Recommendations to deliver a simpler and more integrated railway

A report to the Secretary of State by the Great British Railways Transition Team

October 2023

Great British Railways
TRANSITION TEAM

Contents

This document does not represent Government policy
Corrections made to pages 7, 29 and 36 on 27/11/23

| Executive summary

The GBR Transition Team was set the challenge to make recommendations to improve and simplify industry processes

At the heart of any successful, customer-focussed railway is a set of shared processes and decisions, and a set of choices about how to use and operate the railway.

In July 2022, the Government commissioned Great British Railways Transition Team (GBRTT) to review these processes (the Commission). Specifically, the Secretary of State for Transport requested the Commission should seek to ensure that cross-sector processes, agreements, incentives, and systems:

- put the interests of passengers and freight customers first;

- are transparent and simpler, reducing administrative costs and complexity across the industry for all parties;

- contain the appropriate tools for Great British Railways (GBR) to more effectively plan and manage the network;

- provides confidence for passenger and freight operators, of transparent and non-discriminatory treatment, with appropriate certainty to support business planning and investment; and

- considers the potential impact on other infrastructure managers, including HS2 Ltd and ensures there is a coherent regulatory framework on access between GBR and other infrastructure managers.

This report and the Commission's recommendations seek to address the request of the Secretary of State and are the product of significant review with stakeholders.
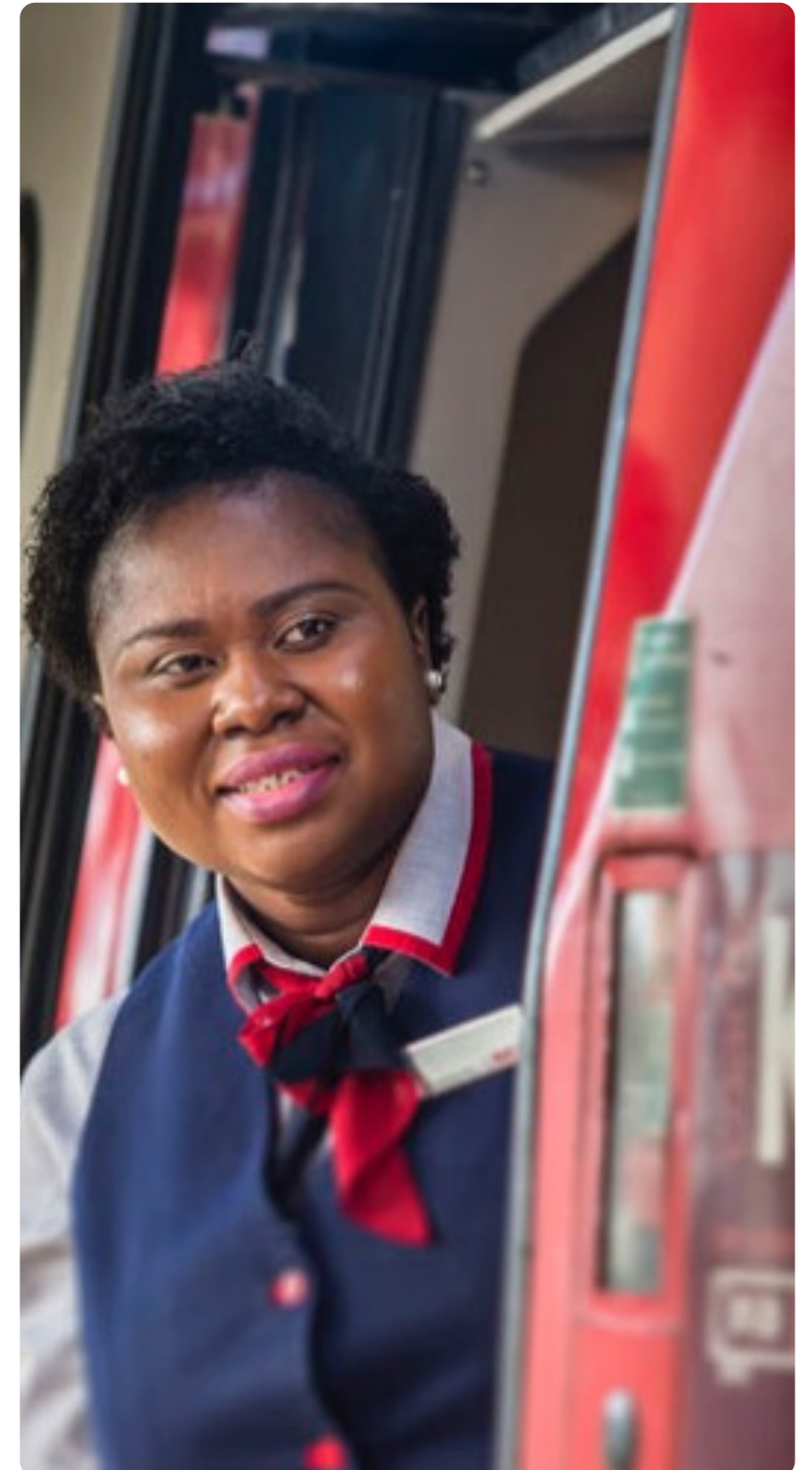
Industry engagement and key principles have shaped the recommendations

The Commission engaged with over 200 individuals representing more than 80 organisations in the industry to gather views on how to improve industry rules, processes and controls for the benefit of passengers, freight users and taxpayers. The feedback received reflected the wide range of stakeholder and partner opinions and differing appetites for change.

The feedback – and subsequent detailed work with different segments of the rail industry – has shaped the recommendations. We have taken care to make sure proposals fit with devolved arrangements and the railway functions of Scottish and Welsh Governments.

To give further confidence to industry stakeholders, the proposals are founded on key underlying principles. Ensuring the recommendations align with these key principles means that they are more robust and has helped us reflect industry feedback.

The Commission's recommendations – if accepted – will not be delivered all at once. The first three types of recommendation are neutral to industry structure and can be implemented or pursued independently of Government's planned reforms to industry roles. The second two types look ahead to the change in the industry's legal roles and structures planned by Government.

Recommendations

Vision for the railway: Setting direction for how processes can be simpler and better

Unlocking: Near term changes to the Access and Management Regulations

Evolving today's approach: Near term actions which deliver a better and simpler way of working

GBR Approach: Future changes or controls relevant to GBR, once established

Preparing for GBR: Near term action specifically to prepare for a future GBR.

supporting

Principles

Simplifying: Promoting simplification and efficiency in industry processes, codes and supporting architecture

Shaping: Supporting Government plans for an integrated body that is able to act as the 'Guiding Mind' for a mixed industry

Serving: Putting the interests of passengers and freight customers first and consider all parts of the industry
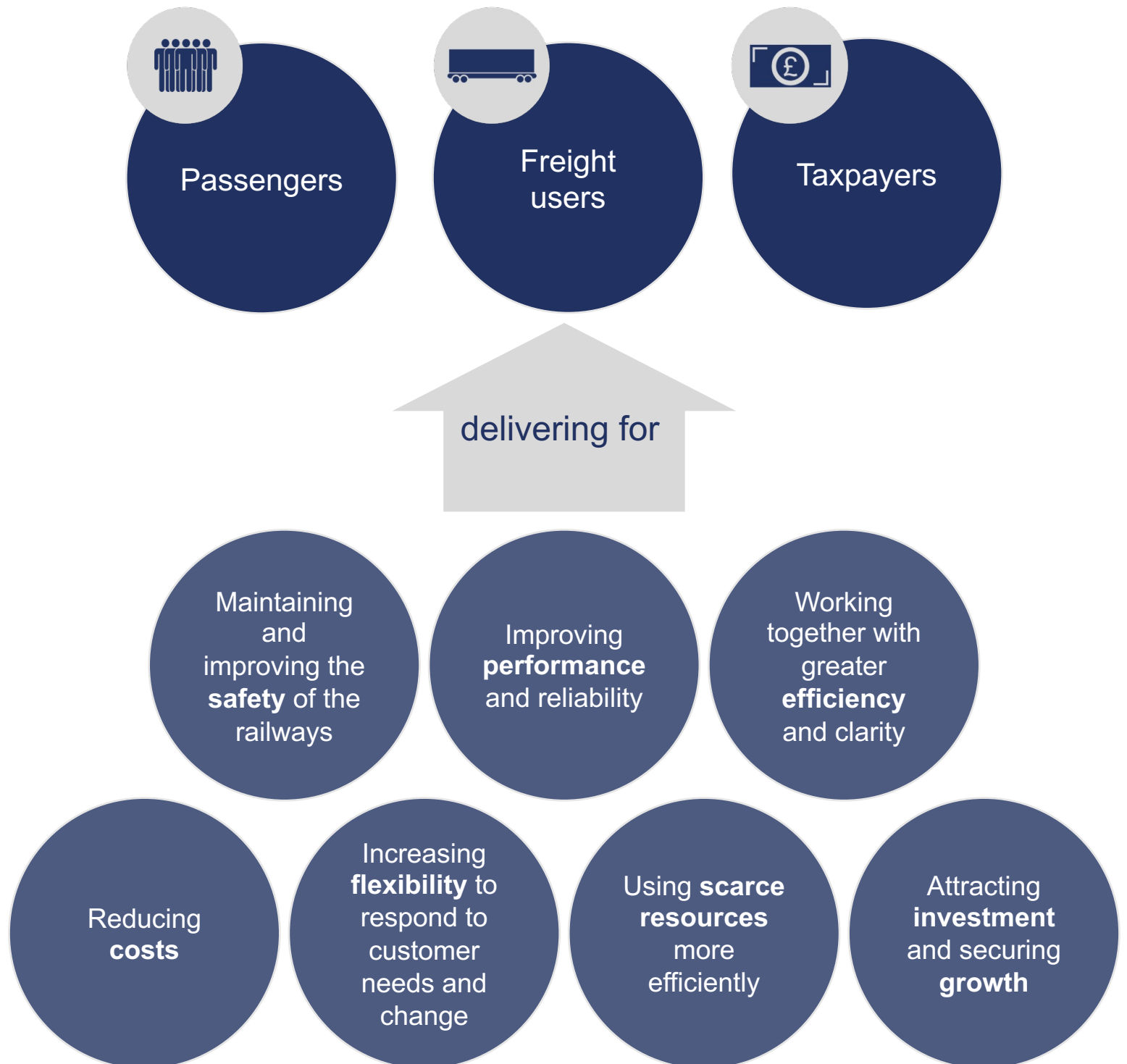
The recommendations will deliver benefits for passengers, freight users and the taxpayer

The objective of the Commission is to make recommendations for better, simpler industry processes. These should work within the industry's rules-based system for access and non-discrimination, supporting private and public parties and respecting the powers of devolved bodies. In achieving this, the recommendations will also deliver wider benefits.

Some of the recommendations are highly technical. However, with the wider reforms planned for rail, they aggregate towards a better, simpler railway for the benefit of passengers, freight end users and taxpayers.

The recommendations are made in the context of wider work that will be necessary to deliver an effective operating model for GBR and transform culture and behaviours. In making the recommendations we have considered the current position on wider reform and focus on areas where benefit can be delivered under today's structure as well as into the future.

Passengers

Freight users

Taxpayers

delivering for

Maintaining and improving the **safety** of the railways

Improving **performance** and reliability

Working together with greater **efficiency** and clarity

Reducing **costs**

Increasing **flexibility** to respond to customer needs and change

Using **scarce resources** more efficiently

Attracting **investment** and securing **growth**

The following recommendations are proposed for the consideration of DfT

Topic	Number	Recommendation	Category	
Framework reforms	**GBR1**	The future GBR Network Code should be based on the current Network Code and should include a revised consultative governance process for Code changes which will continue to require approval by ORR.	➡️	GBR approach
	GBR1a	GBRTT should develop the new consultative governance process as a near-term action.	📋	Preparing for GBR
	GBR2	A future GBR Access and Use Policy (AUP) will be written in line with government guidance and should outline how GBR will collaborate with all parties, including devolved bodies, to deliver social and economic benefits after railway legislation passes.	➡️	GBR approach
	GBR2a	GBRTT should consult the industry on developing an AUP as a near-term action.	📋	Preparing for GBR
	GBR3	A future GBR should be required by Licence to have robust and transparent internal governance of its network management and capacity allocation functions to build trust and enable proper decision-making.	➡️	GBR approach
	GBR4	A formal long-term rail freight growth target should be set by the Secretary of State to inform future GBR governance and incentives and act as a key input into the proposed planning framework.	➡️	GBR approach
Use of the railway	**UTR1**	Network Rail (and a future GBR) should manage a process on behalf of the industry and funder where decisions about railway use are taken consistently, in an effective sequence and only taken once. This must align with the contracted timetable production process.	👁️	Vision for the industry
	UTR1a	DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments that retain late-stage flexibility, but allow structural timetable decisions to be taken earlier where this is necessary for investment and for industry delivery (i.e., before the final year of timetable production).	🔑	Unlocking

Topic	Number	Recommendation	Category	
Use of the railway	UTR1b	Following changes to the Access and Management Regulations, Network Rail should consult the industry on amendments to the Network Rail Network Code. This should mandate advanced planning of major changes in specific circumstances while retaining flexibility for late-stage changes.	◉	Evolving today's approach
	UTR1c	Following changes to the Access and Management Regulations, ORR should revise its approach to regulating access to support effective sequencing of timetable development and decisions on access rights.*	◉	Evolving today's approach
	UTR1d	As the approach evolves, DfT and other devolved bodies specifying passenger train services should align their processes with wider industry timelines and fully participate in the development of the programme and the formal advanced decisions on timetable structure.	◉	Evolving today's approach
	UTR2	Network Rail (and a future GBR) should manage major train service changes as a proactive programme, consult interested parties, and update regularly.	👁	Vision for the industry
	UTR2a	DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations changes that require Network Rail to consult on and manage a programme of major timetable changes proactively, complementing the new opportunities to make legally robust advanced timetable decisions.	🔑	Unlocking
	UTR2b	In the near term, independent of any Access and Management Regulations revisions, Network Rail should adopt a more proactive approach to managing the existing 'Calendar of Events'. Following changes to the Access and Management Regulations, this could evolve into more comprehensive programme management of forthcoming major changes.	◉	Evolving today's approach
	UTR3	Network Rail (and a future GBR) should focus industry efforts on developing inclusive, consultative long-term plans for using capacity that allow later flexibility. These plans should have weight when later decisions are needed on major service changes and critical capacity allocation decisions.	👁	Vision for the industry

*corrected 27/11/23, original text duplicated UTR1d

Topic	Number	Recommendation	Category
Use of the railway	UTR3a	DfT should engage with affected parties to make early (pre-GBR) adjustments to the Access and Management Regulations requirements that call for retroactive analysis and planning on congested infrastructure after refusing timetable applications. Legislative requirements should actively align with Network Rail's licence obligations on long-term planning and should embed in law the principle that forward-looking planning is preferable to reactive analysis.	Unlocking
	UTR3b	Following changes to the Access and Management Regulations, Network Rail should make near term changes to enhance its regulated long-term planning activity to inform the new formal advanced timetabling decisions (UTR1 and UTR2), including identifying the best-value mix of services.	Evolving today's approach
	UTR4	DfT should engage with affected parties to make early (pre-GBR) changes to the Access and Management Regulations that relax legal constraints on timetable change dates, including the requirement of a principal change in December, while still ensuring timings work for international operations.	Unlocking
	UTR4a	Following changes to the Access and Management Regulations, Network Rail should consult on consequent changes to its Network Code, allowing industry to move to widely supported new dates that align better with fiscal planning cycles and planning arrangements for holiday periods.	Unlocking
	UTR4b	In the near term, Network Rail should collaborate with the rail industry, ORR and GBRTT to consider the policy direction for the industry timetabling process, building on existing plans for the next five years to identify deliverable process changes for the medium and long term.	Evolving today's approach
	UTR5	A future GBR should have unified governance and controls for the various industry decisions that determine use of the railway. This structure must work alongside a culture and operating model that effectively serves passengers, freight users and funders as well as industry parties. It must fit with ORR timescales and policy.	GBR approach

Topic	Number	Recommendation	Category	
Use of the railway	UTR5a	GBRTT should consult to develop future processes further, and formally reflect how it will take GBR decisions in the GBR Access and Use Policy.		Preparing for GBR
	UTR6	After establishing GBR in law, DfT should keep the Access and Management Regulations under review, taking account of GBR's evolving approach and clarifying roles and expectations for industry parties and potential new entrants.		GBR approach
Engineering access	**EA1**	Network Rail (and future GBR) decisions on engineering access must achieve a good balance between the needs of all different end users, industry parties and overall costs.		Vision for the industry
	EA1a	In the near term, Network Rail should revise its internal management processes to ensure teams focus on end-user needs and effectiveness when planning engineering access.		Evolving today's approach
	EA1b	Once GBR is established, it must develop and use strategic goals, and integrate decisions on engineering access into the wider industry processes that determine railway use at all stages. This should be reflected in its Access and Use Policy.		GBR approach
	EA2	DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments to remove the current detailed timing requirements for planning engineering access. There should be a general requirement to give appropriate advance notice of major closures, and ensure operators have visibility across routes and networks.		Unlocking
	EA3	DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments to oblige infrastructure managers to consider cross-route/cross-network services and diversionary routes when planning engineering access.		Unlocking
On-the-day operations	**OPS1**	The future GBR, working with the industry, should create and adopt a unified strategy and goals for essential operational choices. GBR will then actively implement these as the infrastructure manager, contracting authority, and when advising operators and funders.		GBR approach

Topic	Number	Recommendation	Category	
On-the-day operations	**OPS2**	The future GBR should lead a sustained project with freight and passenger operators, to revise and update the industry's operational policies and plans – including work with other infrastructure managers.	➡️	GBR approach
	OPS3	The industry should collaboratively build and share a robust evidence base of logistical and operational data to inform real-time operational decisions.	👁️	Vision for the industry
	OPS3a	GBR should develop the approach for using better evidence as one of its key delivery tools, and to enable commercial operators, ORR and DfT to hold the future GBR accountable for its operational choices.	➡️	GBR approach
	OPS4	Network Rail (and GBRTT) should build on current industry work to identify actionable steps from the above recommendations that can be implemented before legislative changes, prioritising those that offer the most significant customer benefits including across route and regional boundaries.	🔄	Evolving today's approach
	OPS4a	GBRTT should use existing frameworks like National Rail Contracts and Annual Business Planning to fast-track these initiatives.	🔄	Evolving today's approach
Delay attribution	**DA1**	DfT should engage with affected parties to make early changes to the Access and Management Regulations that remove the detailed delay codes and remove reference to the timetable to be used for calculating delay.	🔑	Unlocking
	DA1a	The timetable for performance monitoring, the delay codes to be used and the approach to making changes should be removed from the Access and Management Regulations and instead specified at contract and Network Code level (currently this is within Part B of the Network Code).	🔄	Evolving today's approach
	DA1b	Further work required to establish a suitable process for monitoring, measuring and publishing timetable changes to the timetable post Informed Traveller in conjunction with ORR. This will better capture the impact on customers of planned and short-notice alterations.	🔄	Evolving today's approach

Topic	Number	Recommendation	Category	
Delay attribution	**DA2**	In the near term, Network Rail should consult on reform of the delay attribution systems and processes, seeking efficiencies and improvements to the quality of data collected.	⟳	Evolving today's approach
Regulated access contracts and charges	**RAC1**	The policies and controls relevant to determining and managing duration and extension of access rights should be reviewed as appropriate by DfT, NR and ORR to ensure suitable certainty for investors while supporting all users, funders and taxpayers.	⟳	Evolving today's approach
	RAC1a	DfT should engage with affected parties on potential early Access and Management Regulations amendments to expand or clarify the factors ORR can consider when authorising track access contract durations over five years, and whether contract duration should be separated from the duration of access guarantees such as firm access rights.	⚷	Unlocking
	RAC1b	ORR should offer more detailed guidance on the evidence required to approve access contracts for more than five years.	⟳	Evolving today's approach
	RAC1c	As a near term action, Network Rail should review its access rights code of practice and ORR should review its access guidance to consider and, where justified, support rolling extensions of track access contracts.	⟳	Evolving today's approach
	RAC2	DfT should engage with affected parties to make an early (pre-GBR) amendment to the Access and Management Regulations in order to expand the reasons that discounts on charges can be authorised where this can secure benefits such as freight growth. Strong ORR oversight and requirements that secure non-discrimination should be retained. Government subsidy must be accounted for transparently.	⚷	Unlocking
	RAC3	GBRTT should consult to identify simplifications to the Network Code in respect of bilateral GBR operator provisions. It should also review the potential to merge some station and depot access conditions into the Code at later point in the reform programme.	🗎	Preparing for GBR

Topic	Number	Recommendation		Category
Regulated access contracts and charges	**RAC4**	In the near term, Network Rail and ORR should take opportunities when contracts and regulatory documents are updated to simplify and consolidate provisions where feasible, removing outdated provisions that no longer have effect, and promoting equality, diversity, and inclusivity. This should include consideration of the different needs of Open Access and Freight Operators when accessing stations and depots.	⟳	Evolving today's approach
Network change	**NC1**	In the near term, Network Rail should improve how changes are made to the network by systematically engaging and collaborating with all operators much earlier in the design, feasibility and planning stages. Network Rail should review the Network Code to embed earlier engagement.	⟳	Evolving today's approach
	NC1a	As a near term action, Network Rail should work with the industry to review the current Network Code provisions on definitions, categories of change, compensation provisions, timescales, and stage gates.	⟳	Evolving today's approach
	NC2	Once GBR is established, contracts with GBR TOCs should deal with compensation for Network Change through providing clear bid assumptions, and by using the financial model approach in Franchise Agreements instead of using today's arrangements.	⟶	GBR approach
	NC2a	In the near term, DfT should consider introducing similar arrangements for DfT's operators in any new or renewed National Rail Contracts.	⟶	GBR approach
Dispute resolution process	**DRP1**	Network Rail should (supported by GBRTT) work with industry parties to optimise the different processes for resolution of disputes set out in the Network Code and Access Contracts. This should consider earlier resolution of timetabling disputes, defined stage gates for escalation and progression of disputes, and making better use of facilitative remedies. Any proposals should consider interactions with other infrastructure managers and cross-boundary operators and alignment with a future GBR Code.	⟳	Evolving today's approach

Topic	Number	Recommendation	Category	
Station and depot asset management and operating model	**SDA1**	There should be (a) a simplified operating model and (b) single party responsibility for all maintenance, repair, and renewal for all stations and depots that are currently part of DfT rail contracts.	👁	Vision for the industry
	SDA1a	GBRTT should lead near-term work to develop a simplified operating model and evaluate the commercial and operational benefits of either TOCs, GBR, or another party taking single party responsibility for maintenance, repair and renewal for more stations and depots.	🗎	Preparing for GBR
	SDA1b	GBRTT should lead near-term work to evaluate the commercial and operational benefits of GBR, TOCs, or another party taking on the role of Station/Depot Facility Owner for more stations and depots (which could be done at any time without changing today's operating responsibilities).	⟳	Evolving today's approach
	SDA1c	GBRTT should lead near-term work to support and enable better co-ordination and alignment of funding and delivery of projects through better alignment of business planning timetables and the development of integrated plans for works at stations and depots.	⟳	Evolving today's approach
Station and depot change	**SDC1**	GBRTT should start work with the industry and ORR immediately to develop and implement a simpler, fairer, and quicker consent process for making changes at stations and depots.	⟳	Evolving today's approach
	SDC1a	In the near term, GBRTT should integrate the current Landlord's Consent and the Minor Modification (for stations) requirements into the new consent process and consider the potential to move to a web-based system, supported by templated documents.	⟳	Evolving today's approach
	SDC1b	As a near term action, ORR should consider expanding the categories of change that do not require specific ORR approval to include the removal of services and/or equipment where consent has already been given through the Minor Modification process.	⟳	Evolving today's approach

Topic	Number	Recommendation	Category	
Station and depot change	**SDC2**	As a near term action, DfT should, (in co-ordination with recommendation SDC1), work with Welsh Government, Scottish Ministers, and GBRTT to review and update the Minor Modifications Operational Guidance to introduce fixed timescales and deadlines to consider expansion of General Determinations and to prepare for integration with the Station Change process.	↻	Evolving today's approach
	SDC3	In the near term, Network Rail should expand its existing asset management systems to enable the storage, analysis and retrieval of data relating to Station Change, Depot Change, Landlords' Consent, and Minor Modification.	↻	Evolving today's approach

| Report

Introduction

The ability to deliver better outcomes for the railway's passengers and freight users by integrating and simplifying functions and industry processes is central to the Government's plans for Great British Railways (GBR). In July 2022, the Government commissioned GBR Transition Team (GBRTT) to review this framework.

In this report, we identify opportunities to improve industry processes, make simplifications and achieve better outcomes independently of a future GBR being set up. However, some recommendations will also be critical enablers to unlock and define the integrated role of GBR. This role is part of the Government's rail reforms, which include plans for GBR to act as contracting authority for passenger services in England as well as taking over infrastructure functions from Network Rail. These changes represent a departure from the current fragmented railway and present a huge opportunity to create a simpler, better railway.

This project is focussed on the framework of rules, contracts and controls that govern major cross-industry processes and decisions. In this context, it examines capacity and use of the railway, performance and operations and processes at stations and light maintenance depots. The key processes are currently governed by legislation and regulated contractual access contracts, with associated codes and conditions.

Government policy supports a railway with mixed ownership and devolved functions. The different private operators that use the network deliver major benefits for users and for the national economy through innovation and competition. The specific rules and controls included in the access framework are important to all these parties. A multi-organisation industry needs processes which can deliver for different private and public

There are considerable opportunities for the current system to be simplified and improved through changes to the contractual and regulatory arrangements which are a key part of managing the use of the railway and railway capacity. This will be a key part of fulfilling our commitments to a simpler, better and a more integrated railway which better works for its customers and taxpayers

- Secretary of State for Transport July 2022

parties with their own goals, legal rights and unique information. Running critical joint processes in the industry will always be complex and must include strong regulatory and contractual controls to succeed. However, even within a complex industry landscape, the industry and its funders can collectively make processes simpler and better, to deliver for passengers and freight end users.

The aim of this report is to create a blueprint for simpler industry processes resulting in efficiencies, cost reduction, greater potential for investment, more industry certainty and improved customer experience for passengers and freight end users.

The work of the Commission has been founded on three underlying principles:

- the recommendations should **promote simplification and efficiency** in industry processes, codes and supporting architecture;

- the recommendations must **support Government plans for an integrated body** that is able to act as the 'Guiding Mind' for a mixed industry; and

- that the recommendations must **put the interests of passengers and freight customers first** and consider all parts of the industry.

Reflecting the principles, the Commission has undertaken a significant programme of stakeholder engagement. In Spring 2023 GBRTT published a series of exploratory papers and over 80 industry organisations were briefed and given the opportunity to provide written responses. The feedback reflected the wide range of stakeholder opinions and differing appetites for change.

The engagement showed there is considerable consensus on the need to improve how these processes work, and shared criticism of some processes and behaviours. It is also true that the current model, and its risk profile and controls, is well understood by major commercial parties and devolved bodies. The Commission has been mindful of this in developing the recommendations.

This Report is structured in 10 chapters where recommendations are grouped by topic.

The Commission would like to thank the many stakeholders and partners who have worked with us to shape and refine these recommendations. This Report reflects the collective experience and effort of the industry. GBRTT is looking forward to working together to implement the recommendations and deliver

improvements for the benefit of all passengers and freight customers.

Recommendations

The first three types of recommendation are neutral to industry structure and can be implemented or pursued independently of Government's planned reforms to industry roles.

Vision for the railway: Setting direction for how processes can be simpler and better

Unlocking: Near term changes to the Access and Management Regulations

Evolving today's approach: Near term actions which deliver a better and simpler way of working

The report also makes two types of recommendation which look ahead to the change in the industry's legal roles and structures planned by Government and fulfil the Commission's remit to consider changes in the framework which can deliver good outcomes for all parties after reform.

GBR Approach: Future changes or controls relevant to GBR, once established

Preparing for GBR: Near term action specifically to prepare for a future GBR.

The recommendations are targeted at different bodies within rail. If accepted, the recommendations will be implemented to different timescales. Where we recommend that changes to the Access and Management Regulations are made, DfT will have to consider the merits of the proposals and how these recommendations are taken forward as part of the Government's wider legislative programme. Engagement with the industry, its funders and customers will be critical to making sure any changes made following our recommendations are well-designed and appropriate.

The ability to deliver change will depend on securing the trust of the industry and devolved bodies in the process of reform and, ultimately, in GBR's ability to lead. GBRTT's wider programme is looking at how to change leadership and culture, building confidence which will be important in any reforms which move away from highly detailed statutory requirements and towards a flexible, responsive approach.

Benefits

Passenger and freight end users' basic needs are simple: a safe, reliable, accessible and affordable railway. GBRTT is listening, and aiming to create a simpler and better railway, to satisfy customers' needs and expectations in partnership with devolved rail bodies.

The work of the Commission feeds directly into this greater ambition of GBRTT. Whilst some of the recommendations may seem highly technical, they aggregate towards a better, simpler railway for the benefit of passengers, freight end users and taxpayers.

The Commission recommendations can stand alone. However, achieving full benefits will require some wider changes to be in place, including a significant programme of transformation to culture and behaviours, effective partnership with the wider sector and devolved bodies, and the implementation of the GBR target operating model.

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1 Framework reforms

Context

The rail industry's processes dealing with network access and capacity allocation are overseen by regulatory, contractual and licence mechanisms.

These are intended to:

- protect operators from undue discrimination;

- provide transparency of planning and decision making, reflecting devolved administrations' requirements; and

- build industry and stakeholder confidence, including securing devolved and funder interests.

Bodies such as Network Rail and ORR perform key activities in the interest of the railway. Within the Railways Act 1993 framework, governance includes the Network Code, Network Rail's Licence, ORR's Statutory Duties, Directions and Guidance from the Secretary of State, and (in a broad

definition) contractually empowered forums such as the Class Representative Committee. These form an industry framework in which different elements support, balance, or manage each other. They also draw upon stakeholders in shaping or deciding the activities and processes.

As GBR is established it will need to integrate into this framework and set out:

- how it will work with all parties to undertake its role and duties; and

- how it will seek to evolve industry processes.

Key issues

ORR will regulate relevant GBR functions, as it does today with Network Rail. ORR:

- regulates health and safety performance

- holds Network Rail to account; and

- makes sure the rail industry is competitive and fair including in its role as access regulator.

Recommendations in this report take account of ORR's roles, including its function approving and directing access and its power to set model clauses for access contracts. Further work will be needed to ensure that the future GBR role is consistent with the ORR's functions and duties and that GBR works within the rules for access.

To align decision making, Government consulted on giving ORR a new duty in law to have regard to GBR's policy on 'Access and Use' of the railway as approved by the Secretary of State.

In approving the policy, the Secretary of State would consider views of key parties including passenger and freight operators and devolved bodies. ORR's view will be critical because, as today, ORR will approve and direct access, and there will continue to be a right of appeal to ORR.

GBR's framework and contracts will need to provide assurance that GBR is acting in a non-discriminatory way and not unfairly promoting its own interests. This is particularly important for independent operators, funders and devolved rail bodies.

In the Bill consultation (June 2022), Government consulted on the ORR's functions, including retaining their role as:

- the independent safety and economic regulator for the railways;

- regulator of access contracts and appeals body for access; and

- the competition authority for the railways.

GBR's Network Licence will need to set clear duties for GBR, including on freight. This will work alongside the substantial legal and regulatory protections designed to prevent discrimination and protect competition. Providing GBR with positive goals to promote freight growth will also be critical in setting the remit for rail.

GBR will need good internal governance as a tool to support decisions that are not just non-discriminatory but trusted to be so by its stakeholders. This should include:

- balancing delivery of the best outcomes for users on each route, while providing the network level outcomes freight and key cross-boundary operators need;

- proportionate separation requirements that still allow for collaboration where necessary. This includes taking key decisions with independence of impacted GBR budget holders where appropriate;

- involvement of all affected parties in its decision making, including stakeholders and devolved bodies not currently party to the Network Code; and

- respecting confidential and sensitive information.

The current model for changing the Network Code is likely to be inappropriate for GBR, given its dual role as contracting authority for train operators and infrastructure manager for Network Rail's network. The current model assumes infrastructure and operator goals are separate, and therefore does not offer adequate protections for non-GBR operators. The current Class Representatives voting model is not used by other British infrastructure managers or elsewhere in Europe.

We do not know what the future holds in terms of passenger and freight demand. But we do know that the current system has demonstrated it is structurally incapable of efficiently delivering an agile response to shifting patterns of usage and demand that is anything other than incremental.

- Andrew Haines, Chief Executive Network Rail and GBRTT Lead

Finally, GBR's Licences will be set by DfT, in consultation with the industry and other devolved governments.

We strongly support the proposals in the Government's Bill consultation that the GBR Licence will set a clear remit for GBR to plan and manage the railway in the overall public interest, consult, and take evidenced-based decisions without discrimination.

Duties set for GBR to promote benefits for users, communities and the wider nation will need to be consistent with legislation, regulations, Secretary of State directions and guidance while delivering the Government's policy goals for reform. They will need to work in the context of rail devolution.

Introducing the recommendations

The recommendations are made in the context of the Government's proposals in the Railways Bill consultation. Specifically, the Commission welcomes two proposals that will be key to the GBR framework:

Firstly, the proposal to place duties in GBR's Network Licence to ensure public benefit and non-discrimination.

Secondly, the proposal to give ORR a new statutory duty to take account of GBR's Access and Use Policy (AUP), approved by the Secretary of State.

Recommendations

GBR approach: The future GBR Network Code should be based on the current Network Code and should include a revised consultative governance process for Code changes which will continue to require approval by ORR.

GBR1

Preparing for GBR: GBRTT should develop the new consultative governance process as a near-term action.

GBR1a

GBR approach: A future GBR Access and Use Policy (AUP) will be written in line with government guidance and should outline how GBR will collaborate with all parties, including devolved bodies, to deliver social and economic benefits after railway legislation passes

GBR2

Preparing for GBR: GBRTT should consult the industry on developing an AUP as a near-term action.

GBR2a

GBR approach: A future GBR should be required by Licence to have robust and transparent internal governance of its network management and capacity allocation functions to build trust and enable proper decision-making.

GBR3
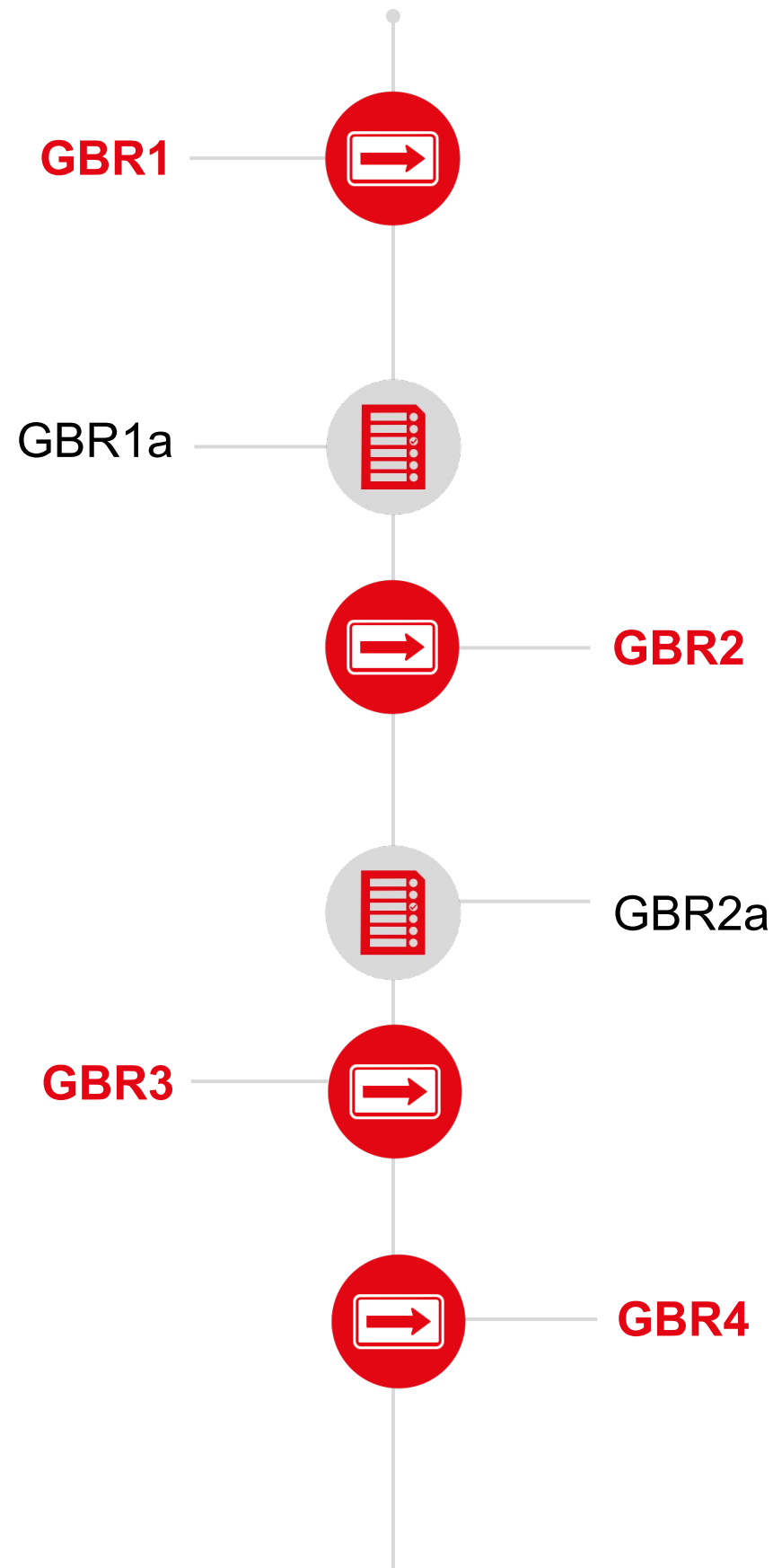
GBR approach: A formal long-term rail freight growth target should be set by the Secretary of State to inform future GBR governance and incentives and act as a key input into the proposed planning framework.

GBR4

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Benefits
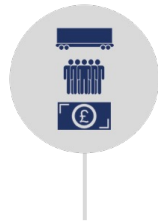
Clarity of purpose reduces the risk that GBR avoids tough but important decisions about network use for fear of legal challenge – as well as reducing the risk that GBR decisions are unreasonable, consider the wrong factors or favour GBR interests.
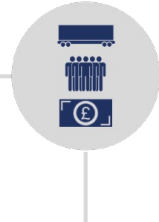
The new framework will define GBR's role in supporting railway users and devolved bodies working collaboratively and proactively to solve conflicting goals and deliver a railway that works in the overall interest of society.
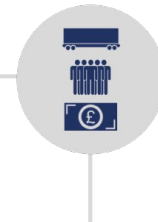
A clear, systemised framework will allow GBR to deliver and build confidence in the model. This confidence will help GBR develop the right relationships with devolved bodies. The joint development of an AUP will set out how the industry works together and support GBR to act in the public interest and follow open and transparent processes.
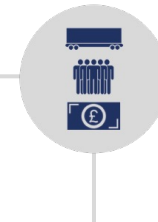
A rail freight growth target can help ensure GBR optimises use of its network to drive economic and social value and deliver the railway outputs sought by Government. An ambitious long term growth target will provide a key safeguard for rail freight in a structure where GBR regions have greater interest in train service specification and farebox. It will provide confidence to the private sector that the Government is committed to rail freight growth as a catalyst for private sector investment.

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Improving **performance** and reliability

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Reducing **costs**

Increasing **flexibility** to respond to customer needs and change

Using **scarce resources** more efficiently

Attracting **investment** and securing **growth**

Additional context for the recommendations

GBR1: The future GBR Network Code should be based on the current Network Code and should include a revised consultative governance process for Code changes which will continue to require approval by ORR.

A shadow GBR Network Code should be developed in anticipation of any legislation coming into force. It should be drafted in consultation with the sector, the Class Representative Committee and ORR.

As the GBR Network Code would replace the Network Rail Network Code the change would be subject to approval by ORR. This would be either under the terms of the Network Code itself or by ORR exercising its role in approving Access Agreements.

The relevant contractual requirements that govern changes to the provisions of the current Network Rail Network Code, Station and Depot Access Conditions and associated documents, would still need to be followed during any migration.

The new change mechanism for the GBR Network Code – which GBRTT should create – should be a

consultative process. This will allow a future GBR to implement changes that meet specific criteria where they have considered the impact on participants. ORR must approve these Code changes.

**GBR2: A future GBR Access and Use Policy (AUP) will be written in line with government guidance and should outline how GBR will collaborate with all parties, including devolved bodies, to deliver social and economic benefits after railway legislation passes**

The AUP should cover the full range of GBR's decisions across capacity planning and management, service design and operational delivery.

Whilst developing and consulting on the AUP, GBRTT should make sure the policy:

- supports GBR to be non-discriminatory and deliver overall social and economic benefit including through competition with GBR operators;

- contains key principles and criteria for the future GBR's capacity planning, contracted service design, and operational decisions;

- establishes transparent and timely workflows so industry and stakeholders can test GBR's decisions and deliver their own business plans; and

- reflects Government policy and guidance.

GBRTT should consult widely on the AUP to reflect the powers and strategies of devolved railway bodies, including devolved Governments. The AUP will need to be approved by the Secretary of State.

2 Use of the railway

Context

A railway timetable represents a decision about how to use the railway as a system: what passenger and freight services to prioritise over others, and the balance between intensive use, service reliability and access for maintenance on limited infrastructure capacity.

For the last three decades the structure for making decisions about the use of the railway has been essentially reactive. Private sector train operators, responding to market needs or to public specification of passenger services, require ORR approval for access rights and apply to infrastructure managers – predominantly Network Rail – for timetable paths.

The result is multiple decision-making mechanisms where choices are made by different parties to different criteria. As well as the reactive decisions on access rights and timetable paths, these include investment planning (both public and private sector), specification of passenger train services by franchising authorities and identification of profitable services by freight and passenger open access operators.

Key issues

Each of the planning activities is effectively a funnel of ideas where the application of tests and criteria eliminates some inputs and modifies others into a selected and internally consistent plan or proposition. But, taken together, problems emerge:

- processes are not joined up or consistently governed;

- information about capacity available for new or changed access rights has been inconsistent*; and decision making is not structured to make effective use of available information;

- there is limited opportunity to plan the provision or use of capacity strategically in the public interest;

- the framework does not support the industry to make changes in response to altered circumstances or priorities; and

- there is a broad range of parties interested in the railway's outputs, which raises the question of how to protect private interests and devolved decision making within a public interest framework.

* *Network Rail and ORR are currently working through an agreed action plan on assessment of access rights applications following a review by Independent Reporters.*

The current framework does not consistently address and resolve conflicts before timetable production. Production is late in the process chain and, while it allows for operational workarounds and compromises to be

brokered, it is not suitable (too short and too working-level) for arriving at optimal strategic decisions about the use of capacity. Earlier related processes like event steering groups are burdened with the expectation of making strategic decisions (e.g., the best mix of services for the East Coast Main Line) when they were created with the aim of planning the implementation of such decisions rather than taking them.

Where decisions are reached through these advanced processes, at best the resulting plans can only be considered during timetable production as one factor among many. The present advanced processes, where fuller assessment of solutions might be made and better decisions reached, fall short of their potential to deliver better decisions on fundamental issues about major changes to train services.

Specification of contracted passenger services is misaligned with the timetable process. Decisions on the specification are taken outside the production process and often after it has started. There is also misalignment with the sale of access. Timetables are being confirmed and offered to passengers at risk before operators have secured the access rights to run them.

Furthermore, there is a lack of inherent shared understanding of risk awareness and timescale discipline in these planning processes. There is a heavy reliance on the industry timetable assurance programme management office (PMO, established following the Glaister review) to ensure these are understood and mitigated.

Introducing the recommendations

The recommended approach is guided by the fundamental principle of establishing a more proactive planning framework, with decision making structures that allow better engagement with the market so that decisions can be taken once, at the right time, with the right information, to achieve best value.

This means, in practice:

- connecting decisions together to create coherence;

- managing major changes as a programme, informed by…

- inclusive, consultative long-term planning of railway system capabilities and outputs…

- where approaches from market players and railway stakeholders can be considered at any stage, under whichever part of the process is applicable to the proposition they present.

In a multi-use railway with a wide range of participants, the Government's reforms will be the single largest transformational step, bringing the largest infrastructure manager together with the principal passenger service contracting authority in one organisation, GBR, mandated and constrained by law. However, moving towards a more effective, forward looking way of working does not have to wait for the creation of GBR. This chapter identifies opportunities for action ahead of the establishment of GBR, subject to support from the industry and public sector parties involved.

Other near-term opportunities for improvement can also be taken around the regulation of, and policy on, timetable change dates.

The intent of the recommendations is that in the first instance, changes to the timetable should be possible at short notice for changes which can be easily implemented. This is possible under

existing law, but more can be achieved to promote innovation and rapid response to changes in rail markets.

And secondly, more complex train service changes need a better joined-up process than currently exists and this should be supported by a change to the legal framework as well as industry processes. The new process should be developed in a consultative, transparent way using tools and techniques already available, coordinated as a proactive programme at regional and network-wide level that looks ahead and schedules in necessary work. These more complex changes should be subject to continuous project management disciplines, especially around benefits, assumptions and risk. The programme should be informed by an inclusive, consultative long-term planning process consistent with funder strategies and guidance.

Recommendations

Vision for the industry: Network Rail (and a future GBR) should manage a process on behalf of the industry and funder where decisions about railway use are taken consistently, in an effective sequence and only taken once. This must align with the contracted timetable production process.

UTR1

Evolving today's approach: Following changes to the Access and Management Regulations, Network Rail should consult the industry on amendments to the Network Rail Network Code. This should mandate advanced planning of major changes in specific circumstances while retaining flexibility for late-stage changes.

UTR1a

Unlocking: DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments that retain late-stage flexibility, but allow structural timetable decisions to be taken earlier where this is necessary for investment and for industry delivery (i.e., before the final year of timetable production).

UTR1b

UTR1c

Evolving today's approach: Following changes to the Access and Management Regulations, ORR should revise its approach to regulating access to support effective sequencing of timetable development and decisions on access rights.*

Evolving today's approach: As the approach evolves, DfT and other devolved bodies specifying passenger train services should align their processes with wider industry timelines and fully participate in the development of the programme and the formal advanced decisions on timetable structure.

UTR1d

*corrected 27/11/23, original text duplicated UTR1d

Vision for the industry: Network Rail (and a future GBR) should manage major train service changes as a proactive programme, consult interested parties, and update regularly.

UTR2

Unlocking: DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations changes that require Network Rail to consult on and manage a programme of major timetable changes proactively, complementing the new opportunities to make legally robust advanced timetable decisions.

UTR2a

Evolving today's approach: In the near term, independent of any Access and Management Regulations revisions, Network Rail should adopt a more proactive approach to managing the existing 'Calendar of Events'. Following changes to the Access and Management Regulations, this could evolve into more comprehensive programme management of forthcoming major changes.

UTR2b

Vision for the industry: Network Rail (and a future GBR) should focus industry efforts on developing inclusive, consultative long-term plans for using capacity that allow later flexibility. These plans should have weight when later decisions are needed on major service changes and critical capacity allocation decisions.

UTR3

Unlocking: DfT should engage with affected parties to make early (pre-GBR) adjustments to the Access and Management Regulations requirements that call for retroactive analysis and planning on congested infrastructure after refusing timetable applications. Legislative requirements should actively align with Network Rail's licence obligations on long-term planning and should embed in law the principle that forward-looking planning is preferable to reactive analysis.

UTR3a

Evolving today's approach: Following changes to the Access and Management Regulations, Network Rail should make near term changes to enhance its regulated long-term planning activity to inform the new formal advanced timetabling decisions (UTR1 and UTR2), including identifying the best-value mix of services.
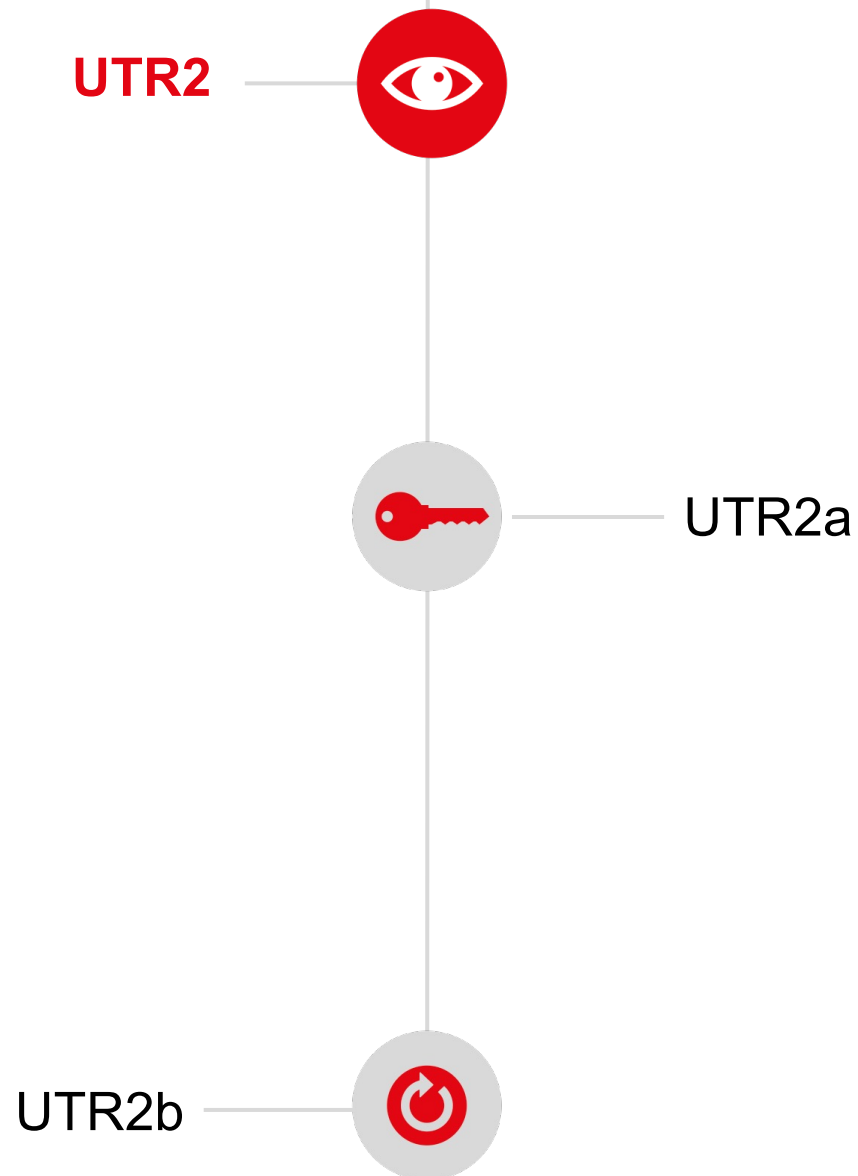
UTR3b

UTR4

Unlocking: DfT should engage with affected parties to make early (pre-GBR) changes to the Access and Management Regulations that relax legal constraints on timetable change dates, including the requirement of a principal change in December, while still ensuring timings work for international operations.

UTR4a

Unlocking: Following changes to the Access and Management Regulations, Network Rail should consult on consequent changes to its Network Code, allowing industry to move to widely supported new dates that align better with fiscal planning cycles and planning arrangements for holiday periods.

UTR4b

Evolving today's approach: In the near term, Network Rail should collaborate with the rail industry, ORR and GBRTT to consider the policy direction for the industry timetabling process, building on existing plans for the next five years to identify deliverable process changes for the medium and long term.

GBR approach: A future GBR should have unified governance and controls for the various industry decisions that determine use of the railway. This structure must work alongside a culture and operating model that effectively serves passengers, freight users and funders as well as industry parties. It must fit with ORR timescales and policy.

UTR5

Preparing for GBR: GBRTT should consult to develop future processes further, and formally reflect how it will take GBR decisions in the GBR Access and Use Policy.

UTR5a

GBR approach: After establishing GBR in law, DfT should keep the Access and Management Regulations under review, taking account of GBR's evolving approach and clarifying roles and expectations for industry parties and potential new entrants.

UTR6
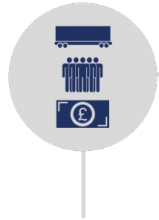
Benefits

Making better use of the available capacity of the railway system benefits passengers, freight users and the taxpayer. Earlier formal opportunities for working with new entrants to the rail market mean better quality decisions can be made on the best value service offering for rail customers. Better provision can then be made for strategic capacity for long-distance freight, especially if previously identified through Network Rail's long-term plans, alongside capacity for "ad hoc" services.
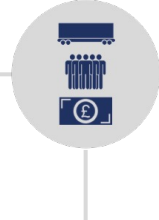
A regularly consulted and published programme of forthcoming major service changes will improve visibility for industry parties and investors or new entrants about what opportunities are available, along with the ability to influence that programme. It also drives transparency about any potential interfaces or conflicts between changes, and consideration of industry resource to deliver the programme.
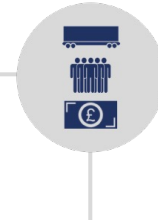
The new model retains and evolves the existing rules-based system to improve the balance between certainty for business planning and flexibility to respond to changing circumstances.
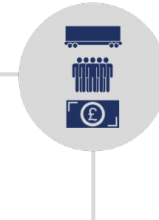
The recommended development of Network Rail's long-term planning process should allow adequate early consideration of the needs of market sectors, identifying sufficient information to inform major service change plans. This will involve planning strategic use for freight, engineering purposes and a range of different passenger services - including open access, charter and devolved services.
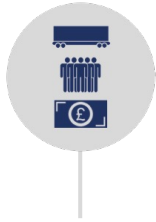
The introduction of clearer advance decision points for major service and timetable change on the railway will reduce the risk of major service disruption and/or delay and gives operators and customers greater certainty for planning their businesses.

Reshaping bespoke requirements around congested infrastructure will allow infrastructure managers to utilise evidence from other processes, including long-term planning, to meet the same ends. This will reduce the resource requirements of producing bespoke analysis and will strengthen the role of long-term planning as core to subsequent capacity allocation and investment decisions.

Removing the specific date prescribing when annual changes must take place from the Access and Management Regulations will empower infrastructure managers to consult interested parties and put appropriate provisions in their Network Codes, overseen by ORR. Stability will continue to be important, but a move away from December could allow better alignment with fiscal planning cycles and planning of variations for holiday periods.

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Additional context for the recommendations

UTR1a: DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments that retain late-stage flexibility, but allow structural timetable decisions to be taken earlier where this is necessary for investment and for industry delivery (i.e., before the final year of timetable production).

The change to the Access and Management Regulations should recognise that different infrastructure managers will have different interests and contractual arrangements.

UTR1b: Following changes to the Access and Management Regulations, Network Rail should consult the industry on amendments to the Network Rail Network Code. This should mandate advanced planning of major changes in specific circumstances while retaining flexibility for late-stage changes.

This will need to include the necessary focus on train operators whose services use multiple networks, and on those other infrastructure managers who may or may not wish to change their Network Codes to align with

Network Rail's.

UTR1c: Following changes to the Access and Management Regulations, ORR should revise its approach to regulating access to support effective sequencing of timetable development and decisions on access rights.*

The timing and dependencies of ORR decisions on rights and infrastructure manager decisions on future timetable assumptions are key to a joined-up process.

UTR1d: As the approach evolves, DfT and other devolved bodies specifying passenger train services should align their processes with wider industry timelines and fully participate in the development of the programme and the formal advanced decisions on timetable structure.

Earlier decisions for major change, where these are necessary, would seek to preserve as much service flexibility as possible. Devolved bodies would have to reflect formal advanced timetable decisions in their service specifications both for competition and in-life changes, for example annual business planning.

*corrected 27/11/23, original text duplicated UTR1d

UTR2b: In the near term, independent of any Access and Management Regulations revisions, Network Rail should adopt a more proactive approach to managing the existing 'Calendar of Events'. Following changes to the Access and Management Regulations, this could evolve into more comprehensive programme management of forthcoming major changes.

This approach should retain the consultative and transparent nature of the existing process and could start immediately. Later steps will need Network Rail to work with the rail industry, ORR and devolved administrations to identify the appropriate arrangements and where they should sit.

UTR3a: DfT should engage with affected parties to make early (pre-GBR) adjustments to the Access and Management Regulations requirements that call for retroactive analysis and planning on congested infrastructure after refusing timetable applications. Legislative requirements should actively align with Network Rail's licence obligations on long-term planning and should embed in law the principle that forward-looking

planning is preferable to reactive analysis.

The Access and Management Regulations should recognise and align with licence obligations on Network Rail to maintain proactive long-term plans for the capability and use of its infrastructure.

UTR3b: Following changes to the Access and Management Regulations, Network Rail should make near term changes to enhance its regulated long-term planning activity to inform the new formal advanced timetabling decisions (UTR1 and UTR2), including identifying the best-value mix of services.

The long-term planning process should be consistent with any new obligations in the Access and Management Regulations as well as the Network Licence obligations. It should also take account of funder strategies and guidance, such as the Secretary of State's Long-Term Strategy for Rail and the proposed rail freight growth target. This work could start immediately, under the current legal and regulatory arrangements.

UTR4a Following changes to the Access and Management Regulations, Network Rail should

consult on consequent changes to its Network Code, allowing industry to move to widely supported new dates that align better with fiscal planning cycles and planning arrangements for holiday periods.

This should include particular focus on train operators whose services use multiple networks, and on those other infrastructure managers who may or may not wish to change their Network Codes to align with Network Rail's.

UTR4b: In the near term, Network Rail should collaborate with the rail industry, ORR and GBRTT to consider the policy direction for the industry timetabling process, building on existing plans for the next five years to identify deliverable process changes for the medium and long term.

In recent work on the future of the timetabling process, the industry examined whether it should evolve from the current cyclical model towards a continuous rolling timetable with revisions planned individually. There was some support for moving in this direction, but apart from the legal and contractual changes that might be required, it was felt that the existing technical tools did not support such a change.

If a move in this direction is considered beneficial, after input from end users as well as industry parties, an early policy statement would enable industry parties to plan their businesses accordingly, and technology suppliers to develop appropriate products.

UTR5: A future GBR should have unified governance and controls for the various industry decisions that determine use of the railway. This structure must work alongside a culture and operating model that effectively serves passengers, freight users and funders as well as industry parties. It must fit with ORR timescales and policy.

GBR's Access and Use Policy and GBR Code (replacing Network Rail's Network Code) should be used to set out the processes and protections that will apply throughout the planning chain including:

- inclusive, consultative long-term planning;

- programme management of major service changes; and

- advanced timetable development leading to joined-up capacity allocation decisions.

GBR's operating model, its culture and

behaviours must continue to be developed around its essential role in managing these proactive decision-making frameworks in an industry that still has many different types of participant including:

- open access operators both freight and passenger (independent operators);

- operators contracted to other authorities; and

- connected networks and facilities.

UTR6: After establishing GBR in law, DfT should keep the Access and Management Regulations under review, taking account of GBR's evolving approach and clarifying roles and expectations for industry parties and potential new entrants.

The Railways Act 1993 and the Access and Management Regulations are complex but broadly compatible pieces of legislation. However, they are founded on the assumption of organisational/functional separation of infrastructure management from public service contracting. This will not be the case once GBR is established. As such, it is likely that - as we learn from experience of operating GBR - further changes to the Access and Management Regulations are likely to be necessary in order to realise the full benefits of bringing these functions together while continuing to protect other parties from GBR's dominant position.

3 Engineering access

Context

Engineering work is vital to the continued delivery of a railway service for passengers and freight users. Regular maintenance and renewals keep the infrastructure working safely and reliably, and projects to improve the network allow more or longer trains to run, sometimes at higher speeds. Larger scale works are planned carefully and often years in advance.

Schedule 4 to the Access and Management Regulations sets out requirements for notice of planned reductions in infrastructure capacity to enable engineering work.

It also places a requirement on the infrastructure manager to inform interested parties about the unavailability of infrastructure capacity due to unscheduled maintenance work.

Network Rail establishes a timetable for its network twice a year. The processes for defining engineering access in the bi-annual timetable and at shorter notice are contained in Part D of the Network Code.

Key issues

Cross route operators - notably freight - find that Network Rail's current processes are often not adequately coordinated across its network. Lack of consideration of route diversionary capability has an adverse impact on freight and national operators and can impact devolved bodies. Despite some good examples of joint working, there is a lack of shared goals and strategy being developed or used to inform choices. For instance, there may be merit in having a distinct strategy for maintaining and renewing strategic freight routes that recognises the different commercial realities of freight flows and the needs of freight users.

Network Rail processes are too often reliant on the ability to take late notice engineering access. This is a critical power in the framework, but should only be used where unavoidable, and the industry should expect to see as much engineering access as possible organised on longer time scales to give operators the time they need to respond and plan. Ultimately best results would come from taking decisions once, rather than planning in access (e.g., for freight) that is later disrupted by another process.

There are lengthy and prescriptive elements included within the sections of the Access and Management Regulations that deal with how far in advance infrastructure managers need to notify operators about closures and restrictions.

However, the Access and Management Regulations also include provision to set these aside if agreed by all parties.

In practice, agreed alternative rules are used for many possessions, and are set out in regulated industry documents. This wide permitted

divergence from the Access and Management Regulation's rules creates scope for confusion, as the legislation can only be understood alongside the Network Codes of infrastructure managers. It also appears unnecessary to control such detailed matters of process in law rather than as a regulated matter via contract.

The structure of the sector and the role of Network Rail have historically led engineering access decisions to be steered by infrastructure priorities, with whole system issues imperfectly recognised. Even where revenue impacts for operators are transmitted to Network Rail via the "Schedule 4" regime in track access contracts, this is not always driving choices in Network Rail engineering access functions. Budgetary incentives of this kind have the potential to drive whole system decisions, however Network Rail and GBR teams will need good incentives in a broader sense – including clarity of management and leadership - in order to shift its approach and test new policies.

Ultimately, managing engineering access requires a structure that supports whole system thinking and focusses on passenger and freight users not just industry parties. Engineering access decisions should be material at each stage of planning the railway, with engineering access recognised as just one of the many different uses of the network, and one that needs to be built into future change projects and fully recognised as part of steady state delivery.

Recommendations

Vision for the industry: Network Rail (and future GBR) decisions on engineering access must achieve a good balance between the needs of all different end users, industry parties and overall costs.

EA1

Evolving today's approach: In the near term, Network Rail should revise its internal management processes to ensure teams focus on end-user needs and effectiveness when planning engineering access.

EA1a

GBR approach: Once GBR is established, it must develop and use strategic goals, and integrate decisions on engineering access into the wider industry processes that determine railway use at all stages. This should be reflected in its AUP.

EA1b

Unlocking: DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments to remove the current detailed timing requirements for planning engineering access. There should be a general requirement to give appropriate advance notice of major closures, and ensure operators have visibility across routes and networks.

EA2

Unlocking: DfT should engage with affected parties to make early (pre-GBR) Access and Management Regulations amendments to oblige infrastructure managers to consider cross-route/cross-network services and diversionary routes when planning engineering access.

EA3

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Benefits

Improving the link that Network Rail practitioners make between capacity allocation decisions and revenues, alongside economic and social value will support capacity allocation that can better realise the benefits of investment and reflect whole-system considerations.
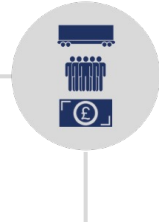
Giving Network Rail (future GBR) practitioners strong reasons to take account of value increases the industry ability to deliver significant taxpayer savings by looking at the net position across engineering efficiency and operating revenues.
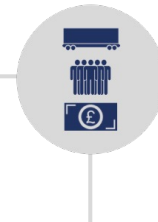
More explicit goals for infrastructure managers to support cross route and cross boundary customers, and keeping the network open for key flows through identifying diversionary roues where practicable will preserve value to the customers of rail freight and help attract new customers to rail.
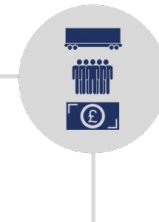
Not prescribing specific timescales within the regulations will enable industry to innovate and align the engineering access planning process better with the realities of supply chain and resource constraints and the customer needs.

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4 On-the-day operations

Context

Freight customers need strong operational performance to support and grow the market to transport goods by rail. Passengers want reliable and punctual services to travel to schools, jobs, family, friends and leisure activities. Operational performance is a key driver of freight costs and incomes, as well as passenger satisfaction, demand and revenue.

The ability to achieve good operational performance in normal running, and to effectively restore the service following an incident requires multiple components (e.g., contingency plans, operational policy, route availability, traincrew rosters and rolling stock diagrams) to work in close co-ordination. If one fails, then the on-the-day operations teams need to be able to re-route and re-allocate resources.

The ability to deliver on-the-day operations is heavily impacted by factors determined in advance through operator contract procurement; contingency plan development; policy and resource plans.

Key issues

The punctuality and reliability experienced by customers has been in long-term decline, leading to reduced satisfaction and acting as a barrier to growth of freight and passenger markets.

Multiple parties need to work in close co-ordination to design a robust service for passengers, and to recover when things go wrong. However, no single organisation currently has the necessary levers to act on whole railway performance in critical parts of the system. In many cases, the costs and benefits of operational delivery accrue to multiple parties, and at different times, which makes the practicality of whole system planning more challenging. Similarly, the information to support decision-making is often dispersed across different parties.

In major disruption, allocation of a reduced number of paths is a compromise: an attempt to balance alternative uses of constrained system capacity. The processes for on-the-day decision-making must consider the competing demands from different uses and users of the network, the markets they serve, the demand for services and their economic and social benefits.

There are good examples of routes where operators and Network Rail Regions continue to work together to develop good compromises: specific protocols and responses to disruption, tailored to the markets and users that will be affected. In today's railway, the hard work of compromise can be undercut by incentives that penalise specific actions (e.g., train cancellations or holding trains at

stations) instead of user outcomes.

Industry reform creates an opportunity to address many of these challenges and can align with initiatives already underway in railway regions and with devolved governments. Once established in law, GBR will have a new role to lead on continuous improvement of the whole system for users and to deliver economic and social benefit – working in conjunction with operators and fitting into the devolved structures for rail. .

Recommendations

GBR approach: The future GBR, working with the industry, should create and adopt a unified strategy and goals for essential operational choices. GBR will then actively implement these as the infrastructure manager, contracting authority, and when advising operators and funders.

Vision for the industry: The industry should collaboratively build and share a robust evidence base of logistical and operational data to inform real-time operational decisions.

GBR approach: GBR should develop the approach for using better evidence as one of its key delivery tools, and to enable commercial operators, ORR and DfT to hold the future GBR accountable for its operational choices.

OPS1

OPS2

OPS3

OPS3a

OPS4

OPS4a
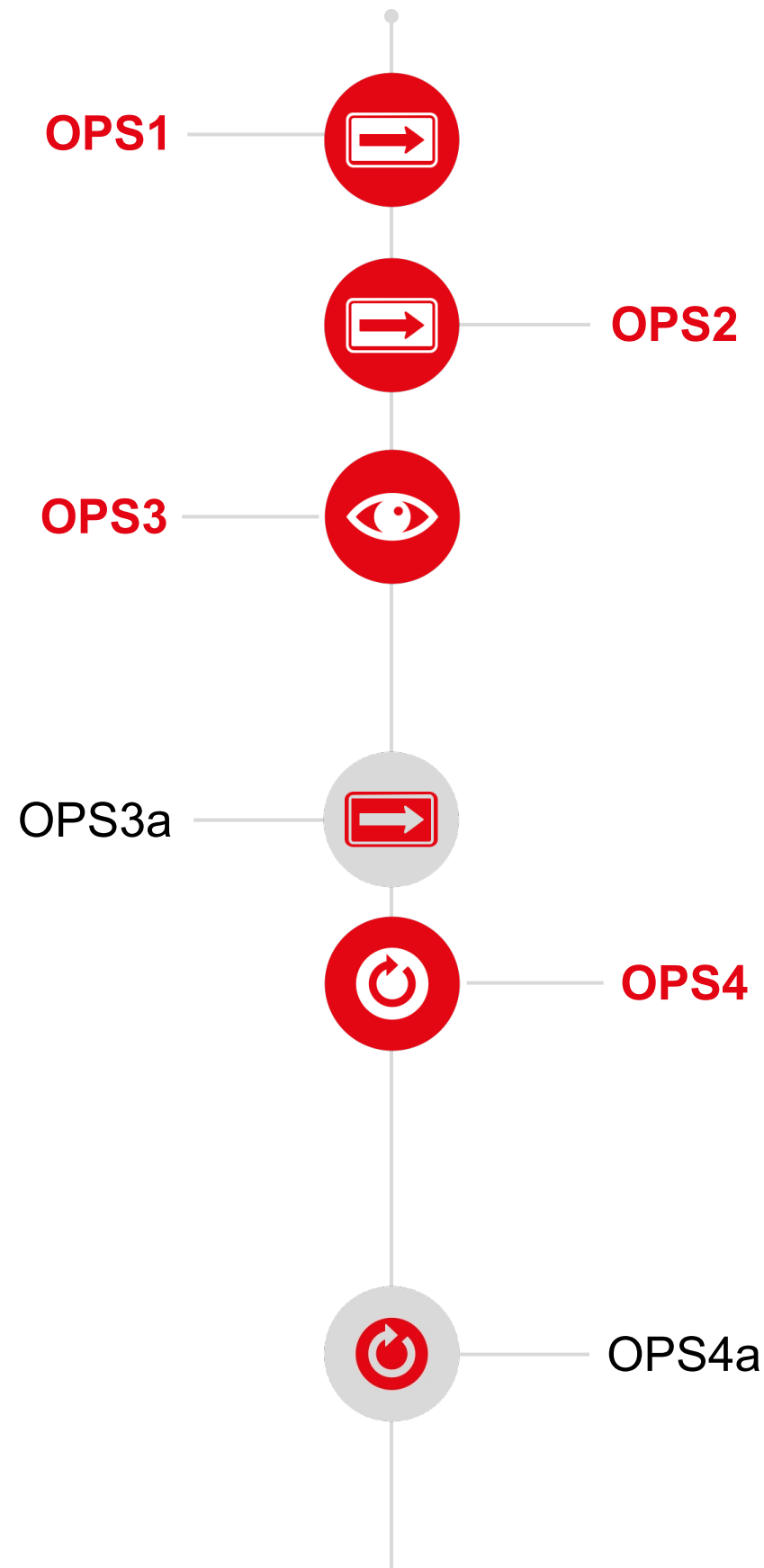
GBR approach: The future GBR should lead a sustained project with freight and passenger operators, to revise and update the industry's operational policies and plans – including work with other infrastructure managers.

Evolving today's approach: Network Rail (and GBRTT) should build on current industry work to identify actionable steps from the above recommendations that can be implemented before legislative changes, prioritising those that offer the most significant customer benefits including across route and regional boundaries.

Evolving today's approach: GBRTT should use existing frameworks like National Rail Contracts and Annual Business Planning to fast-track these initiatives.

Benefits
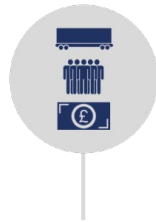
Passengers and freight users will benefit from improved robustness of railway operations with faster and more reliable recovery from disruption.
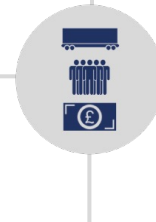
Freight customers, and passengers on cross-route boundary services will benefit from the promotion of greater visibility of the full impact of operational decisions across the network.
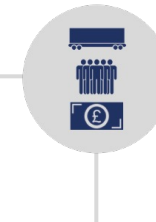
Funders will benefit from a whole of industry approach which combines consideration of operational costs and revenue benefits, alongside economic goals. There will be increasing opportunities to deliver these benefits through the planned establishment of GBR as a body that lets TOC contracts as well as leading industry operations – taking the opportunity to embed whole system considerations in the operational decisions of GBR and its contracted parties. This should align with the goals of devolved bodies and today's examples of good practice.

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Additional context for the recommendations

OPS1: The future GBR, working with the industry, should create and adopt a unified strategy and goals for essential operational choices. GBR will then actively implement these as the infrastructure manager, contracting authority, and when advising operators and funders.

Future GBR strategy and goals should cover operational choices such as diversionary route knowledge, traincrew changes on route, maintenance and possession planning, power supply, and use of adjacent routes and operators. This provides the opportunity to align across investment project life-cycles, strategy, GBR contracts, long term planning, rolling stock procurement and cascade strategy, advance timetabling, timetable production, train planning, engineering access and availability, on-the-day operations, and performance management.

After its establishment, the future GBR should actively promote these goals in its Passenger Service Contracts. These should specify essential operational features to support system-wide performance. They should align across GBR and GBR operators, while recognising the multiple goals on a mixed-user railway and encouraging continuous improvement over the contract term.

OPS2: The future GBR should lead a sustained project with freight and passenger operators, to revise and update the industry's operational policies and plans – including work with other infrastructure managers.

This effort will need to be regularly reviewed, and should consider industry, government and local authority objectives for operations and include:

- consistent and user-focussed Contingency Plans for unplanned disruptions;

- Regulation Statements for service prioritisation at junctions and across route and regional boundaries;

- common industry plans during major events;

- Engineering Access Plans that secure efficient whole railway outcomes, optimise across routes and minimise customer impact;

- contracts with train operators that use shared operational objectives and incentives for GBR and GBR operators, developed in partnership with the wider sector.

- a common set of protocols, developed with other infrastructure managers, to ensure robust cross-boundary operations;

- guidelines for operational delivery and monitoring; and

- other key industry documents which guide operational delivery and monitoring (e.g., delay attribution rules, network operating strategy, long-term strategy for rail).

OPS3: The industry should collaboratively build and share a robust evidence base of logistical and operational data to inform real-time operational decisions.

Logistical and operational data should:

- provide evidence on the impact of operational decisions on the depreciation value of freight products, freight shipment costs, and the ability to meet onward logistical requirements (e.g., slots at terminals, onward shipment of goods, impact on freight diagram efficiencies);

- assess the demand, revenue, customer satisfaction, delay repay and other financial impacts for passenger operators that result from late and cancelled services;

- share key data required for robust operations including crew rosters and rolling stock diagrams, and information such as freight consist value, and expected and actual passenger loadings; and

- focus on network value over individual organisational interests when evaluating operational decisions.

5 Delay attribution

Context

Delay attribution underpins the flow of money through the performance regime by identifying ownership for each delay. It also supports performance measurement and improvement by facilitating the tracking of the causes of delays and the impact of incidents.

Attribution also promotes the management of performance through contractual target setting processes such as through train operator contracts and the Final Determination for control periods.

The detail of how delay attribution works in practice is contained within the Network Code, but attribution is also referenced within the Access and Management Regulations and Track Access Contracts.

Key issues

The Access and Management Regulations contain more detail than necessary, specifying the high-level codes to be used and prescribing timescales which do not match custom and practice.

While the Access and Management Rules are appropriate for setting out some high-level principles for delay attribution, keeping the detail solely within the Network Code (and the associated Delay Attribution Principles and Rules) would allow the industry more flexibility if the process needs to evolve. There is a need to maintain a consistency of approach across infrastructure managers to facilitate reporting cross-border and to ensure performance issues are described the same way.

The Access and Management Regulations mandate that all delays must be attributed to one of the specified causes, where possible. In today's railway almost 50% of delays are below three minutes and are not attributed, limiting understanding of the underlying causes of delay.

The regulations also specify the working timetable to be used for performance calculations must be shared five days before the train runs.

The timetable against which performance is monitored could be simply included in the appropriate industry document, not specified in law. In practice it is the operational timetable which is used for calculation of performance, which is confirmed at 22:00 the night before the train runs.

While the intent of this provision appears to be to address late changes which might affect passengers, custom and practice has set the performance regime at the point at which the timetable gets passed from Network Rail's timetabling system to the operational system. This is coded into the software processing of performance data.

To meet the intent, therefore, work is required to better understand the scale of changes from Network Rail and Operators to the timetable post Informed Traveller to identify whether the impact on passengers and freight can be best managed through track access contracts and regulation, or whether work should be undertaken to formally incorporate it within the performance regime.

There are features of the current delay attribution process in the sector which are cumbersome, adversarial and time-consuming. Future reform should offer opportunities to address these issues and develop aligned performance approaches for GBR and GBR operators (developed in consultation with the wider sector), moving towards an operating culture that promotes a focus on insight and solutions. However, there will be also be opportunities in the nearer term which the industry can take to simplify recording and categorisation without losing vital information and to make sure we target joint effort on areas with most impact.

Recommendations

Unlocking: DfT should engage with affected parties to make early changes to the Access and Management Regulations that remove the detailed delay codes and remove reference to the timetable to be used for calculating delay.

DA1

Evolving today's approach: The timetable for performance monitoring, the delay codes to be used and the approach to making changes should be removed from the Access and Management Regulations and instead specified at contract and Network Code level (currently this is within Part B of the Network Code).

DA1a

Evolving today's approach: Further work required to establish a suitable process for monitoring, measuring and publishing timetable changes to the timetable post Informed Traveller in conjunction with ORR. This will better capture the impact on customers of planned and short-notice alterations.

DA1b

Evolving today's approach: In the near term, Network Rail should consult on reform of the delay attribution systems and processes, seeking efficiencies and improvements to the quality of data collected.

DA2
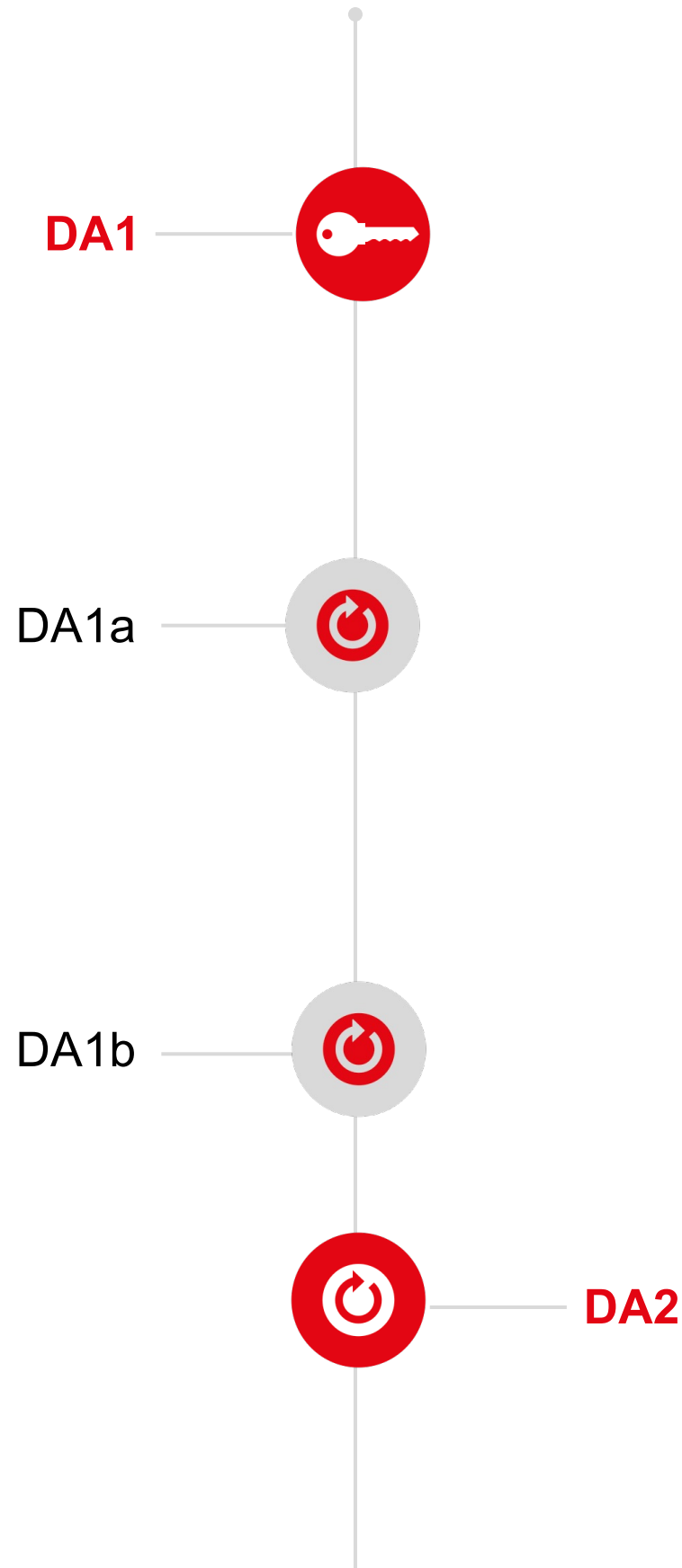
Benefits

The attribution process can evolve with industry and ORR consent without requiring further legislative changes allowing greater flexibility. This could enable better data supporting improved performance.
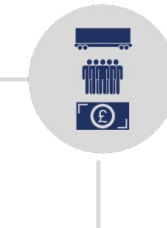
Measuring performance at the point at which the timetable is handed over for on-the-day operations reflects the challenges of delivering the plan. A separate process to measure how the plan has evolved and impacted passengers in the lead up to the day of operation helps pinpoint where issues may be occurring rather than mixing two different processes.

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6 Regulated access contracts and charges

Context

Access contracts apply between a train operator (or other beneficiary) and infrastructure or facility owners for the use of the track, station, light maintenance depot, freight terminal or facility.

ORR may issue model clauses, and the contracts generally include details of the contract length, access rights held by the beneficiary, conditions attached to those rights, charges, the performance regime, and the liability of the parties to each other if things go wrong. They also include provisions for cost recovery and securing the efficient use of network capacity, to facilitate better services for rail customers.

Access contracts may also incorporate, by reference, other documents (such as the Network Code and Station Access Conditions), which then form part of the contract.

These contracts are at the heart of the privatised, vertically separated model and will be retained with ORR oversight under the planned GBR legislation which was put forward for consultation by Government.

Key issues

This report is not making recommendations related to the overall structure of today's access contracts, charges or key terms. However, the Commission has identified some issues related to specific elements of today's access contracts.

During consultation, freight operators identified concerns around the duration of track access contracts. The Access and Management Regulations set out criteria for the granting of access contracts that are longer than five years for all types of operator. These principles merit review to test whether they recognise the realities and risks inherent in the commercial model for rail freight.

Freight operators would particularly welcome rights of 10 years to be more broadly available to maximise the commercial offer to customers, provide greater stability in their business and encourage private sector investment in the rail freight sector. In contemplating any change, the considerations include how far ahead the access contract is valid at any point in time, and what is the minimum remaining validity on particular guarantees of access (firm access rights).

Certainty of access has value, but that will always need to be balanced against the opportunity costs, as uncontracted capacity is more easily open to new uses or adjusted between sectors and uses.

Open access and freight beneficiaries sometimes have different access requirements at stations and depots that have a DfT operator as Station Facilities Operator (SFO) or Depot Facilities Operator (DFO). For

example, they need access for the duration of their track access contract and not restricted by the SFO/DFO's franchise term. This means, in some circumstances contracts must be renewed, amended, or novated multiple times adding complexity and resource. Also, some operators only need limited services at some stations, and while many access contracts are in template format which is important for consistency, they can be unnecessarily complex for the limited services they may require.

The Access and Management Regulations allow for discounts on charges to encourage the development of new rail services or promote use of considerably under-utilised lines.

Discounts (where offered) must be made available to all users of the network, with reference to specified traffic flows, under specific conditions. These restrictions may limit potential options for government to fund discounts as a way of achieving wider policy objectives, such as environmental benefits from freight, by

attracting new business to rail.

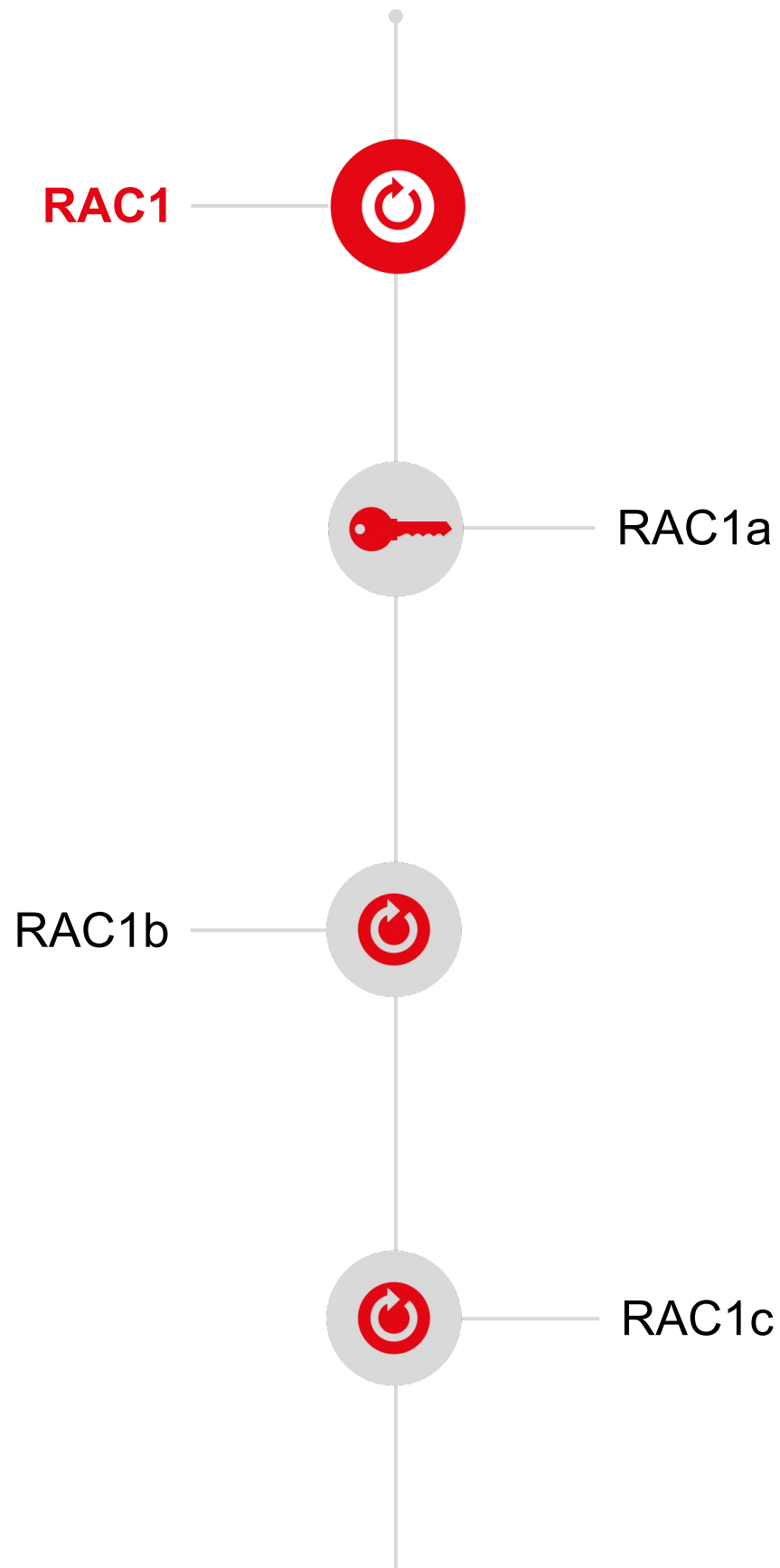Finally, some of the access-related agreements contain outdated and obsolete provisions and/or duplication. Examples include some terms in Depot Access Conditions, or termination provisions in the access contracts. There are provisions that are difficult to understand. Lack of clarity prevents private businesses or projects engaging with confidence and can discourage parties from seeking change.

Recommendations

Evolving today's approach: The policies and controls relevant to determining and managing duration and extension of access rights should be reviewed as appropriate by DfT, NR and ORR to ensure suitable certainty for investors while supporting all users, funders and taxpayers.

RAC1

RAC1a

Unlocking: DfT should engage with affected parties on potential early Access and Management Regulations amendments to expand or clarify the factors ORR can consider when authorising track access contract durations over five years, and whether contract duration should be separated from the duration of access guarantees such as firm access rights.

Evolving today's approach: ORR should offer more detailed guidance on the evidence required to approve access contracts for more than five years.

RAC1b

RAC1c

Evolving today's approach: As a near term action, Network Rail should review its access rights code of practice and ORR should review its access guidance to consider and, where justified, support rolling extensions of track access contracts.

Unlocking: DfT should engage with affected parties to make an early (pre-GBR) amendment to the Access and Management Regulations in order to expand the reasons that discounts on charges can be authorised where this can secure benefits such as freight growth. Strong ORR oversight and requirements that secure non-discrimination should be retained. Government subsidy must be accounted for transparently.

RAC2

Preparing for GBR: GBRTT should consult to identify simplifications to the Network Code in respect of bilateral GBR operator provisions. It should also review the potential to merge some station and depot access conditions into the Code at later point in the reform programme.

RAC3

Evolving today's approach: In the near term, Network Rail and ORR should take opportunities when contracts and regulatory documents are updated to simplify and consolidate provisions where feasible, removing outdated provisions that no longer have effect, and promoting equality, diversity, and inclusivity. This should include consideration of the different needs of Open Access and Freight Operators when accessing stations and depots.
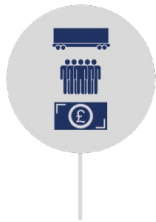
RAC4

Benefits

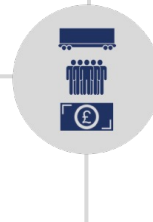The proposal to extend options for charging discounts is aimed at increasing future flexibility. Benefits will depend on how this policy is developed and implemented, but could include an increased range of opportunities to, for example, support growth in freight markets which are limited by current restrictions on charging discounts.

Simplifying, revising and updating existing contracts will provide greater clarity to industry parties, make them easier to understand and enable any provisions that may be out of date to be removed.
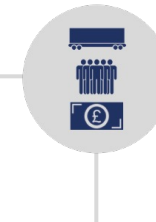
Reconsidering approaches to track access contract extensions, and the criteria for authorising track access contract durations longer than five years, will strike a better balance between certainty and flexibility regarding future access to the railway. This certainty is particularly important to freight and passenger open access operators, who do not operate under a limited term public sector contract for their services and could serve to encourage private sector investment.

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Additional context for the recommendations

RAC1a: DfT should engage with affected parties on potential early Access and Management Regulations amendments to expand or clarify the factors ORR can consider when authorising track access contract durations over five years, and whether contract duration should be separated from the duration of access guarantees such as firm access rights.

DfT should consider whether different sectors' investment needs differ enough to warrant different approaches, noting that freight, open access and contracted business models are distinct.

RAC1b: ORR should offer more detailed guidance on the evidence required to approve access contracts for more than five years.

As above, ORR should consider whether different sectors' investment needs differ enough to warrant different approaches. Depending on DfT's proposals for the Access and Management Regulations, industry parties might welcome ORR undertaking this work in two phases, before and after potential legislative changes.

RAC1c: As a near term action, Network Rail should review its access rights code of practice and ORR should review its access guidance to consider and, where justified, support rolling extensions of track access contracts.

Network Rail should consider the relationship between rolling extensions and the current approach to coterminous contracts in certain sectors (notably freight). Network Rail should also articulate how, and with whom, stakeholders should engage to initiate this activity.

Today we have a public sector infrastructure body, private sector train operators with little or no incentives on cost or revenue, very detailed decision making in the hands of government, and yet with the same architecture of contracting and incentives that were designed some 30 years ago for a very different era and model

- Andrew Haines, *Chief Executive Network Rail and GBRTT Lead*

7 Network change

Context

As part of its Network Management Duty, Network Rail has an obligation to secure the replacement, improvement, enhancement, and development of the network.

In complying with its duty, Network Rail must duly consider the interests of all classes of passenger and freight operators. Operators need to know what is being done with the network and to be provided with adequate information about the consequences of proposed changes to enable them to assess the likely effect of that work on their services and to plan their businesses with a reasonable degree of assurance.

The Network Change process is the method the industry devised to put in place an appropriate information flow and to check that Network Rail properly and robustly engages with concerns raised by operators. Its purpose is to facilitate

and formally record the infrastructure operator making changes to the network within an industry agreed framework, allowing for consultation with affected parties, rights to object, and in some circumstances the payment of compensation.

The process is set out in the Network Code and has essentially remained the same for over 25 years, with minimal revisions.

Network Change is separate to Network Closure which is a different process set out in the Railways Act 2005.

Key issues

While many Network Changes are in support of upgrades to the network there is a view that these are predominantly designed around passenger services. Other operators tell us that if they had earlier involvement in the design, feasibility, and planning of schemes, they would

add value through their detailed knowledge and expertise which could lead to better outcomes for all industry parties. In many cases consultation takes place at the design stage of a project and before a formal Proposal for Change is issued. However, it is sometimes difficult for smaller operators to resource this activity effectively, and there is a perception that the consulting party is not always willing to change their views, considering that the payment of compensation is sufficient.

Network Rail policy is that all proposed Network Changes are supported by an "Industry Wide Business Justification" (Business Justification) before they are sent out for consultation, but this is not a formal requirement. In some cases, consultees are not reassured that the long-term impacts have been fully considered for any proposal. A significant number of objections to Network Change are because

operators believe the change does not adequately take account of their reasonable expectations of future use on that part of the network.

Some operators tell us that if they were provided with more information regarding the technical feasibility and overall impact of projects before a Network Change is issued this would speed up the process and reduce the number of objections.

The definition of Network Change is complex, and it is sometimes difficult to determine whether a change is material or not. This can delay the progress of a project while parties' debate whether to issue a Network Change Proposal. Network Rail tends to take a cautious approach, meaning some changes may be unnecessarily consulted.
Conversely there is a risk that some material changes to the network are being undertaken without following the process (or are required to be consulted retrospectively). The informal process of issuing "No Material Effect" Notices is not effective and rarely used by Network Rail. While some activities (such as renewals and repairs) would be exempt from Network Change, there is no clear guidance in the process as to what constitutes exempt activity (unlike for example in the process for Station Change).

The current process did not anticipate the transformational enhancement schemes of today's railway, envisaging that Network Change on a largely "steady state" network would be either small-scale or in some cases would even reduce network capability. This causes issues because the current mechanism theoretically permits benefits to be offset from any compensation claim, but in practice this is rarely achievable as the benefits are frequently many years in the future and often not realisable by the operator, whose long-term presence on the network is uncertain.

Most Network Change compensation claims are not inherently contentious and relate to the recouping of additional costs incurred such as driver training for a new or revised network

layout or additional resources required to prepare the claimant's business for the change. The ability for train operators to recover costs is instrumental in Network Rail gaining their support for a Network Change. There is, however, an issue over what expectation operators should have if they were aware of forthcoming Network Changes when they entered into track access agreements, and whether they should have already resourced themselves appropriately.

Contentious claims are almost entirely related to the loss of revenue element of compensation for passenger operators. While small in number, they can have a significant value, sometimes running into several million pounds, where long running revenue losses are attributed to the Change. These are challenging and time-consuming to resolve because they are almost entirely dependent on modelling of hypothetical counter-factual scenarios and therefore highly complex. Operators may argue that any benefits will accrue to the wider railway and not themselves individually and that they will be longer term, benefiting their successors rather than them. Also, that the benefits may be real but are impossible to quantify in advance before they know what services they will actually run.

Claims typically take years to agree during which time there is a substantial and long-lasting uncertainty for Network Rail's and the operator's financial position. For example, an £18m revenue loss claim registered by an operator in 2017 was eventually withdrawn in full in 2023.

It is unclear whether rights and compensation from a Network Change are transferred when a Change is implemented across a change in Franchise or National Rail Contract. This makes it difficult for both Network Rail and affected operators to assess the financial impacts of the Network Change. The increased use of "Direct Awards" by DfT in recent years has exacerbated this, with DfT effectively prolonging the life of a franchise in several cases and leaving Network Rail to fund the agreed compensation for more years than they initially envisaged. It is estimated that this may have led to additional costs to Network Rail of £1-2m during Control Period 5.

There is no proportionality in the consultation process with each Network Change proposal having to follow the same process and affected parties having an equal vote irrespective of their use of the network. This has the risk of unnecessarily slowing down works – including where changes are intended to create an improvement to the railway.

For some publicly contracted operators (including DfT and in the future GBR operators), the rights to compensation payments may not reflect the contractual arrangements and this is not a logical or cost-efficient way for the public sector to pay compensation to its own operators.
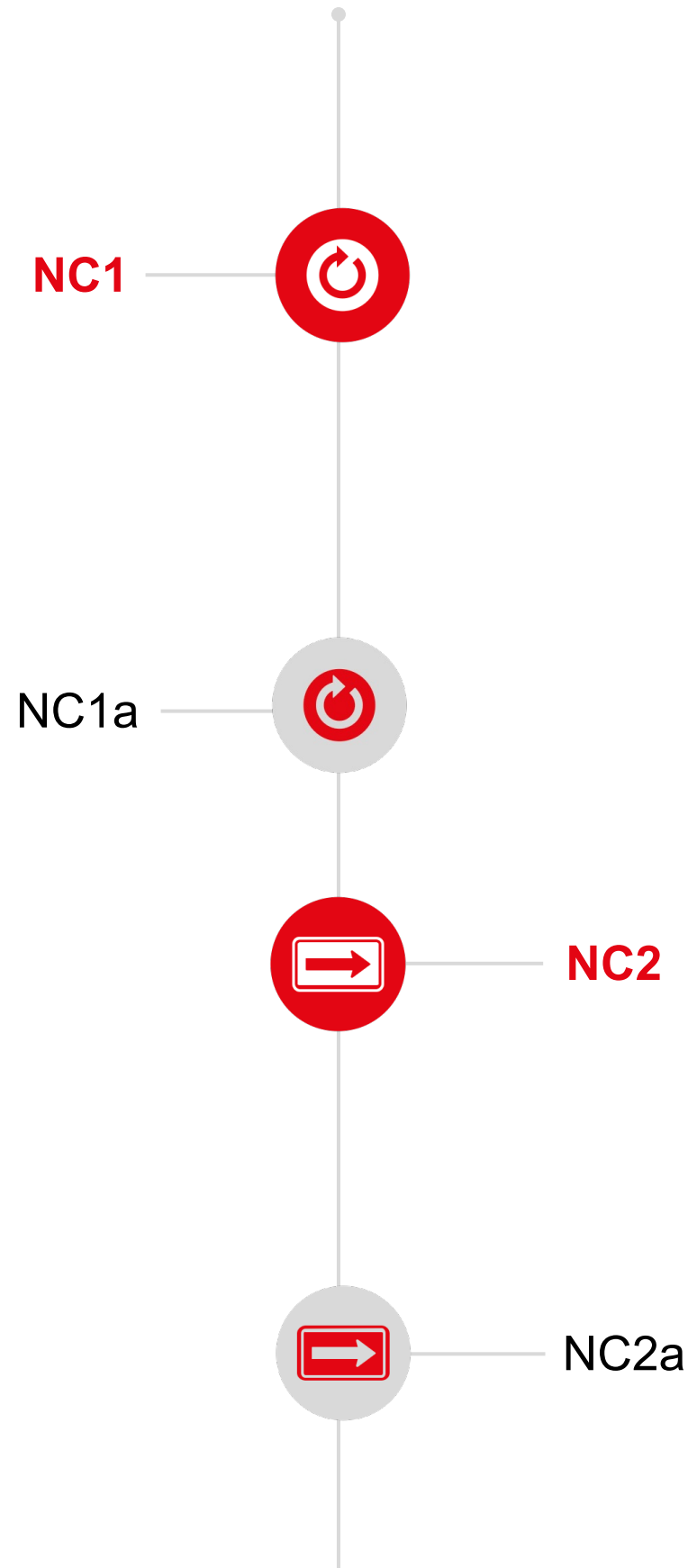
Whilst there is an obligation to notify Scottish Ministers and the Secretary of State if they may be affected by any Network Change proposal, there is no obligation to notify Welsh Government (in contrast to Vehicle Change and Station Change, where there is).

Recommendations

Evolving today's approach: In the near term, Network Rail should improve how changes are made to the network by systematically engaging and collaborating with all operators much earlier in the design, feasibility and planning stages. Network Rail should review the Network Code to embed earlier engagement.
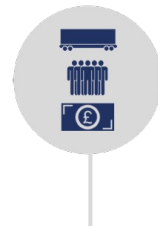
NC1

Evolving today's approach: As a near term action, Network Rail should work with the industry to review the current Network Code provisions on definitions, categories of change, compensation provisions, timescales, and stage gates.

NC1a

**GBR approach:** Once GBR is established, contracts with GBR TOCs should deal with compensation for Network Change through providing clear bid assumptions, and by using the financial model approach in Franchise Agreements instead of using today's arrangements.

NC2

GBR approach: In the near term, DfT should consider introducing similar arrangements for DfT's operators in any new or renewed National Rail Contracts.

NC2a

Benefits

Engaging with all operators at an early stage when considering changes to the network will enable schemes to be designed, planned and implemented with confidence that the right whole-industry solution is being developed, and that the long-term impact of the proposals on all operators has been properly reflected. This is not only relevant for enhancements, but also if difficult decisions need to be made on degrading parts of the network. Using the combined knowledge and expertise of all interested parties will lead to the selection of the optimal solution and early engagement may ensure wider industry support and smooth the regulatory processes required for any changes.
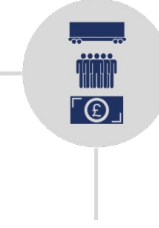
Improving the Network Change process will support the level of consultation and rights to object or make representations, and the compensation provisions being proportional both to the impact of the change on the Network as well as on individual operators. Parties will retain rights to challenge the materiality of a change through a structured process to ensure the process remains transparent and non-discriminatory, with consultation in appropriate cases. Other refinements will speed up the process of change by giving parties more clarity on their rights, and visibility of future schemes, enabling them to plan their business activities with more certainty and confidence.

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Additional context for the recommendations

NC1: In the near term, Network Rail should improve how changes are made to the network by systematically engaging and collaborating with all operators much earlier in the design, feasibility and planning stages. Network Rail should review the Network Code to embed earlier engagement.

Network Rail should focus on the optimal whole industry outcome, with proportionate mechanisms that reflect the relevant interests of railway operators.

Furthermore, it should consider the most appropriate and effective methods to consult different parties, recognising the limited resources of some operators.

Guidance and training for internal GBR or Network Rail teams should be provided where change in network capability is being considered or should be considered.

8 Dispute resolution process

Context

Regulated Access Agreements, which can relate to track, stations, light maintenance depots (depots), and freight facilities define the contractual terms under which train operators (and others) can use those facilities.

All these contracts should contain provisions for dispute resolution using the Access Dispute Resolution Rules (ADRR), which are an annex to the Network Code. The Access Disputes Committee (ADC) is responsible for the operation of the dispute resolution procedures that form part of these contracts.

Key issues

Generally, the formal determinative processes managed by ADC work well across all sectors. Most issues tend to arise during the facilitative processes prior to referral to ADC and only across certain sectors.

Stakeholders tell us that short deadlines, poor quality proposals, a lack of response to queries or requests for information can result in disputes being registered simply because there is not sufficient time or information to fully consider the impact of a proposal, and it is the only way to preserve a party's rights. For example, some timetabling disputes must be referred to ADC within five days of a decision. This results in additional work for both the dispute parties and ADC who are required to administer the process.

In some areas, such as timetabling, there are no provisions for informal escalation of disputes before formal referral under the ADRR. Where informal processes exist, they are not consistent, and most are not subject to strict timescales. While there is an expectation of continued dialogue and proper consultation, sometimes disputes get stuck at the informal stage and delay progress. This can have a financial impact where, for example, linked to the progress of a project. It also means that some disputes are only referred to ADC, because there is no other way to initiate dialogue between the parties, preserve rights, and provide certainty over a timescale for resolution.

Some processes, (for example Depot and Network Change) do not set any time limits for the referral of a dispute. This can lead to uncertainty on whether a dispute will arise or not.

While it is accepted by many stakeholders that the ADRR generally work well, in some areas there appears to be a stigma and lack of understanding of the processes. Some parties perceive the escalation of a dispute to ADC as a failure to collaborate and work with industry parties. ADC have also told us that facilitative processes are rarely or never used to resolve disputes. Formal mediation has been used, on average, less than once per year since 1996 and Early Neutral Evaluation has not been used at all.

GBR will need to consider its contractual relationship with its own operators and ensure that the provisions for change management are aligned to and remain appropriate for the industry dispute resolution structure.


66

Recommendations

Evolving today's approach: Network Rail should (supported by GBRTT) work with industry parties to optimise the different processes for resolution of disputes set out in the Network Code and Access Contracts. This should consider earlier resolution of timetabling disputes, defined stage gates for escalation and progression of disputes, and making better use of facilitative remedies. Any proposals should consider interactions with other infrastructure managers and cross-boundary operators and alignment with a future GBR Code.

DRP1

Benefits
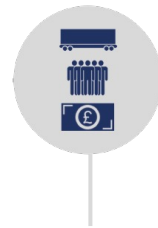
Through the use of clear timescales and stage gates, disputes will be progressed at an appropriate speed, resolved at the right level in the process, and managed in a cost-effective way. The introduction of similar timebound provisions for the escalation of disputes in station and depot access contracts will encourage parties to resolve matters quickly and speed up the progression of disputes to the formal ADC hearings where agreement is not possible. This will reduce administrative costs and also reduce the time and cost of project delivery.
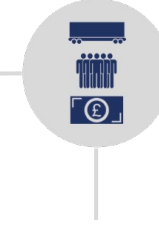
The current processes set out in the ADRR and managed by ADC are an effective and cost-effective way to manage disputes and comply with the requirements of the Access and Management Regulations. The introduction of an informal escalation process for the resolution of timetabling disputes will optimise these processes, enable faster decision-making, better risk management, and it may reduce the number of appeals referred to ADC. This will reduce the administrative burden on both ADC and industry parties and enable those matters that are formally referred to be resolved quicker. We hope it will also encourage Network Rail to work through issues with their customers together in a less confrontational and structured way.

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Attracting **investment** and securing **growth**

9 Station and depot asset management and operating model

Context

Most stations and light maintenance depots (depots) owned by Network Rail are leased to train operating companies (TOCs) either in support of a Rail Contract granted by the DfT, Transport Scotland or Welsh Government, or a Concession Agreement granted by Transport for London or MerseyRail. The TOC normally operates the station/depot and holds the Station/Depot Licence. In most cases the TOC is also Station/Depot Facility Owner (SFO/DFO) and is the party responsible for granting Access Agreements to other Users who want to call at the station, use the station services, obtain light maintenance services at the depot or other amenities. As there is no direct contractual relationship between Network Rail and other Users, it is required to enter into a Collateral Agreement to guarantee performance of its obligations under the Access

Conditions

Most stations and depots that are leased to train operators as part of a DfT franchise have split responsibility for asset management. In simple terms the TOC is responsible for maintenance and Network Rail is responsible for repair and renewal. Both parties also undertake enhancement works at stations and depots.

At a small number of stations and depots (less than 10%) one party is responsible for maintenance, repair, and renewal. This includes the 20 Managed Stations that are directly operated by Network Rail.

Key issues

Complexity and regulation in multiple documents between multiple parties creates friction and conflict. The various rights and obligations are spread across several different contractual documents which make them challenging to interpret and manage effectively and efficiently. Stakeholders tell us dealing with issues at stations and depots has repeatedly proved more complex and difficult than they expect it to be.

Freight, Open Access, and other operators who run services across multiple franchise areas are required to negotiate access charges and enter into numerous Access Agreements with the various SFO/DFOs. This is time-consuming for some operators, and they observe that charges can vary significantly across the country.

The contractual split of maintenance, repair, and renewal responsibilities at most stations and depots results in duplicated effort, extra costs, ambiguity, and conflict.

The wording in some parts of the documents is open to different interpretation which can, in some circumstances, lead to disputes over

the responsibility for equipment or elements. It can take considerable time and cost to resolve these issues and, in some circumstances, can lead to poor and potentially dangerous outcomes and a worse experience for customers. At stations where there is single asset responsibility this is not an issue, but these are relatively few.
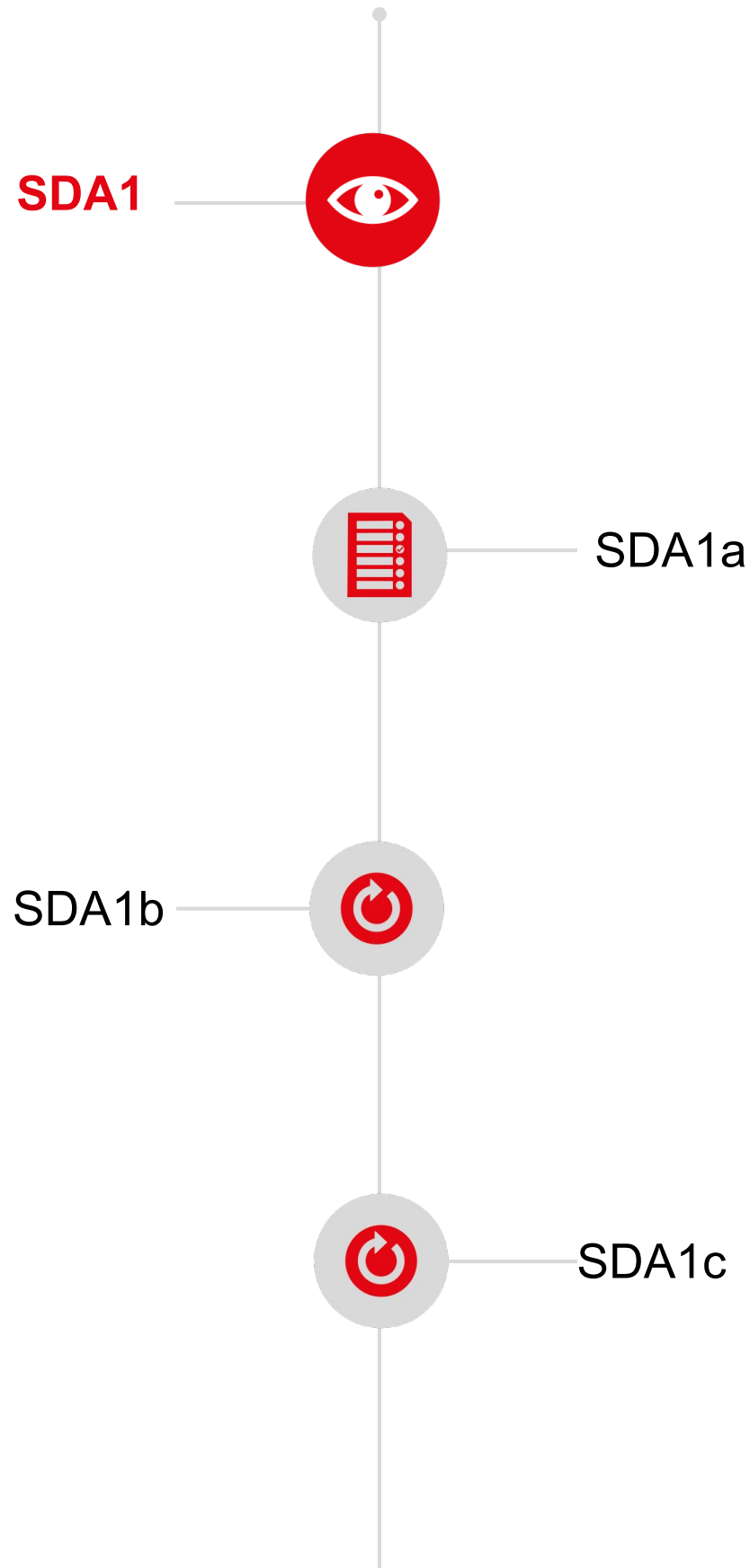
Funding for works at stations and depots come from different sources which are subject to different business planning processes and timetables. This can lead to a lack of co-ordination of planned works by the various Users and stakeholders with separate schemes at the same station/depot being delivered in isolation. This misses opportunities to combine processes and speed up delivery, reduce impact on passengers, and save costs.

Recommendations

Vision for the industry: There should be (a) a simplified operating model and (b) single party responsibility for all maintenance, repair, and renewal (MRR) for all stations and depots that are currently part of DfT rail contracts.
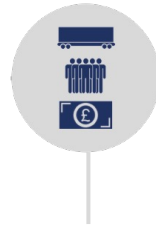
SDA1

Preparing for GBR: GBRTT should lead near-term work to develop a simplified operating model and evaluate the commercial and operational benefits of either TOCs, GBR, or another party taking single party responsibility for maintenance repair and renewal for more stations and depots.

SDA1a

Evolving today's approach: GBRTT should lead near-term work to evaluate the commercial and operational benefits of GBR, TOCs, or another party taking on the role of Station/Depot Facility Owner (SFO/DFO) for more stations and depots (which could be done at any time without changing today's operating responsibilities).

SDA1b

Evolving today's approach: GBRTT should lead near-term work to support and enable better co-ordination and alignment of funding and delivery of projects through better alignment of business planning timetables and the development of integrated plans for works at stations and depots.

SDA1c

Benefits

The operational and contractual framework would be simpler with GBR both SFO/DFO and responsible for maintenance, repair, and renewal as this would exploit its role as infrastructure manager and franchising authority. The interface between the boundary of the station/depot and the Network, would be removed and the number and complexity of contractual documents between parties could be reduced and simplified, with no requirement for station/depot leases (and therefore Landlord's Consent), letting conditions or collateral agreements.
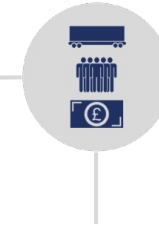
There is an opportunity to drive further efficiencies by aggregating and sub-contracting some common activities and services across more stations and depots (such as track inspections, lifting equipment, automatic ticket gates and utility costs). Also, Freight, Open Access, and other cross-franchise operators could reduce the number of access agreements they require only needing a single agreement with GBR. These could be simplified and would not need renewing at every franchise change. There could also be scope for simplified charging. There needs to be a clear operational and commercial case for change to demonstrate that this proposal would be better as well as simpler.

Single asset responsibility will improve safety and reduce conflict through absolute clarity over asset responsibility. Removing duplication of roles and processes will reduce costs and enable works to be delivered quicker and simpler, improving the experience for passengers and customers.
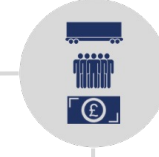
There is an opportunity for further cost savings through better coordination, planning, and delivery of works and an opportunity to create a platform to deliver accelerated programs of works, reinvesting efficiencies to deliver more and deliver quicker.

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10 Station and depot change

Context

Access Conditions, the Railways Act 2005, and Lease Agreements, for stations and light maintenance depots (depots), define the processes which the users of those facilities must follow when making changes to the physical asset or contractual terms and conditions that govern the relationship between the parties. These processes are to ensure that all relevant parties are properly consulted before changes are made, and to facilitate, and where necessary, record these changes.

The three key processes are Station/Depot Proposals for Change, Landlord's Consent, and, for stations only, Minor Modification.

Key issues

The processes overlap with each other meaning, in some circumstances, three very similar processes need to be followed. This creates uncertainty, duplication, and increased costs. They are considered by some as overly bureaucratic, sometimes disproportionate (for many works that seek to improve the station/depot and customer experience), and in some cases have resulted in unintended behaviours - for example bypassing the process altogether. All this leads to delays in project delivery, which could lead to the degradation of assets, and is seen by many as a barrier to third party investment.

The multiple change processes mean in some circumstances the same parties are consulted multiple times on the same proposals which further wastes time and resource. It suggests a lack of co-ordination within the industry and also gives unhappy parties multiple opportunities to object, adding further delay.

There are no fixed timescales for the Minor Modification and Landlord's Consent processes which leads to further uncertainty and sometimes delay to projects while an application is reviewed and determined independently of the other change processes. This can frustrate third party investors, who see this as yet another hurdle to overcome, and one they have little control over.
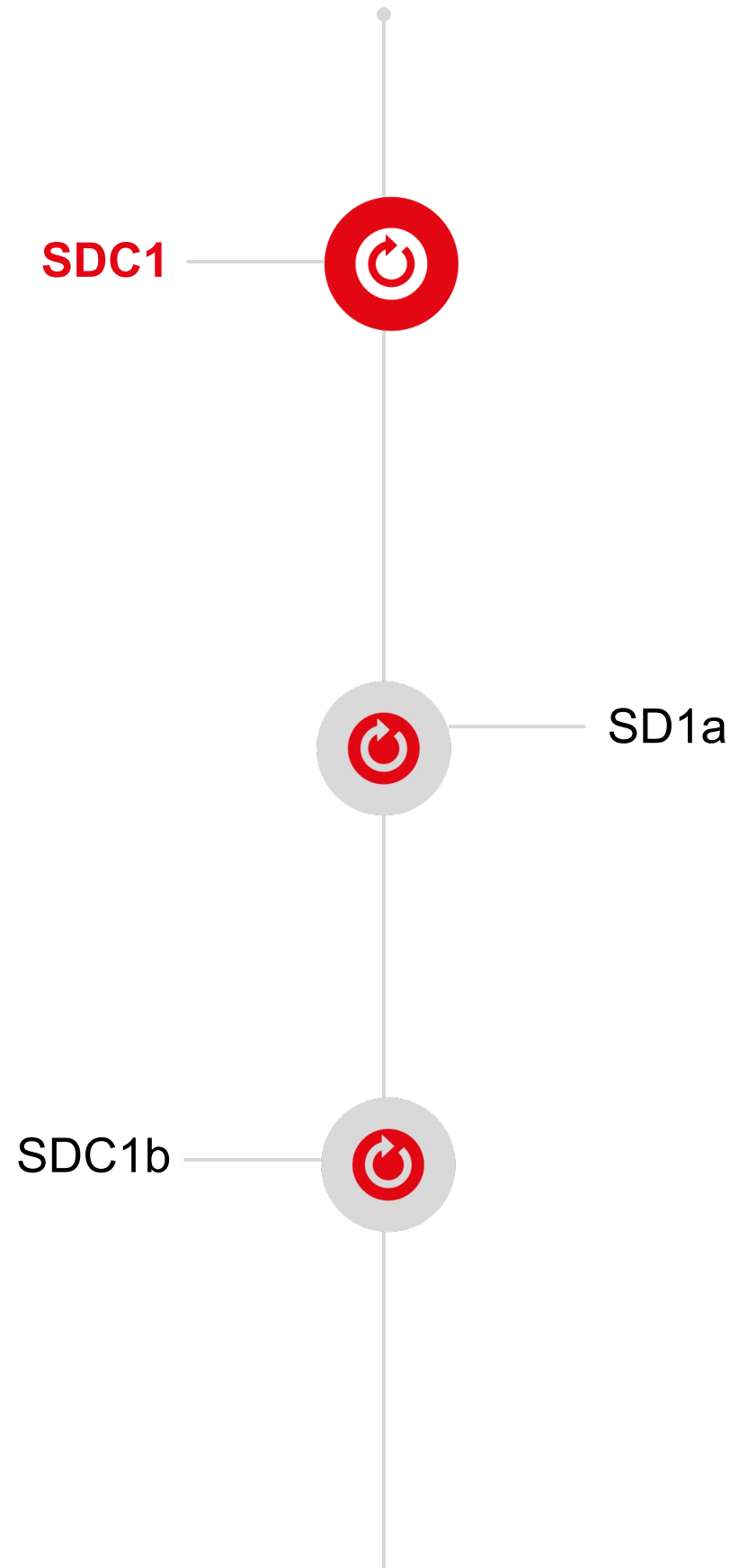
There is uncertainty within the industry on what works are covered by the Minor Modification process which has resulted in an inconsistent approach across the railway. The ambiguity within the current process leads to delays in project delivery and increases in costs.

Separate change processes mean records are currently stored across several separate databases in several separate organisations. The retrieval of information can be time-consuming, unnecessarily complicated, and increases the risk of a loss of corporate knowledge.

Recommendations

Evolving today's approach: GBRTT should start work with the industry and ORR immediately to develop and implement a simpler, fairer, and quicker consent process for making changes at stations and depots.

SDC1

Evolving today's approach: In the near term, GBRTT should integrate the current Landlord's Consent and the Minor Modification (for stations) requirements into the new consent process and consider the potential to move to a web-based system, supported by templated documents.

SD1a

Evolving today's approach As a near term action, ORR should consider expanding the categories of change that do not require specific ORR approval to include the removal of services and/or equipment where consent has already been given through the Minor Modification process.

SDC1b

Evolving today's approach: As a near term action, DfT should, (in co-ordination with recommendation SDC1), work with Welsh Government, Scottish Ministers, and GBRTT to review and update the Minor Modifications Operational Guidance to introduce fixed timescales and deadlines to consider expansion of General Determinations and to prepare for integration with the Station Change process.
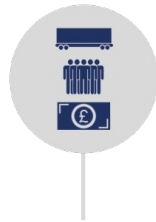
SDC2

SDC3

Evolving today's approach In the near term, Network Rail should expand its existing asset management systems to enable the storage, analysis and retrieval of data relating to Station Change, Depot Change, Landlords' Consent, and Minor Modification.

Benefits

A joint asset management system will enable better planning and delivery of works, improved productivity, lower costs, and better stakeholder safety
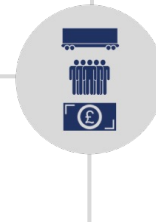
Expanding the criteria for General Determinations and changing the guidance on Minor Modification will speed up delivery of projects, reducing time and costs to the industry when improving Stations through fewer applications, a more consistent approach, and introducing fixed time scales. Integrating Minor Modification with Station Change will remove the need for a duplicated process, saving time.
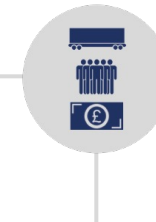
It will be cheaper and quicker to make improvements and investment at stations and depots by reducing the number of consents required and the time taken to process them. There will still be robust assurance processes, but parties may be encouraged to invest and commercial opportunities at stations may be unlocked and realised through a streamlined and less contentious process. Overall, customers will see improvements delivered quicker and for less cost.

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Acknowledgements

The Commission would like to thank the many people who have supported this work. Making the recommendations would not have been possible without the expertise and experience of colleagues within GBRTT and across the industry.

GBRTT is looking forward to working with industry partners to implement the recommendations and deliver improvements vital to a thriving and connected Britain.

Glossary

ADC	Access Disputes Committee	Access and Management Regulations	Access and Management Regulations 2016
ADRR	Access Dispute Resolution Rules	DfT operator	Operators running under DfT Rail Contracts or Franchises
AUP	Access and Use Policy		
DFO	Depot Facility Owner	GBR operators	Operators running under GBR Rail Contracts
DfT	Department for Transport		
GBR	Great British Railways	Independent operators	Freight and open access operators
GBRTT	Great British Railways Transition Team	Target operating model	Future structure and operating model [of GBR]
MRR	Maintenance, repair and renewal		The Government commission to GBRTT to review the framework of rules, processes and legislation that govern the industry
ORR	Office of Rail and Road	The Commission	
PMO	Programme Management Office		
SFO	Station Facility Owner		
TOC	Train Operating Company		

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