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Dear Rosie,

c2c response to ORR's Consultation on proposed new guidelines on the Complaint Handling Procedures

Thank you for consulting c2c on your proposals for the new guidance on Complaint Handling Procedures. I am responding on behalf of c2c. Our views have been assembled and submitted under authority of our Customer Strategy Steering Group and with the approval of Julian Drury, c2c's Managing Director.

We note that all information submitted to the ORR is subject to the Freedom of Information Act and your intention to publish all Consultation responses on the ORR website. We have no objection to this.

Forward

c2c has played a key role in the development of these proposals to date. We are pleased that ORR regarded c2c as primary stakeholders by inviting us to participate in the **special sounding board** pre-consultation on the guidelines on the 18th of December 2014. Appendix A, B and C are the records of the Sounding Board discussions; and the pre-consultation responses from ATOC and c2c both dated 23rd January 2015. Please include our previous pre-consultation responses contained in Appendix B & C.

c2c's CHP was updated for the start of the new franchise and made extensive use of the July Regulatory Statement in its development.

c2c's Consultation response

Question 1: Do you agree with our overall purpose and scope? In particular, do you think that the way that we have distinguished feedback from complaints is helpful?

From a customer's point of view the distinction between a complaint and feedback is not defined by the medium by which they are able to contact a TOC. c2c agrees that it is pragmatic to separate complaints from social media feedback.

c2c, (like other businesses) is developing approaches to respond to the increasing expectation of an instant response to all social media contact. There are resource implications involved and the real cost of managing contacts via social media is unknown.

- It is recommended that the guidelines should make it clear that social media feedback becomes a complaint when it is correctly channeled to the TOC. TOCs in turn should provide communication explaining how it will capture social media complaints.
- It is also important that the social media complaints policy advises customers that in some cases we would not engage in discussion on an open forum under the Data protection and staff confidentiality and privacy restrictions. For example where a customer identifies a member of staff.

Question 2: Do you agree that the licence holder should coordinate responses relating to third party suppliers? Please indicate in your response what the current practice is and identify any challenges arising from this proposed requirement? Do you agree with our reasoning contained above? Are there any other categories of third party supply that you consider should be explicitly covered within this obligation?

This is the existing approach between TOCs and therefore no change is required. For complaints about Network Rail, these should still be handled either by Network Rail or the TOC – whoever receives the complaint.

- It is likely that TOCs and Network Rail will need clearer working arrangements to make this approach seamless for the customer.

There should be specific exceptions to some third party suppliers such as in the case of established ticket Penalty Affairs or Car Parking Penalty industry arrangements.

- If a TOC gets involved before the appeal process is resolved it could be detrimental to the customers' interest – for instance the customer could run out of time within which they could pay a fixed penalty. Current practice is to advise customers to complete the penalty fare issues with the 3rd party bodies but we would take up any other aspects to the complaint - such as a complaint about how they were treated by a member of staff.

Question 3: Do you agree that the three core standards form a reasonable basis from which licence holders can develop complaint handling procedures? Please identify any areas, for example: a. where you would prefer more detail or additional clarity; and/or b. where you consider the standards do not meet our intention to draft at sufficiently high level for licence holders to develop procedures to suit their own business models and the needs of their passengers. In particular whether the balance between specified obligations and a focus on internal culture and arrangements appears consistent with our stated regulatory approach.

In 1.12, it is unclear how your proposal to include 'organisational culture' as one of the core standards would be measured without being onerous and potentially require significant TOC management time and resource. The assessment of an organisations culture can only ever be indicative of good complaint handling process. The real performance measure is a TOCs ability respond to a complaint quickly, accurately and as helpful as possible and it is the Customer Relations Team culture that is most relevant rather than the wider business.

Question 4: Is the guidance around Conducting a full and fair investigation and Effective response and resolution helpful and/or sufficiently clear?

The six steps are useful but should not be prescriptive as the level of investigation will vary depending on the nature of the customers' issue.

Also in Step 4 – correct the word ‘inviewing’ to interviewing’.

In Step 5 – remove the presumption of ‘failing’ as that conclusion is the whole point of the investigation in the first place.

Question 5: Do you consider that a CHP should contain a requirement to have an appeal handling protocol with PF and LTW? Do you agree that we should specify some of the detail including recommended response times? Alternatively, is there other detail that you think should be included?

Whilst not opposed to this in principle, TF and LTW will work to their own complaint handling standards. To a certain extent they face similar challenges that TOCs have to ensure there is sufficient resource to deal with complaints of varying degrees of complexity. So it would be helpful to the customer and TOCs alike if they also declare the response times that they are working too.

Question 6: Are you content with the ORR’s minded proposal to drop these two previous requirements? If not give reasons.

We agree that the CHP should not have to be reviewed annually.

We would support a requirement to seek consent to lengthen our response time at the industry 20 day standard rather than at our Passenger Charter level. This would ensure that our focus is solely on recovering the response targets without distraction. We believe there is greater value in containing the incident and ensuring that we are informing customers directly of any increase in our response times.

Question 7: Do you believe our proposed monitoring activities will be effective in ensuring compliance with the obligations? Is there any additional evidence that you would like to see included as part of this process?

It is difficult to foresee how effective ORR’s monitoring activities will be. However it is envisaged that the core data provided should provide the mainstay of the ORR’s monitoring activity.

It is hoped that the ORR will set out clear stages and process – so that TOCs have advance notice of how you might escalate any compliance monitoring required. The ORR should also be mindful that there is a cost in terms of business management time. Any time spent on compliance is invariably less time spent on the customer so it is recommended that a full audit should always be a last resort.

Question 8: We ask for comments on our initial approach and its impact, including both any costs and benefits that we do not identify.

c2c's other comments

1. You have made no mention of the role the DfT has as franchisee. This was a key issue raised at the ORR/TOC Workshop meeting in March.
 - It is recommended that a statement is included to reflect the different agreements and Passenger Charter's each TOC will have with the DfT. There is a cost and business model underpinning each TOCs delivery of its complaint handling procedures and promises which will have been agreed in advance with the DfT.

2. In paragraph 1.6, I would suggest that it is not appropriate to mention TOC's best practice in the Industry wide guidelines especially if not all TOCs have been given the chance to share their own examples.
 - I strongly recommend that the TOC examples used should be removed to maintain the neutrality of the Guidelines.

Kind regards



Turde Olatunji
Head of Customer Relationships

APPENDIX A -**Summary of the Sounding Board discussions held on the 18th of December is as follows:**

1. **Data protection Act** – Discussed the various dynamics and implications of DPA including [a] getting complainants express permission including how this relates to carers/support workers who may be acting on behalf of passenger [b] Cross TOC complaints [c] Info shared between TOC and PF/LTW and agreed that ORR steer would be beneficial.
2. **Service standards** – discussed the merits of all TOCs having public facing service standards in relation to CHPs – agreed that this was a good proposition and would help to manage customer expectations as customer would have a clear picture of what they can expect from the outset of their complaint
3. **Complaints that have potential reputational risk** – agreed that it would be good for guidance to give examples of such complaints [by way of a gentle reminder to TOCs]
4. **Third Party Suppliers** – discussed e.g. car parks/sub-contractors etc. and the need to ensure that complainants understand process for handling such complaints. Onus should be on TOCs to progress i.e. complainant should not have to complain directly to supplier. Also challenges associated with offshore vs. geographical complaints handling from customer perspective and consistency/continuity
5. **Social media** – broad discussion on emergence of social media and the need for guidance to reflect this
6. **Websites** – discussed standards that should potentially apply to all TOC website i.e. designated complaints page [within x1 click] , use of FAQ's which could potentially prevent passenger from complaining if complaint issues addressed in FAQ's – All agreed that this was an excellent idea from Tunde , which is worth exploring further.
7. **Customer focus** – all agreed that customer focus is key part of complaints handling and should be reflected in guidance. Discussed customer facing document i.e. leaflets / annual reports and the need to ensure user focus i.e. use of jargon etc.
8. **Use of technology** – general discussion on technology and how best to consider/take into account its implications in relation to CHP guidance. Move away from reliance on "white mail", posters, leaflets and consider use of internet, Apps , Complaints web chat and other new technologies to communicate with and engage with complainants – consider best practice
9. **Best practice and visioning** – agreed that guidance should not be too unnecessarily prescriptive and should allow for individual TOC creativity - but should give examples of best practice. This would be useful/informative for TOC and encourages service improvements. Participants felt that new guidance should have a more fresh feel ie use of pictures and graphics. Discussed the need to consider guidance in the context of longer term visioning and future horizons/future proofing

10. **Prevention vs. Cure** – discussed the need to prevent complaints where possible i.e. flexibility in relation to arriving at a resolution

11. **Equality and Diversity** – Discussed the need to ensure that the needs of vulnerable, older, ESOL etc. complainants are met. Should consider plain English, use of pictorials [reducing volume of written text] : this would appeal to/potentially meet the needs of a wider audience

Agreements / Way forward:

1. Draft guidance was due to be sent to sounding board on Monday 22nd with a deadline for the 9th Jan – The sounding Board participants felt that this timeline was unreasonable given the Xmas period.

Good evening Tunde

Thank you for your response – much appreciated.

In the interest of clarity, please kindly be advised as follows:

[a] The sounding board provided a valuable opportunity for us to capture your insight and perspective in relation to certain aspects of complaint handling. Along with the views and perspective of sounding board, the development of the new guidance takes into account/consideration, for example : [a] gap analysis of existing SRA 2005 guidance [b] changes to legislative landscape since 2005 i.e. Equalities Act and other relevant evidence base [c] ORR policy position as set out in CHPs Regulatory Statement 2014 [d] the need to provide TOCs with a practical best practice guidance document.

[b] The sounding board will have "first sight" of pre-published document as per approximate timescales set out in my earlier email. We will carefully consider the "first sight" feedback [as appropriate] from sounding board and in turn produce the formal document for wider consultation/publication. You are further respectfully advised that the wider consultation process will of course include all TOCs [including those TOCs represented on sounding board] and ATOC respectively and the consultation period will be in line with existing ORR consultation timelines which could be up to approximately 8 weeks.

I fully appreciate that sounding board members will have a number of time constraints and there is no desire on the part of the ORR to make your involvement onerous or burdensome. Should the proposed sounding board "first sight" feedback timelines prove unworkable for participants, please kindly be assured that you will automatically be privy to the published document and invited to proffer your feedback accordingly.

I trust this clarifies matters and do hope that you will be in a position to continue to lend your kind support and cooperation to this important exercise.

APPENDIX B -

ATOC's pre-consultation feedback on the CHP Guidance dated 23 January response

Thank you for inviting me – as ATOC's representative – to the consultation meeting on 18 December and giving us the opportunity to provide feedback on the Guidance for Complaints Handling Procedure (CHP) at this early stage, we believe that license holders and the ORR share the goal of delivering an effective, quality complaints service to customers and we're grateful for the opportunity to input in to the draft at this early stage.

We have endeavored to provide as much feedback as we're able to in the time frame, however as explained at the December meeting and in subsequent email correspondence we do not believe that we're able to provide the level of feedback that you have asked for in the time frame given – one week isn't sufficient for a document of this size and importance and if we're giving feedback we want to give it the time and attention it deserves, for that reason, we will provide more detailed feedback during the full consultation period. We are happy to provide some general feedback now and hope that you will find it useful. Please note, at this stage we are only able to provide feedback on the basis of our experience of complaint handling within the rail industry and not on behalf of the train operating companies that we represent.

Feedback

Overall the guidance feels like an improvement on the 2005 document and is definitely a step in the right direction; we share your view that the principles of openness, fairness, transparency and most importantly customer focus are essential to the CHP guidance.

It is good to see a recognition of the changing landscape and the increased use of social media and we believe that the suggestion that license holders have a social media policy is fair – although we're concerned about the suggestion that an 'immediate response' is offered and would suggest 'as soon as possible' may be more appropriate. The distinction between feedback and a complaint 2.8 (p13) is very important particularly in light of the increased use of social media. Additionally we like the idea of the best practice sharing – Innovation station 4.75 (p42) – this is a useful addition.

We recognise the ORR's need to monitor complaints, and the desire to ensure consistency across the industry but feel that the guidance should also allow flexibility to innovate and tailor services appropriately. In areas the guidance feels overly prescriptive and whilst it suggests that there will be a level of flexibility at times this is contradicted within the document, this is best encapsulated in item 2.3 (p10) which suggests that licence holders are free to propose whatever procedures suit them but then suggests that the ORR will expect to see the measures set out in the guidance when approving CHPs.

We would like to see a CHP that focuses on the needs of rail customers and the way they would like to see their complaints handled, we are concerned that some of the proposed measures within the guidance may lead to license holders being tied up by having to fulfil the expectations contained within the document, a key example is item 4.32 (p29) which says license holders should provide a full written response to all complaints and goes on to set out nine elements that you would like to see in complaint responses. We'd like to see license holders given the confidence that they have the flexibility to take the appropriate corrective course of action, with the ability to tailor complaint responses to the wishes of the customer.

Our concern is that this may lead to a complaint industry where complaint responses/letters are drafted to demonstrate that they meet these criteria which could detract from the focus which should be to resolve the complaint quickly and effectively.

Consultation questions

Broadly speaking the consultation questions seem fine, they may invite some fairly forthright responses but this is a good thing as it's important to have a meaningful dialogue. We thought it may also be worthwhile including a section for general comments.

Timeframe for full CHP consultation

Ideally we would like to see a 12 week, rather than an 8 week consultation in order to allow us and the Train Operating Companies the opportunity to provide meaningful input into the development of this guidance. We feel for a document of this importance it is imperative for all parties to be given the time get the guidance right.

Finally, in your email on 16 January you mentioned that the timeframe for the full consultation is being developed; do you have an update on this? Do you know when the full consultation is likely to start?

Should you have any questions please do not hesitate to contact me.

Best regards,
Jonathan

APPENDIX C - c2c's feedback to ORR's pre-consultation CHP Guidance dated 23 January

I agree with Jonathan's submission and would only add the following -

2.3 - It is important that the document is treated as guidance in practice. The document should be used to help TOCs to improve complaint handling with their unique circumstances in mind rather than requiring every TOC to have exactly the same requirements.

2.6 delete the word 'also' in the 2nd line.

2.7 to 2.11 - Exclude social media from the definition of a complaint and treat solely as feedback - as long as TOCs have a process for re-directing obvious social media complaints to their standard Customer Relations teams.

2.13 - Could you make clearer what is meant by the 2nd sentence (regarding the options for dealing with on train information.....)

2.15 - TOCs will not always have direct agreements with every single 3rd party supplier so will not always have responsibility for ensuring consistent complaint handling procedures.

2.17 to 2.20 - The requirement to coordinate a single response is simply not practical - you wouldn't ask Tesco and Morrisons to do so. The current procedure which sets standards for ensuring customers are advised that an element of their complaint will be dealt with by another TOC suffices. You have also rightly pointed out the Data protection aspect. Further discussion on this would be very welcome.

3. The focus on the robustness of internal procedures rather than outcomes - seems intrusive and will make the process of applying for a CCHP onerous. Absolute clarity about the extent of this approach will need to be agreed - for example will you be sending in experts or will TOCs have to demonstrate the 'robustness' of their processes? What happens if ORR decides they are not fit for purpose?

3.3 - There are resource implications in the proposal for 'carrying out more regular monitoring/audits. This change of approach needs more clarity.

I will provide additional feedback as part of the overall TOC consultation process.