

Report to London Assembly Transport Committee



Rail Passengers Redress Scheme

1. Introduction

The Rail Minister, Paul Maynard, is keen to improve the way that the railway industry deals with complaints and compensates passengers for poor service. This issue has acquired a very high priority following recent experiences with Southern Railway and other operators. Accordingly, London TravelWatch, Transport Focus and the Rail Delivery Group (RDG – successor to the Association of Train Operating Companies – the trade association that now represents train operators and infrastructure providers in the UK) have been asked to work together to establish an independent adjudication and redress scheme for rail passengers.

The scheme will be entirely funded by the RDG and decisions will be binding on the train operators (although passengers would still have the option to take their case to court if they wished). It will build on the complaint processes already in place and the statutory appeals function undertaken by London TravelWatch and Transport Focus. The current arrangements provide for these bodies to represent the interests of passengers to the transport operators, and are often successful in getting complaints resolved on a voluntary basis, and sometimes resolving the underlying issues that gave rise to them. But they do not allow for any kind of formal, binding adjudication – in contrast with many other sectors including water, energy, communications and financial services.

2. Benefits of the scheme

The new scheme will provide some key benefits for passengers:

- Passengers will have access to a new, binding avenue of redress, building on the complaint arrangements already in place.
- Independent adjudicators will make binding decisions about complaints. These decisions may include the award of compensation or making changes to services, which benefit both the passenger concerned and the industry overall
- The new scheme will be fully funded by the industry. There will be no cost to passengers to use the scheme and no costs incurred by London TravelWatch or Transport Focus in running the scheme
- There will be no adverse impact on London TravelWatch's ongoing work on behalf of passenger interests. In the longer term the scheme should help to reduce some of the demands on its casework team

- Train operators will have a significant financial and resource incentive to handle complaints from all passengers effectively at the first stage.

3. Building on current arrangements: a seamless service

The casework that London TravelWatch currently undertakes works well for the majority of passengers. Our knowledgeable and skilled caseworkers are able to negotiate positive resolutions for approximately 60% of the cases we take up on appeal and we get good feedback from passengers. However this system relies on mediation and we have no power to compel train operators to do what we suggest to resolve problems for passengers. Passengers for whom we have not been able to achieve a successful resolution of their case commonly complain about this; and there are only limited incentives on the train companies to rectify problems at source. The proposed new scheme will address these concerns.

The scheme will:

- Build on the existing complaints handling and dispute resolution process operated by the train companies and London TravelWatch respectively
- Be relatively quick to set up and flexible to operate, without the need to establish another organisation
- Provide a valuable third stage for eligible passengers who have been unable to satisfactorily resolve their rail complaint under the present two-stage process
- Be seamless to access and free to use for passengers
- Require no extra work for passengers, who will need only to confirm that, if their complaint qualifies, they would like their deadlocked case to be put forward for adjudication under the scheme

London TravelWatch and Transport Focus are ideally placed to take an aspects of operation of this redress scheme. Our knowledge and experience in investigating complaints relating to transport means we will be effective in preparing cases for consideration by external adjudicators. In addition, our direct involvement in the operation of the redress scheme will allow us to rapidly identify and take forward the policy issues that arise from adjudicated cases.

4. Structure

The scheme will be governed by a company limited by guarantee, jointly owned by London TravelWatch, Transport Focus and the RDG. The board of the company will be formed of a majority of independent members, to maintain the scheme's independence from the industry.

The process of adjudication will be carried out by an outsourced provider. A specialist company will be engaged to consider each eligible case and decisions will be made by qualified adjudicators who are independent of the rail industry. Unlike London TravelWatch and Transport Focus, who advocate for passengers during casework, the adjudicators will

be neutral between the parties and make decisions on the basis of fairness in all the circumstances.

Two potential providers have been identified and informal discussions indicate that they would be interested in carrying out this work. The appointment will be made following a transparent procurement process.

5. Cost and resourcing

The full cost of the scheme will be met by the rail industry, via the RDG. This funding covers all costs including governance, fees to the outsourced adjudication provider, internal staffing and proportionate overhead costs. In addition, the industry has agreed to cover all set-up costs arising from 1 February, including staff time and legal advice.

The RDG will recover the cost of the scheme from its members, the train companies. The scheme cost will comprise two elements: a fixed amount to cover basic operating costs and an amount that will vary depending on the number of cases each train company generates.

The scheme has been developed on a voluntary basis and is dependent on the co-operation of the train companies. There is strong industry support at present, but if the RDG were to withdraw support and funding, the scheme would cease operation. In the event of the closure of the scheme, the industry will cover any termination and winding-up costs.

The scheme will need to be supported by a small number of dedicated staff. One to two posts will be employed directly by the company to oversee governance arrangements and support its board. This is likely to include a senior Scheme Manager and a junior administrator. It is possible that one or both of these posts will be part-time.

London TravelWatch will employ two to three posts to work as Dispute Resolution Executives. These posts will be funded by the RDG, along with all the other costs of the scheme. They will prepare cases for adjudication, liaise with the parties, disseminate decisions, review trends, analyse statistics and report on outcomes to the board. These staff will initially be employed on temporary contracts, as the volume of complaints that will go through the scheme is difficult to predict at this stage.

All aspects of resourcing, including staffing levels, will be closely monitored during the early operation of the scheme as the volume of cases using the scheme becomes clearer.

The overall costings for the scheme are still under discussion. However, as has been set out above, all costs relating to these staff will be met by the industry, including appropriate overheads, supervisory costs and any termination costs in relation to the closure of the scheme. We have made it clear throughout that there is no prospect of any aspect of the scheme being funded from existing London TravelWatch budgets, nor is there any scope for diverting staff from the priorities in our current work plan.

The funding arrangements will be contained in an agreement between London TravelWatch, Transport Focus and the RDG. The agreement will include notice periods and arrangements for winding-up costs should they be incurred. London TravelWatch will obtain legal advice in relation to this agreement.

6. Timetable and next steps

London TravelWatch was first approached about this proposal by the Department for Transport in late 2016 and the last few months have been spent developing the project to this stage. The proposals are now at a clear enough stage for consideration by the London Assembly. They will also be put to the Boards of London TravelWatch and Transport Focus and the RDG's Customer Board for agreement.

The current anticipated 'soft launch' for the new scheme is 1 April 2017, with full operation from July 2017. Discussions on the details of the scheme are still underway. The Rail Minister continues to show a keen interest in the scheme, and has referred to it in general terms in answer to a Parliamentary Question. But no detailed public announcements have yet been made.

We hope the Assembly will support this initiative and London TravelWatch's work towards it, subject to the safeguards outlined above in relation to costs and the maintenance of our existing workplan priorities.

Janet Cooke, 16.02.17