

TRANSPORT SCOTLAND: COMPLAINTS POLICY AND PROCESS



**TRANSPORT
SCOTLAND**

Contents

1. Our purpose, aims and working principles
2. Our responsibilities covered by this policy and process
3. Our legal responsibilities
4. Definition of a 'complaint'
5. Who can complain
6. Complaints procedure
7. Complainant assistance
8. Time limits

ANNEX A – Unacceptable complaints

POLICY

1. Our purpose, aims and working principles

Purpose

Our purpose is to support delivery of the Scottish Executive's vision for sustainable transport in Scotland, making a real difference for people and businesses using the national rail and road systems.

Aims

We will aim to achieve this by:

- Ensuring that Scotland's trunk road and railway systems are managed efficiently, effectively and economically.
- Establishing and running the national concessionary travel schemes.
- Delivering the Scottish Executive's committed programme of enhancements to Scotland's rail and trunk road infrastructure.
- Helping to build Scotland's National Transport Strategy by setting investment priorities for tomorrow's rail and trunk road networks.
- Strive towards excellence by building our working principles into everything we deliver, and into how we work as an organisation.

Working principles

In delivering these aims, we will:

- Strive to become a centre of excellence in transport delivery, both nationally and internationally.
- Promote transport integration.
- Maintain a clear outward focus on the needs of transport users.
- Work in partnership with other transport providers and wider government in our planning and delivery.
- Make the most efficient use of public resources, and equip our staff to do the best possible job.

2. Our responsibilities covered by this policy and process

Professional advice

- We set policy for Scotland's rail and trunk road networks, and for new public transport projects, backed by analysis and technical expertise. In this way, we act as an 'intelligent client' on behalf of *Scottish Ministers* who make strategic decisions about how these networks and projects are developed and managed. In doing this, we also ensure that money is used as efficiently and wisely as possible on behalf of the *public*.
- We advise and support the work of *third parties*, such as *local authorities* and bodies such as Transport Initiatives Edinburgh, which are involved in delivering the programme of 7 new major public transport projects.

Officials cannot consider certain types of complaints. These are:

- against decisions which have been made correctly reflecting Ministerial policies;
- against decisions which have been made in adherence with legislative requirements;
- against decisions that have a discretionary element.

If you wish to make a complaint about any of these, you should contact your MSP or MP who will act on your behalf with Scottish Ministers.

Performance management:

We *monitor* what other bodies are doing to deliver transport services and projects on behalf of *the public*:

- The quality and reliability of *First ScotRail's* train services (www.firstscotrail.com).
- Setting the specification and outputs required for *Network Rail* (www.networkrail.co.uk), which manages and maintains the rail infrastructure across the UK including track. These outputs include rail safety standards, which are regulated and enforced by the *Office of Rail Regulation* (www.rail-reg.gov.uk) for the UK.
- Procuring management and maintenance services for Scotland's trunk roads, and managing the service contracts with *Operating Companies*, and *Design Build Finance Operate contractors*.
- Providing Real Time Information for the public on the trunk road network through *Traffic Scotland* (www.trafficscotland.org.uk); and funding the provision of public transport information through *Traveline Scotland* (www.travelinescotland.com) and the UK service *Transport Direct* (www.transportdirect.info).
- Monitoring funding to *third parties* which are delivering major new public transport projects funded by the Scottish Executive.

For the most part, complaints in any of these areas will be passed to the relevant company for a response rather than being dealt with by Transport Scotland.

Direct management:

We deliver a range of services to *people and businesses* that use the rail and trunk road networks:

- Running the national concessionary travel schemes for older people and disabled people; and for young people from 2007.
- Managing traffic flows on the trunk road network, and dealing with any major incidents such as landslips.
- Project managing new trunk road construction projects, or enhancements to existing parts of the trunk road network.

Complaints about the qualification for and operation of the **National Concessionary Travel Scheme** by bus operators will be handled by Transport Scotland's Finance and Corporate Services Directorate. Complaints regarding the policy issues of the scheme will be handled by the Scottish Executive's Transport Directorate.

Complaints about the traffic flow or major incidents on, and enhancements to, the **trunk road network**, will be passed to the relevant trunk road operating company.

Complaints against the conduct of the trunk road operating companies whilst executing their commissions for Transport Scotland shall be managed by Trunk Roads: Network Management Directorate.

Complaints against the **conduct of contractors** whilst executing their commissions for Transport Scotland shall be managed by Trunk Roads: Infrastructure and Professional Services Directorate.

Staff

Complaints about the conduct of officials working for Transport Scotland will be handled by a Professional HR Adviser in the Scottish Executive HR Shared Services.

All Transport Scotland staff and consultants are aware of SE Policies and strategies which include: Dignity at Work, Equal Opportunities and Diversity and Staff Etiquette. All these procedures are accessible through the Scottish Executive intranet site.

'Whistleblowing'

The **Public Interest Disclosure Act 1998** enables staff who 'blow the whistle' about any of the instances of wrongdoing, set out in the Act, to complain to an employment tribunal, if they suffer any form of detriment for doing so or in the case of a dismissal.

Who will deal with complaints

All staff will be empowered to manage complaints which they receive in line with the Transport Scotland process. Complainants who are not satisfied with the internal process will be advised of external assistance (see section 7).

3. Our legal responsibilities

Data Protection Act

The Data Protection Act 1998 and the secondary legislation required to support it were brought into force on 1 March 2000. Transport Scotland complies with the Act. Data Protection is enforced and regulated by the Information Commissioner's Office: www.informationcommissioner.gov.uk

Freedom of Information

The Freedom of Information (Scotland) Act 2002 introduced important new rights to access information held by public authorities and also requires more proactive publication of information. Transport Scotland complies with the Act.

Detailed information on how to exercise rights under the Act is available from the [Scottish Information Commissioner](#).

Environmental Information Regulations

Environmental Information Regulations (Scotland) 2004 introduced important new rights to access environmental information held by public authorities and also requires more proactive publication of information. Transport Scotland complies with the Regulations.

Detailed information on how to exercise rights under the Regulations is available from the Scottish Information Commissioner.

4. Definition of a ‘complaint’

A complaint will be any expression of dissatisfaction by any person or organisation about the delivery of any of Transport Scotland’s responsibilities or our administrative performance. Some examples of this would be:

- Running the national concessionary travel schemes for older people and disabled people; and for young people from 2007.
- Managing traffic flows on the trunk road network, and dealing with any major incidents such as landslips.
- Project managing new trunk road construction projects, or enhancements to existing parts of the trunk road network.

Unacceptable complaints

Please see Annex A for further details on unacceptable complaints.

5. Who can complain

Like all organisations our customers are both *external* (Scottish citizens; other transport providers; other public bodies; the private and third sectors) and *internal* (Scottish Ministers; the wider Executive; other Government Departments).

We will accept complaints from any individual dissatisfied with our services or from a third party acting on that person’s behalf with their consent. Normally their permission would be required in writing, but this will depend on the individual circumstances.

Anonymous complaints will be passed to the Chief Executive to consider if the complaint is acceptable and should be investigated further. Any anonymous complaint, written or verbal, which is considered unacceptable, such as those containing threats, verbal abuse, derogatory remarks or rudeness, will not be

pursued further and in some cases may be reported to the police (see Annex A for further details).

6. Complaints procedure

As an agency of the Scottish Executive it is important to Transport Scotland that complaints about service are dealt with by the right person at the right time.

If you have a complaint about the service you have received from a department or official, the agency will work with you to resolve the complaint in a full and fair way, keeping you informed of progress. The complaints procedure is set out below.

How to make a complaint

1. First, you should contact the Transport Scotland Business Manager who will identify a lead official in the business area or department that your complaint is about (please see below for contact details). Working with you, the lead official will aim to resolve your complaint. If, working together, you are unable to resolve the issue, the official will ask you to confirm if you wish to move on to the next stage.
2. If you are unhappy with the initial response, you can appeal by writing to the Chief Executive of Transport Scotland. He will look into your complaint and aim to help you resolve it.
3. If you are unhappy with the Chief Executive's response, you then have the option of taking up your complaint with the Scottish Public Services Ombudsman.

Contacts

To make your complaint, please contact the Business Manager in Transport Scotland who will identify a lead officer to deal with your complaint:

Business Manager
PS/Transport Scotland
8th Floor, Buchanan House
58 Port Dundas Road,
Glasgow
G4 0HF

E-mail: chiefexecutive@transportscotland.gsi.gov.uk

Tel: 0141-272 7114

Oral complaints

Complaints do not have to be received in writing, we are happy to receive complaints via the telephone or in person, provided they do not fall into one of the 'unacceptable complaints' categories (see Annex A). On occasions we may ask a complainant to follow-up their oral complaint with written details

Written responses

Responses will be jargon-free with full reasons and explanations for decisions taken. If we are at fault, we will apologise and try to remedy the situation as soon as possible.

Confidentiality

However a complainant contacts Transport Scotland, their right to privacy will be respected. The agency will comply with the Data Protection Act 1998.

7. Complainant assistance

Other bodies

The following bodies can provide further information about complaining to/about Scottish public bodies:

- [Scottish Public Services Ombudsman](#)
- [Scottish Information Commissioner](#)
- [UK Information Commissioner](#)
- [Audit Scotland](#)

Assistance in complaining

We will deal with your complaint politely, efficiently and promptly and will investigate your complaint thoroughly. If this necessitates you having to travel to meet with a relevant official, we will reimburse travel costs following face-to-face meetings.

Other languages

If you require information and documents translated into a different language, we will seek to do so within reason.

8. Time limits

Transport Scotland

Written correspondence (including e-mail)

- We will aim to reply as quickly as possible, and within 20 working days of receipt of the correspondence (in different formats if required).
- If for any reason we cannot send a full reply within 20 working days, we will:
 - Send an interim reply explaining the reason for the delay;
 - Indicate when you can expect to receive a full reply; and
 - At that stage answer any many points as we can.
- Any interim reply will be issued within 20 working days of receipt of the original letter.

ANNEX A

UNACCEPTABLE COMPLAINTS

Policy on unacceptable actions by complainants

1. Introduction

This policy sets out Transport Scotland's approach to the relatively few complainants whose actions or behaviour the agency considers unacceptable. The term complainant includes anyone acting on behalf of a complainant or who contacts the agency in connection with a complaint.

2. Policy Aims

- 2.1 To make it clear to all complainants, both at initial contact and throughout their dealings with our office, what Transport Scotland can or cannot do in relation to their complaint. In doing so, we aim to be open and not raise hopes or expectations that we cannot meet.
- 2.2 To deal fairly, honestly, consistently and appropriately with all complainants, including those whose actions we consider unacceptable. We believe that all complainants have the right to be heard, understood and respected. We also consider that Transport Scotland staff have the same rights.
- 2.3 To provide a service that is accessible to all complainants. However, we retain the right, where we consider complainant actions to be unacceptable, to restrict or change access to our service.
- 2.4 To ensure that other complainants and Transport Scotland staff do not suffer any disadvantage from complainants who act in an unacceptable manner.

3. Defining unacceptable actions by complainants

- 3.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint coming to our office. We do not view behaviour as unacceptable just because a claimant is forceful or determined. In fact, we accept that being persistent can be a positive advantage when pursuing a complaint. However, the actions of complainants who are angry, demanding or persistent may result in unreasonable demands on our office or unacceptable behaviour towards Transport Scotland staff. It is these actions that we consider unacceptable and aim to manage under this policy. Transport Scotland has grouped these actions under three broad headings:

Aggressive or abusive behaviour

- a. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.
- b. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. We also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour.
- c. We expect our staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. Transport Scotland staff understand the difference between aggression and anger. The anger felt by many complainants involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards Transport Scotland staff.

Unreasonable demands

- a. Complainants may make what we consider unreasonable demands on our office through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.
- b. Examples of actions grouped under this heading include demanding responses within an unreasonable time-scale, insisting on seeing or speaking to a particular member of staff, continual phone calls or letters, repeatedly changing the substance of the complaint or raising unrelated concerns.
- c. We would consider these demands as unacceptable and unreasonable if they start to impact substantially on the work of the office, such as taking up an excessive amount of staff time to the disadvantage of other complainants or functions.

Unreasonable persistence

- a. We recognise that some complainants will not or cannot accept that Transport Scotland is unable to assist them further or provide a level of service other than that provided already. Complainants may persist in disagreeing with the action or decision taken in relation to their complaint or contact the office persistently about the same issue.
- b. Examples of actions grouped under this heading include persistent refusal to accept a decision made in relation to a complaint, persistent refusal to accept explanations relating to what this office can or cannot do and continuing to pursue a complaint without presenting any new information.

The way in which these complainants approach our office may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

- c. We would consider the actions of persistent complainants to be unacceptable when they take up what the Transport Scotland regards as being a disproportionate amount of time and resources.

4. Managing unacceptable actions by complainants

- 4.1 There are relatively few complainants whose actions we consider unacceptable. How we aim to manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict the complainant contact with our office in order to manage the unacceptable action. We aim to do this in a way, wherever possible, that allows a complaint to progress to completion through our complaints process. We may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. We would try to maintain at least one form of contact. In extreme situations, we would tell the complainant in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with our office to either written communication or through a third party.
- 4.2 The threat or use of physical violence, verbal abuse or harassment towards Transport Scotland staff is likely to result in the ending of all direct contact with the complainant. Incidents may be reported to the police. This will always be the case if physical violence is used or threatened.
- 4.3 We do not deal with correspondence (letter, fax or electronic) that is abusive to staff or contains allegations that lack substantive evidence. When this happens we tell the complainant that we consider their language offensive, unnecessary and unhelpful. We ask them to stop using such language and state that we will not respond to their correspondence if they do not stop. We may require future contact to be through a third party.
- 4.4 Transport Scotland staff will end telephone calls if the caller is considered aggressive, abusive or offensive. The staff member taking the call has the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop.
- 4.5 Where a complainant repeatedly phones, visits the office, sends irrelevant documents or raises the same issues, we may decide to:
 - only take telephone calls from the complainant at set times on set days or put an arrangement in place for only one member of staff to deal with calls or correspondence from the complainant in the future.
 - require the complainant to make an appointment to see a named member of staff before visiting the office or that the complainant contacts the office in writing only.

- return the documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed.
- take other action that we consider appropriate. We will, however, always tell the complainant what action we are taking and why.

4.6 Where a complainant continues to correspond on a wide range of issues, and this action is considered excessive, then the complainant is told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.

4.7 Complainant action may be considered unreasonably persistent if all internal review mechanisms have been exhausted, the complainant continues to dispute the Transport Scotland decision relating to their complaint, and the complainant has been directed to external assistance with their complaint. The complainant is told that no future phone calls will be accepted or interviews granted concerning this complaint. Any future contact by the complainant on this issue must be in writing. Future correspondence is read and filed, but only acknowledged or responded to if the complainant provides significant new information relating to the complaint.

5. Deciding to restrict complainant contact

5.1 Transport Scotland staff who directly experience aggressive or abusive behaviour from a complainant have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.

5.2 With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with Transport Scotland are only taken after careful consideration of the situation by a more senior member of staff. Wherever possible, we give a complainant the opportunity to modify their behaviour or action before a decision is taken. Complainants are told in writing why a decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place.

6. Appealing a decision to restrict contact

A complainant can appeal a decision to restrict contact. A senior member of staff who was not involved in the original decision considers the appeal. They advise the complainant in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

7. Recording and reviewing a decision to restrict contact

7.1 We record all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, an entry noting this is made in the relevant file and on appropriate computer records.

7.2 A decision to restrict complainant contact may be reconsidered if the complainant demonstrates a more acceptable approach. The Transport Scotland Management Board will review the status of all complainants with restricted contact arrangements on a regular basis.

8. Policy availability and review

Copies of this policy are available on request and free of charge from Transport Scotland. Transport Scotland reviews this policy on a regular basis to make sure that the aims of the policy are being achieved.