



ORR in consultation on Guidance for Complaints Handling Procedures

Summary of ORR'S proposed CHP Guidance

The ORR is seeking consultation responses on proposed guidance for Complaints Handling Procedures ("CHPs").

The CHP Guidance represents an important change in direction. Consistent with its practice in other areas (in particular its approach to DPPP), ORR is looking to foster a move away from compliance in letter and form towards licence holders actively demonstrating compliance in practice. In particular, ORR's intention is to move to a process of monitoring licence holders' CHP data, auditing licence holders if needed, and dispense with annual review and sign off of CHPs unless necessary.

The proposed CHP Guidance is in-step with the ORR's increasing consumer focus. It also fits within a growing framework of consumer rights which is likely to see significant public focus this year with the implementation of the Consumer Rights Act and related legislation. However, key features of the proposed CHP Guidance represent a significantly increased compliance burden for licence holders. Railway licence holders may wish to future proof their CHP process now, in particular in light of changes which will be needed to ensure continued compliance with data protection legislation.

Key features of the proposed CHP Guidance

ORR expects an effective CHP to enable individual complaints to be resolved promptly, consistently and fairly and to allow continuous improvement within the licence holder's organisation, through identifying and addressing the root causes of complaints and putting systemic solutions in place. ORR expects these essential CHP requirements to be met through consideration of three "core standards" which represent different aspects of the CHP process: (i) feedback mechanisms and response; (ii) people, process and structure; and (iii) organisational culture.

Guidance or requirement?

Although expressed to be guidance, the proposed CHP Guidance includes processes which must be adhered to and content ORR will require to be included before it will consent to a licence holder's CHP, which is a licence requirement. A number of Guidance features are referred to as being 'expectations' of ORR. However, licence holders may recall ORR's interpretation of this term in its DPPP Guidance: *"For those requirements described as an expectation, we consider that operators are obliged to provide that service or information as part of their usual practice unless there are circumstances that from time to time may hinder the ability of the operator to meet that requirement in full"*. ORR may consider that a similar interpretation is warranted here.

Licence holders may therefore wish to treat this Guidance as prescriptive and, in particular, give further consideration as to how they will evidence compliance with the *"six step investigatory process"* which the Guidance states the ORR will expect to see deployed when responding to complaints.

Making complaints information more visible

Ensuring customer access to complaints information is clearly a high priority for ORR. The Guidance suggests complaints information should appear in all 'major publications' of the licence holder and be prominently displayed at stations (including not just those managed by it but also those to which it provides services).

Licence holders will also need to think carefully about how they handle complaints through their websites and social media. ORR expects CHP information to be made available *"within two clicks"* from the licence holders' homepage and for each licence holder to have a Social Media Policy documenting the extent to which it is willing to engage within social media such as Twitter in handling complaints.

Sharing complaints information

Of fundamental importance, ORR wants the right to be able to access customer complaints information and to speak to customers directly regarding their experience of complaint handling. This also features in the Guidance requirement for information sharing between licence holders (in multi-operator complaints) and with Transport Focus or London TravelWatch (in respect of all unresolved complaints). Data protection legislation requires the customer to give informed consent to such processes and information sharing.

If this Guidance is implemented licence holders will need to review their DPA processes. Licence holders will need to give careful consideration to how to give effect to such information sharing requirements whilst complying with data protection legislation. ORR suggests the consent issue could be dealt with through online complaints forms allowing tick box consent. However, licence holders will need to consider what works for them. In any event, licence holders using alternative (non-web based) complaints processes will also have to think carefully about having systems in place to ensure customer consent to these ORR requirements can be evidenced.

Process Visibility

In addition to making complaints information itself more visible, the Guidance also seeks to promote greater visibility of the complaints handling process. Information provided to passengers should include who to complain to, what information customers should include, projected timescales for response and escalation paths. The Guidance also promotes greater visibility of passengers' rights to compensation for disruption and delay and the right to be kept informed at all times of how their complaint is being handled.

The Guidance will also mandate that customers are given certain specified information about how a complaint can be escalated to Transport Focus, London TravelWatch or ORR. ORR expects licence holders to put "Appeals Handling Protocols" in place with Transport Focus and/or London TravelWatch to facilitate such appeals.

Information capture and analysis

Information capture and analysis is a fundamental requirement of the Guidance. Key objectives of the guidance – ensuring consistency and fairness in treatment of complaints, identifying root causes and opportunities to improve, and being able to demonstrate compliance in practice – all rely heavily of having effective systems which not only allow for the effective resolution of individual complaints but also allow for wider analysis at different levels within the organisation.

The level of detail to be captured by a licence holder in relation to individual complaints is left open to interpretation, as is the process for analysis. However, ORR has some key expectations which may impact of governance structures. In particular, the Guidance suggests that some decisions should lie only with Senior Management or above, and that management information on complaint volumes, trends and underlying causes "should be regularly reviewed at Board Level".

Process for consultation

The ORR's consultation runs until 29 July 2015. Further information is available at <http://orr.gov.uk/what-and-how-we-regulate/licensing/licensing-railway-operators/licence-obligations/complaints-handling-procedures>

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