountered in our workshops and one to one engagement. We have also worked closely with DfT and they are supportive of the changes proposed. We set out in Annex A our response to some of the more detailed points that were raised as part of this process.

Yours sincerely



Stephanie Tobyn
Deputy Director - Consumers

ANNEX A: ORR RESPONSE TO DETAILED POINTS RAISED

Overall purpose and scope of the guidance

1. 16 respondents agreed with the overall purpose and scope. Several respondents said complaints constitute a small proportion of customer contacts and that to focus only on these can provide a distorted view. A number of respondents thought the guidance should recognise that there are other sources for passenger feedback than complaints, such as the National Rail Passenger Survey or individual surveys or analysis carried out by Train Operating Companies (TOCs). London TravelWatch raised the point that complaint procedures should be similar across the industry because needs and expectations will be similar for all passengers, and passengers should not need to familiarise themselves with different procedures for different operators. Transport Focus also referred to the risk that the CHPs as a whole may eventually differ from each other and passengers may not easily navigate their way through them.
2. Our response is as follows:
 - We recognise that it is important that operators take into account a wide range of sources to inform their work, and this includes the value of insight gained from complaints. The guidance does not preclude operators from also using other insight work to inform their approach to service improvement. We have made a change to the guidance to reflect that TOCs may wish to promote the other types of insight they gather, and how this is used, in their passenger facing documents.
 - Our approach is to ensure the core principles of good complaints handling, covered in the guidance, will be applied across all licence holders. At the same time we consider that the guidance is not so prescriptive that it will limit innovations operators may wish to make, which may benefit passengers.

Distinguishing feedback from complaints

3. In response to comments from stakeholders during the development period, we made a distinction between complaints and feedback in the draft guidance. Responses to the consultation revealed that our explanation distinguishing feedback from complaints resonated with some but not others. 10 respondents found the way we have distinguished between feedback and complaints to be helpful and many said the distinction made in the guidance mirrors their own current practice.

4. The main area of concern in the responses centred on social media. ATOC said that unless a TOC identifies that a social media contact needs to be investigated it will fall beyond the scope of the guidance, that it would be reputationally risky for TOCs to deprioritise such a high profile source of contacts, and that this position would not be tenable over the long term. One respondent said that social media feedback becomes a complaint when it is correctly channelled to the TOC. At the same time some respondents raised concerns that a complaint is clearly defined but feedback is not. Network Rail asked for more detailed guidance on how to distinguish between feedback and complaints. Hull Trains said it is difficult to record social media complaints on a consistent basis and that the sentiments expressed do not always reflect the actual nature of the complaint. One respondent requested further clarity on social media, with a clear outline of future expectations for reports and data collection that may be requested. A number of respondents said they do not monitor all fora or websites where a consumer may post comments.
5. London TravelWatch raised concerns that without robust procedures in place, passenger complaints could easily be labelled as 'feedback' rather than a complaint, and consequently not be addressed. Transport Focus also drew attention to the importance of each TOC having "*robust processes in place to ensure that license holders are distinguishing correctly and consistently between feedback and complaints and that both are being logged appropriately.*"
6. Our response is as follows:
 - The focus of the licence condition, and therefore of the guidance, is on complaints handling. We have defined complaints to provide clarity around the scope of the licence obligation. We expect the licence holder to have a system to identify where feedback is in fact a complaint and to record and channel accordingly. This applies to all complaint routes, including email, website, letter, telephone, in person or via social media. In some cases the complainant will have very clearly expressed dissatisfaction, but even where the customer has not used the word 'complaint' or asked for some form of redress, licence holders must have a clear process in place to identify an expression of dissatisfaction and channel as a formal complaint where necessary.
 - We will expect licence holders to explain to us, through their CHP, how they intend to differentiate between complaints and feedback, and the process they will follow. We will look for robust mechanisms when approving CHPs.
 - We are not suggesting feedback is unimportant, and indeed the guidance explicitly recognises that feedback may adversely affect the reputation of a licence holder.
 - With respect to social media, we expect licence holders to have a clear social media policy in place to ensure that passengers are fully aware of: the

licence holder's approach to social media, the scope and opportunity for passengers to make a complaint via social media platforms, and the extent to which the licence holder engages with its social media followers.

- We do not expect operators to proactively monitor complaints made on general consumer fora such as general chat rooms. However, where the licence holder operates their own forum we would obviously expect complaints to be monitored, identified and dealt with appropriately.
- We are holding a social media working group at the end of September to explore topics such as the key issues TOCs are experiencing in social media engagement with customers, whether there are generic problems that would benefit from a common approach and any interactions between TOCs' social media operations and CHP, Disabled People's Protection Policies (DPPP) and Passenger Information During Disruption (PIDD).

Co-ordinating responses relating to third party suppliers

7. Many respondents were supportive of the approach the guidance takes towards complaints about third party suppliers, and indeed this seems to already be the practice of a number of operators. There was general acceptance that where a complaint is made about a third party supplier that looks as though it is in fact the TOC itself, for example catering crew or security personnel who are dressed in uniform, the TOC will take ownership. MTR Crossrail made the point that *"responses to feedback and/or complaints should be consistent - to our customers a rude member of gateline staff or station cleaner represent the same railway! It would be for the TOC to manage service provision by contractors effectively."* First Great Western commented that *"the customer has a direct relationship with the TOC and should not be expected to deal with any third party suppliers the TOC wishes to employ to operate aspects of their service. In all cases we take direct ownership of any issues raised with us"*. We view this as good practice.
8. A number of concerns were, however, raised where third parties operate stand-alone services such as car parks and where employees are more distinguishable from the licence holder. Some respondents considered that, in this example, complainants might get a more informed response directly from the party providing the service. Additionally, concerns were raised that third party suppliers in some cases already respond directly to complaints and it would be costly to change these arrangements. Two respondents suggested the TOC could potentially be a point of appeal if a third party supplier has not responded in a timely or adequate manner. Transport Focus, on the other hand, commented that from a passenger perspective, it is difficult to differentiate between a TOC and a third party working on behalf of that TOC, so it is more appropriate for the TOC to co-ordinate a response. ATOC pointed out that contracts should be regularly reviewed to ensure contractors are

fulfilling obligations of good customer service and contractual obligations. Some respondents noted that the Independent Penalty Fares Appeals Service (IPFAS) is an independent body and that it would not be appropriate for it to intervene in complaints about the way an appeal is handled.

9. Our response is as follows:

- The guidance asks operators to work with their supplier to co-ordinate a response. We have a twofold objective here: to ensure that passengers are clear as to who is responsible for handling their response and have access to a complaints mechanism even if that is through a third party; and to ensure that licence holders retain insight into the whole experience of their passengers even where the service is contracted to a third party. This does not mean that the licence holder has to be the first line of response, although we recognise that there is a place for this, for example, in the circumstances described by some of the respondents.
- It is a matter for the TOC to have its own contractual arrangements, but we would expect those arrangements to be clear as to which party 'owns' the complaint and include some form of feedback so that the TOC has an overview of what its customers are complaining about and why. We would also expect those contracts to have KPIs in place so that the third party handles complaints in a similar way to the TOC, for example using similar timescales. Costs are considered further in the attached Impact Assessment.
- We agree that contracts with third party suppliers should be regularly reviewed to ensure contractors are fulfilling obligations of good customer service and contractual obligations. This is something we will look for in a good quality CHP.
- We do not consider that the operator acting as a 'point of appeal' would be appropriate as it adds further complication and may not be considered sufficiently independent from the passenger perspective.
- We have made an addition to the guidance to state that IPFAS is specifically excluded from the provision on complaints relating to third parties, *in relation to a substantive issue in the appeals process*. However, we would still expect licence holders to deal with concerns such as how a representative of IPFAS may have communicated with a consumer. We would also expect operators to have oversight of how their revenue protection services are operating and to identify and deal appropriately with trends identified. This is in line with what some respondents have told us is their current practice.

Network Rail as a third party

10. One respondent considered that because under the CHP guidance operators are responsible for responding to issues that relate to track maintenance, over-running

engineering works and signal failures, Network Rail is able to remain distant from the impact of its performance on rail users and more should be done to involve Network Rail in the workstream. Govia suggested that a specialist response from Network Rail could be appropriate in some cases, otherwise TOC responses can sometimes seem diluted as a result of lack of input from the accountable party. This was also raised by TravelWatch North West. Virgin Trains said that complaints about services provided by Network Rail, such as assistance at Network Rail managed stations, would be handled by the TOC but investigated by Network Rail and that this conflicts with paragraphs 2.12 and 2.20 of the guidance which relate to ownership of complaints and complaints relating to Network Rail.

11. Our response is as follows:

- One of our objectives is to ensure that passengers are clear as to who is responsible for handling their response and have access to a complaints mechanism. It would not be appropriate for a passenger to have to identify the initiator of the problem in order to make a complaint. They should, therefore, be able to make a complaint to the provider of the service. A full and fair response would, however, need to cover all of the points raised and we expect the TOC to have an appropriate response, prepared in discussion with Network Rail, where the latter was the cause of the dissatisfaction.
- Our intention is to develop core data indicators with Network Rail and we will be discussing our reporting statistics on complaints handling procedures with it in order to better understand how it manages complaints in relation to its CHP obligations, as well as the impact of Network Rail's operations on complaints received by TOCs.
- Network Rail should handle complaints about their managed stations. Where the operator is handling a complaint regarding assistance which involves the operator as well as a Network Rail managed station, the operator should, where applicable, obtain input from Network Rail. It is important that operators ensure they are fully compliant with the Data Protection Act in this respect. As this is consistent with the guidance we have not made a change.

Multiple licence holder complaints

12. Several respondents said that where a complaint involves more than one licence holder the receiving licence holder should, where reasonably practicable, coordinate a single response. However, this could impact on the receiving licence holder's response timescales, as there could be a delay in receiving pertinent information. One respondent said that under the guidance a TOC that delays a passenger would take ownership of the complaint, and this could provide the incentive for other TOCs not to accept different tickets or routes during disruption, knowing the owning TOC will be responsible for the refund.

13. Our response is as follows:

- Response times between TOCs is a matter for industry to agree and adhere to. It is possible ATOC may wish to take a role in setting out appropriate response times between TOCs.
- Regarding ownership of delay, this is also an internal industry agreement and should not involve consumers. If the owning TOC thinks the process has been unfairly applied that TOC should take it up internally with the TOC they believe has acted contrary to the spirit of the agreement.

Other issues relating to third parties:

- We asked if there were other categories of third party supplier that should be explicitly covered within this obligation. Virgin Trains suggested that suppliers of rail replacement services such as coaches or taxis should be included, and we have therefore added these suppliers to the guidance.
- MTR Crossrail raised the point that one supplier to be excluded would be British Transport Police (BTP). We can clarify that BTP have their own complaints handling mechanism, which is covered by statute, and therefore they would be excluded from the scope of the guidance.

The three core standards

14. The majority of respondents supported the three core standards, but asked for clarification in specific areas. ATOC questioned the extent to which it is viable to manage and measure the organisational culture of a company through its CHP. c2c said it is unclear how organisational culture would be measured as a core standard without being onerous and said the customer relations' team culture is more relevant than the wider business. One respondent was of the view that a CHP is a document for customers to understand the process an operator must follow when handling a complaint, not a means for businesses to gain insight. Another respondent suggested that some areas will be difficult to demonstrate in a policy document – for example that an operator is listening, responding and flexible to passengers' needs. ATOC suggested that KPIs would be useful to give examples of what TOCs might be required to provide, and because CHPs will be monitored for compliance.

15. The Papworth Trust underlined the importance of organisational culture and said that organisations that focus on solving complaints made by disabled customers tend to have fewer complaints overall, due to spin off benefits coming from correcting challenging problems. On a point of detail, ScotRail mentioned that the

complaint access route “*in person, at station or designated customer information point/contact point*” should be removed as it is not considered a formal method of complaint.

16. Our response is as follows:

- We will be providing further information on the sort of evidence we will need to satisfy us that a licence holder’s CHP is compliant with the guidance including providing comfort that the appropriate management processes are in place to deliver our objectives for having complaints embedded within the culture of the organisation. Licence holders may, for example, develop KPIs in this area which could demonstrate to us (both at approval stage and during ongoing monitoring) that there are internal processes in place to measure how well they are performing against each of the core standards. As noted above, we will start this process by way of a workshop hosted by ORR.
- Our approach to monitoring is set out in the guidance and will include analysis of core data and other indicators such as bespoke research, feedback from the passenger bodies, and insight gained by way of complaints made to both ORR and the passenger bodies. We will not be specifically measuring cultural change or business practices but where indicators suggest customer dissatisfaction with how a licence holder has responded to their concerns, we are likely to ask questions that go further than the mechanics of responding to the complaint. This will enable us to assess the extent to which organisational culture may be a contributory factor.
- In response to the point of detail regarding complaints made in person at the station or at a designated contact or information point, we confirm that these should be recorded and channelled into the formal process only where they cannot be resolved on the spot. This could, for example, be done via the member of staff giving the passenger a complaint form. This reflects the current 2005 guidance which specifies that passengers should be able to pass comment forms to railway staff on trains and at stations. It is important that passengers are able to make complaints in person, as this may be the most accessible route for them to do so. In addition, some respondents were keen not to lose the ability to respond quickly and informally via these means. We agree that the licence holder should retain discretion to apply a proportionate response depending on the circumstances.

‘Conducting a full and fair investigation’ and ‘effective response and resolution’

17. The vast majority of respondents agreed these definitions were clear and helpful.

Some respondents considered that Figure 5 (the six step investigatory process) and

Figure 6 (elements making up an effective response) contain an inappropriate level of detail for a guidance document.

18. Our response is as follows:

- The guidance clearly states that Figure 5 (the six step investigatory process) is indicative and licence holders remain free to make their own judgements on what is appropriate to the circumstances. The process followed should be proportionate. As noted above, we are, for example, supportive of on the spot resolution where this would deliver a better outcome for the passenger.
- Based on feedback from respondents we have removed Figure 6 (elements making up an effective response).

When to signpost to the passenger bodies

19. A number of respondents considered licence holders signposting to the passenger bodies after the first substantive response was too early, and doing so could undermine efforts by the licence holder to achieve an effective resolution. LTW, on the other hand, said contact details should be given in the first communication. We sought further feedback from the passenger bodies on this point.

20. Our response is as follows:

- We have considered this issue carefully. It is desirable for operators to take ownership of issues and to have the opportunity to resolve them fully. It is also important that operators have the incentive to do so, and that complaints are not escalated to the passenger bodies prematurely.
- We will now ask that the passenger is signposted to TF or LTW and Alternative Dispute Resolution after they have received the **second** substantive response from the licence holder. This is in line with the 2005 guidance and therefore will have less impact on both licence holders and the passenger bodies. It will give licence holders an opportunity to fully address all issues, but at the same time will allow dissatisfied passengers to escalate unresolved complaints.
- We also clarify here that the first substantive response is the first time a licence holder sends out a reply they consider answers all points raised by the consumer. The first substantive response does not include an acknowledgement or a holding response.

Appeals protocol with the passenger bodies

21. Following early engagement work with stakeholders, our draft guidance set out that there should be a handling protocol between operators and passenger bodies for

cases referred to the passenger bodies. 15 respondents agreed there should be a protocol between operators and passenger bodies. However, London TravelWatch were opposed to the idea and considered that these arrangements should be covered by licence conditions that they consider would be easier to enforce against.

22. Several respondents suggested the passenger bodies should commit to minimum response times to customers and TOCs. Other respondents suggested having a standard protocol rather than a separate one for each TOC, and suggested it is not necessary to incorporate a protocol into the CHP itself, as this is a customer facing guide, but that the CHP simply needs to highlight the protocol exists. DfT suggested that each TOC should negotiate its own response times with the passenger bodies. Govia proposed that the licence holder should undertake to provide acknowledgment to Transport Focus and London TravelWatch within five working days instead of three. Some respondents suggested it could be helpful to publish an outline of how TF/LTW manage appeals, especially on any customer facing documents.

23. Our response is as follows:

- We consider that an appeals protocol could bring benefits. For example, if a common protocol is established, passengers will benefit from increased transparency as the guidance around the appeals process will be easily available to everyone. In addition, establishing a transparent protocol is likely to ensure greater speed and efficiency in the management of appeals. However, in recognition that LTW has not supported this proposal we have amended the guidance to require a protocol to be in place only where required by the passenger body.
- The guidance sets out some of the aspects that might be included in a protocol. We agree with the point made by some respondents that a standard protocol would ensure consistency across the industry and would avoid the transaction costs of bi-lateral agreements with each licence holder. This is a point that requires further development and we intend to invite the passenger bodies and ATOC to consider how they want to take this forward. We will engage with both parties on this over the next two months. We do not believe, in response to the point raised by London TravelWatch, that it would be a proportionate response, in the light of feedback to date, to compel protocols by licence modification.
- The guidance applies to licensed undertakings and does not apply, therefore, to passenger bodies. In response to the point raised about passenger body response times, Transport Focus has confirmed that they currently publish a guide to their process for handling appeals on their website. This page also provides information on their targeted timeline for handling cases.

ORR's proposal to drop the requirement to review the CHP each year

24. The majority of respondents, with the exception of the passenger bodies, agreed with the proposal to drop this requirement.

25. London TravelWatch wanted to have a greater understanding of how ORR would be able to confirm licence holders had robust quality assurances in place. Transport Focus accepted the proposal but suggested it could be sensible to ask operators to review their CHP at some point during each franchise. Some respondents indicated they would continue to review their CHP internally each year in any case. One respondent asked if guidelines could be produced for what constitutes an unforeseen and specific event.

26. Our response is as follows:

- It is important to note that the licence condition already specifies that licence holders should submit their CHP to ORR for review and approval where any material changes have been made. The passenger bodies should also be consulted under these circumstances.
- ORR is otherwise satisfied that the monitoring framework that it is now putting in place will be capable of identifying where a complaints handling procedure is not working effectively and in the interests of consumers. We set out in the guidance the sort of steps we will undertake should we have concerns that this is so. We also welcome feedback from the passenger bodies should they have any concerns.
- There may be merit in asking licence holders to review their procedures mid-way through a franchise and we will keep this option under review. We will provide reasonable notice to licence holders should this become our intention.
- ORR would wish to leave what constitutes an unforeseen and specific event to the operator's discretion in order to maintain flexibility.

ORR's proposal to substitute the requirement to seek consent for lengthening response times with a requirement to inform ORR about such a circumstance

27. Respondents overwhelmingly agreed with the proposal to amend this requirement. London TravelWatch suggested licence holders advise ORR and the passenger bodies of any lengthening of response timescales and that information should also be available on the home page of the licence holders' website with anticipated recovery timescales. Abellio Greater Anglia similarly suggested it might be helpful to publish a contingency programme of response times via social media and on websites. Transport Focus added that a time limit should be set on lengthened

timescales. Virgin Trains said customer relations teams should not need to provide progress updates to customers as a matter of routine.

28. Our response is as follows:

- We agree that licence holders should advise the passenger bodies of any changes to response timescales, as well as ORR. This is already reflected in the guidance.
- The guidance expects licence holders to inform ORR and the passenger bodies when such a circumstance occurs, the reasons, the expected duration, the plans in place to remedy the situation, the procedures in place to ensure the quality of response, and any steps taken to advise affected complainants.
- We agree it would be good practice for licence holders to highlight any lengthened response timescales, in particular on their websites and via social media.
- We agree with Virgin Trains that where responses will fall within target regular progress updates are unnecessary, in particular as the CHP itself will give a steer in terms of timescales. However, progress reports to passengers should be made where targets are missed. We have made a change to the guidance to reflect this.

Proposed monitoring activities

29. The majority of respondents were content with the proposed monitoring approach. DfT, for example, expected the approach to be effective. ScotRail considered the proposed measures will sufficiently measure compliance and said that ORR research will be a key input. MTR Crossrail agreed with our approach and added that the focus should be on the customer getting the best possible customer service through compliance with the CHP. Merseyrail felt ORR's approach is of assistance and provides a clear format of the requirements of a complaints handling procedure. Some important points around how the new guidance will work in practice were raised and these have been dealt with above.

Welsh language

30. The Welsh Government said that operators that provide rail services in Wales should ensure that complaints information is presented in both English and Welsh. We have therefore made an addition to the guidance to make this clear. This is in line with wider legal obligations on the use of the Welsh language when providing services in Wales.

Other

31. TravelWatch North West raised the importance of passenger awareness of compensation. The Papworth Trust Highlighted the importance of staff training, saying: *“we would like to see a commitment by operators to making sure awareness training on disability is included in training for their complaints handling staff as well as their frontline staff. Our survey reported many instances where staff response to disabled rail users either on site at stations, through booking services or at complaints stage showed a low level of awareness from staff about how to respectfully treat obviously disabled passengers, or lack of sensitivity especially when dealing with customers with invisible disabilities such a learning difficulties or autism”*.

32. Our response is as follows:

- Awareness of compensation is important. The guidance states that licence holders must promote and raise awareness of compensation rights amongst passengers and we will look for ways in which licence holders are doing this as part of our routine work and also when approving CHPs.
- ORR agrees that training for complaints handling staff on how to communicate and deal effectively with those with disabilities is important. In many instances operators will already have effective training in place. This is something we will look for when approving CHPs.

Minor corrections to the guidance and deletion of best practice examples

33. Following feedback received during the consultation we have removed the best practice examples which appeared in the draft guidance. We have also made some minor corrections to the guidance.

Annex B – Licence condition 6: Complaint Handling

The licence holder shall establish and thereafter comply with a procedure for handling complaints relating to Licenced activities from its customers and potential customers (the “Complaints Procedure”).

The licence holder shall not establish, or make any material change (save in respect of paragraph 3(b)), to the Complaints Procedure unless and until:

- (a) Transport Focus and, where appropriate, London TravelWatch has been consulted; and
- (b) The licence holder has submitted the Complaints Procedure, or (as the case may be) the proposed change, to ORR and ORR has approved it.

Where ORR requires the licence holder to carry out a review of the Complaints Procedure or any part of it or the manner in which it has been implemented, with a view to determining whether any change should be made to it, the licence holder shall:

- (a) promptly carry out a review and submit a written report to ORR setting out the results or conclusions; and
- (b) make such changes to the Complaints Procedure, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph (a) above and consulted the licence holder, Transport Focus and, where appropriate, London Travel Watch.

The licence holder shall:

- (a) send a copy of the Complaints Procedure and of any change to it to ORR and Transport Focus and, where appropriate, London Travel Watch;
- (b) in a place of reasonable prominence at each station at which trains operated by the licence holder are scheduled to call, display or procure the display of a notice giving the address from which a current copy of the Complaints Procedure may be obtained; and
- (c) Make available free of charge a current copy of the Complaints Procedure to any person who requests it.