Responses to “Changes to complaints handling guidance - A consultation” from Marcus Williamson, editor CEOemail.com and Helen Dewdney, The Complaining Cow

Thank you for the opportunity to prove input to this consultation.

Our responses are included in the document below.

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Chapter 1

Q. Which of the three options set out above is most appropriate for signposting to ADR?

A. Option 2 (ADR/TF/LTW) is most appropriate, provided that the ADR scheme is already operating effectively, including:

- a clear procedure for the appointment of "fit and proper" leadership and staff of the ADR body, including enhanced DBS and financial background checks.
- clear escalation procedure in the event of a complaint about the ADR body.
- continuous performance monitoring and reporting by the ADR body.

Q. Are there other approaches that we have not considered which may be preferable to those set out above?

A. Option 3 (TF/LTW) should continue to be used until Option 2 is proven to be operating effectively.

Q. Is it necessary for ORR to set out in detail our expectations, and make these formal requirements, in the CHP of communications about the ADR scheme?

A. Yes, there must be absolute clarity on ORR's expectations and role in relation to the ADR scheme. There is currently a lack of clear guidance in the "unregulated" ADR landscape. Organisations involved in appointing and overseeing ADR bodies already include: Companies House, Ombudsman Association, CTSI and BEIS.

Any new expectations from ORR about the ADR scheme must be clearly stated prior to implementation of the new scheme. The new responsibilities of ORR vis à vis the existing ADR stakeholders (CH, OA, CTSI, BEIS) must be made very clear. In particular, ORR needs to clarify:

- Who is responsible for appointing the rail ADR body?
- Who is responsible for monitoring the performance of the ADR body?
- Who is the accountable organisation for consumers to approach if something goes wrong during engagement with the ADR body?

Chapter 2

Q. What is the most appropriate point at which to signpost ADR? Eight weeks, six weeks, another period?
A. Eight weeks would appear to be appropriate. Whatever period is used it should be standardised across all rail companies for the sake of clarity for consumers.

Q. Should we conduct a review of whatever time period is agreed? If so, at what point; after one year, two years, another period?
A. No, once a time period has been set it should remain, for the sake of clarity for consumers.

Q. If the time period should be subject to review, what metrics should we use to establish whether the time period remains appropriate or should be changed?
A. The time period should not be subject to review, as this could cause confusion for consumers.

Q. Should individual rail companies be able to set their own signposting time limits as long as they are below the minimum agreed signposting standard?
A. No, there should be a standard time limit across all rail companies, in order to ensure clarity for all consumers.

Q. Should arrangements be introduced to allow signposting before the time period is reached i.e. deadlock.
A. Yes, where a deadlock has already been reached then signposting should be provided, as it already is, for example, in the financial services sector.

Chapter 3

Q. As substantial progress has been made voluntarily by industry on developing an ADR scheme, is it necessary to make membership of an approved ADR scheme a requirement in the licence (and reflected in CHP guidance and CHPs)?

A. Yes, if ADR is to be successful in rail, then every rail company must be a member of a single recognised ADR scheme which applies across the whole rail industry.
There should not be multiple competing ADR schemes, as this would cause confusion for consumers.

Q. Are there any other approaches which could provide certainty in the ADR arrangements for consumers?
A. Consumers will expect an ADR body that is:

- Free - Accessible without cost to the consumer.
- Binding - The outcome of the ADR engagement should be binding upon the rail company and the consumer, without exception.
- Open - responsive to questions from consumers, the press and other stakeholders about its structure and membership.
- Transparent - publishes information about itself including: structure, rules of engagement, membership, performance statistics, funding and financial accounts.
- Safe - Manned by directors and staff who have all passed “fit and proper person” tests, including enhanced DBS and financial background checks.
- Accountable - There must be a means by which consumers can lodge a complaint about the ADR body to a higher entity, if necessary.

If the ADR body is an “ombudsman” then it must be a member of the Ombudsman Association, which provides additional independent oversight and safeguards.

Q. What alternative safeguards are available to ensure that rail companies do not withdraw their membership from a scheme?
A. Ensuring that ADR membership is a requirement in the operating licence would be sufficient safeguard.

Q. Are there any reasons why charter operators and station licence holders should not join an ADR scheme?
A. No. All rail companies, charter operators and station licence holders should be members of the ADR scheme.

Chapter 4

No questions are posed by ORR in this chapter of the consultation.

But a point that arises in the discussion of performance monitoring is that ORR will need to monitor the performance of its chosen ADR body. ORR must therefore put in place the necessary procedures, systems and personnel to be able to do this.

As a matter of openness and transparency, ORR should explain to all interested parties how this monitoring will work and where the information gathered by ORR will be published. ORR must also explain the escalation procedure by which consumers can complain about the ADR body, if necessary.

ORR must also publish all responses to this consultation in a timely manner, consistent with established principles of openness and transparency.

Further Reading

"Ombudsman Omnishambles - Serious unresolved issues affecting the operation of the ombudsman ADR system in the UK"

https://ceoemail.com/ombudsman-omnishambles.pdf

"Rail Ombudsman is finally coming down the tracks – consultation closing soon"

http://www.thecomplainingcow.co.uk/rail-ombudsman-is-finally-coming-down-the-tracks-consultation-closing-soon/

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