

# Planning the use of the railway

**Commission to deliver a simpler and more integrated railway**

**Discussion paper 1.1**

14 March 2023

## Summary

The aim of this paper is to support a discussion with stakeholders on a proposed approach that Great British Railways (GBR) Transition Team has developed for planning the use of the railway.

The Government requested that the Transition Team should focus on identifying simplifications and improvements to industry processes, “enabling more integrated planning and delivery by Great British Railways in matters of network development and use, service design functions and timetabling by reforming processes related to network development and use, including service design and timetabling.”

Our proposal is to bring together the disjointed legacy planning processes in a single overarching framework for making decisions on the future use and development of the railway. A ‘line of sight’ through the framework could be created so that the context of decisions, and the value they should deliver, does not become lost or forgotten.

A forward plan of timetable changes would be kept under regular review, with effective change control so that impacts between inter-relating changes are managed effectively rather than causing conflict or paralysis. Continuity of risk assurance throughout the framework should enable changes to be implemented with greater success, as the full range of impacts would be considered at an earlier stage when there are more options to mitigate or redesign.

This is not about GBR controlling all decisions: on the contrary, it’s about identifying and establishing a structure that GBR and others must abide by when taking decisions, which balances the agility of the railway to respond to changes in market conditions with the need for appropriate certainty to underpin investment. The aim is that GBR is a ‘guiding mind’ not a ‘controlling mind’.

We believe that this approach will join up the currently dysfunctional industry planning processes, delivering more efficiently and effectively for passengers, freight users and funders - whether public or private sector. It is intended to accommodate variations in public policy, e.g. greater or lesser specification of passenger services, more passenger open access services, or focus on a rail freight growth target.

## Contents

1. Purpose .....	3
2. The challenge .....	4
2.1. Problems identified with the current arrangements .....	4
2.2. Context for reform.....	6
3. Proposition for discussion .....	7
3.1. Joined-up, inclusive decision making.....	7
3.2. How is this approach better? .....	11
3.3. Why couldn't we adopt this approach now? .....	12
3.4. Could we achieve the goals in another way? .....	13
4. Next steps.....	14

## 1. Purpose

The Great British Railways (GBR) Transition Team has been commissioned<sup>1</sup> to lead work with the Office of Rail and Road (ORR) and the rail industry to develop reforms to the framework that governs access and key joint processes across the multi-user railway and to identify simplifications and efficiencies to industry processes, codes and supporting architecture.

Details of the commission, its activities and other discussion papers can be found at [Simpler, better industry processes | Great British Railways Transition Team \(gbrrt.co.uk\)](https://gbrrt.co.uk)

Our aim is 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;
- Provide confidence for passengers and freight operators, of transparent and non-discriminatory treatment, with appropriate certainty to support business planning and investment;
- Contain the most effective tools for GBR to more effectively plan and manage the network;
- Consider the potential impact on other infrastructure managers and ensure there is a coherent framework on access between GBR and other infrastructure managers.

In particular, the Government requested that the Transition Team should focus on “enabling more integrated planning and delivery by Great British Railways in matters of network development and use, service design functions and timetabling by reforming processes related to network development and use, including service design and timetabling.”

This is not about GBR controlling all decisions: on the contrary, it’s about identifying and establishing a structure that GBR and others must abide by when taking decisions, which balances the agility of the railway to respond to changes in market conditions with the need for appropriate certainty to underpin investment. The aim is that GBR is a ‘guiding mind’ not a ‘controlling mind’.

The aim of this paper is to support a discussion with stakeholders on a proposed approach that the GBR Transition Team has developed for planning the use of the railway.

---

<sup>1</sup> Letters from Secretary of State for Transport to GBR Transition Team and Office of Rail and Road, 27 July 2022

## 2. The challenge

### 2.1. Problems identified with the current arrangements

The railway's timetable is its core product. Any timetable is a compromise; an attempt to balance alternative uses of limited system capacity, including the relationship between intensive capacity use and service reliability.

The processes for planning and deciding on the use of railway capacity 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. Other considerations include the relationship between the specification and planned use of infrastructure and the access required to maintain it.

The processes that have been in place since privatisation in the early 1990s comprise a number of decision-making mechanisms (**Figure 1**) where choices are made by different parties to different criteria, and a reactive allocation of network capacity by a reactive infrastructure manager independent of any train operator.

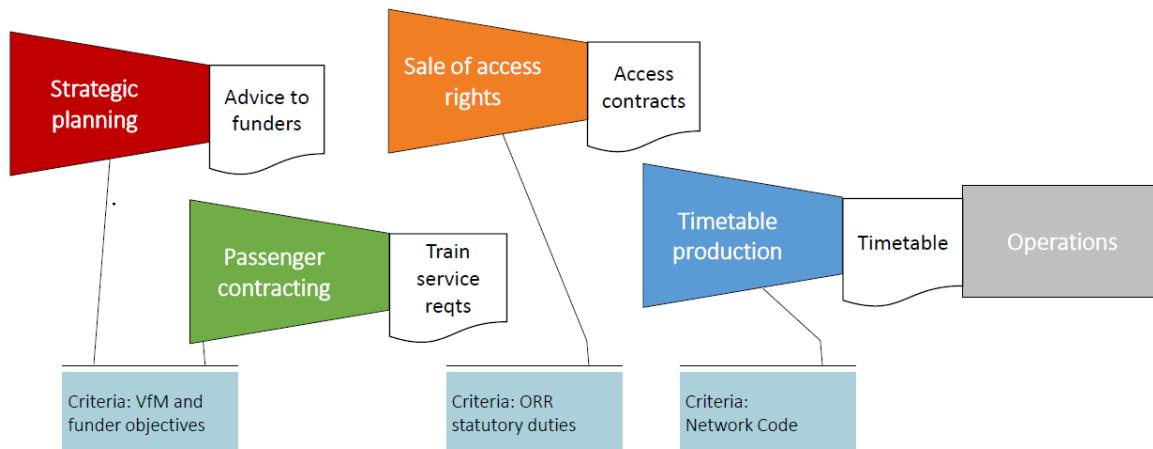


Figure 1: disjointed legacy processes

Each of these 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:

1. Processes are not joined up or consistently governed, and
2. There is a lack of comprehensive, reliable and timely information to understand capacity, performance and access for decision making, so...
3. There is limited opportunity to plan the provision or use of capacity strategically in the public interest, and
4. The framework does not support the industry to make changes in response to altered circumstances or priorities.
5. In addition 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 alongside the wider public interest.

There is inadequate consideration of the interaction between the decisions being made on investment business case, train service business case, and capacity allocation through granting access rights and producing the timetable. The context of a decision, once made,

can become lost, so strategic purposes and goals do not flow through the process from start to finish. Examples include:

- Franchising authorities for passenger services, understandably, have sought to maximise the value of each individual franchise as it is put to the market, and in so doing sometimes undercut the strategic plans they and the industry have prepared to maximise overall value through a balance of capacity use.
- Access rights are determined by ORR in line with its statutory duties which, if decided in isolation, can undermine previous plans relating to investments or services. The British model (unlike most European countries operating under a similar framework) is that access rights should be decided before the timetable development process. This model is proving hard to sustain<sup>2</sup> because, as the railway has become busier, it is difficult to be confident about the consequences of access rights decisions, e.g. whether an acceptable balance is reached between capacity use and reliability.
- Under a process largely unchanged in three decades, the timetable is rewritten twice a year, and no matter how complex or important the change, the decisions are made between 40 and 26 weeks before the timetable start date<sup>3</sup>. Advance planning sometimes takes place for complex changes, but can be undermined if there is not agreement from all parties on what to submit into the timetable process. This sometimes results in unreliable services because different operators' interacting changes cannot be adequately resolved and quality-assured in the time available. The problems then have to be resolved after timetable introduction, which is costly, inefficient and unacceptable for users of the railway.

Previous attempts to join up the processes have had limited success because the parties involved were unable to align their objectives, processes or criteria; or to ensure that information critical to an earlier decision was retained and used in subsequent processes.

There are both statutory and institutional reasons for this. Current law provides only two ways of conclusively allocating network capacity: firm rights within a track access contract, and the timetable production process, i.e. the last two processes in **Figure 1**. These are designed to be largely separate processes, where firm rights must be honoured if requested in a timetable, but there is no other connection. Any other planning or preparation process can only be advisory, even if parties base their investment decisions upon it.<sup>4</sup>

2 For the December 2022 timetable change, 15 of 23 applications for access rights changes were made less than 12 weeks before the change, i.e. well after the timetable had been decided.

3 Following exceptional arrangements during the coronavirus pandemic, the industry has voted to adjust both change dates and timescales. However, there are still issues to be resolved before a revised process can be implemented.

4 The Railways Act 1993 provides for a form of access contract termed an Access Option, which protects future capacity against an investment. This has not been well used in practice, and according to ORR guidance it appears to be most relevant for very large projects planned several years in advance.

## 2.2. Context for reform

GBR is proposed to take over the Department for Transport's role as franchising authority for most passenger services in England. The proposed rail reforms will have a commercial model that is flexible and maximises the benefits of private sector engagement in passenger services across different markets.

As well as this combined role, GBR is proposed to have a remit to act as the 'guiding mind' in planning the overall use of the railway network, balancing the needs of different uses and users of the network and securing public benefit as a result of its decisions.

To do this fairly, and recognising the roles of other transport bodies and the independent regulator, would require a framework of limitations, checks and balances. This will likely require changes to the current industry and legal arrangements to ensure that GBR is properly incentivised to make balanced decisions without any favour for either its infrastructure manager role or its contracted train operators' services. The guiding mind concept needs clear and binding requirements on GBR to make complex decisions in a balanced way. This need for changes coincides with an opportunity to simplify and clarify the legal and contractual framework that has evolved piecemeal since the railways were privatised 30 years ago.

At the same time, the Government has set clear high-level requirements for the scope of reform, keeping many of the important controls and protections in today's system. As well as GBR's contracted passenger services there will still be the existing wide variety of parties interested in how the railway is used: private freight operators and freight customers, private open access passenger operators of many different types, passenger operators contracted by devolved transport bodies, and GBR's infrastructure engineers. These are the parties wanting to run trains; beyond that of course many passengers, businesses and government agencies are interested in how the railway delivers for them.

The Government's proposals also retain the role of ORR in approving or directing access contracts and amendments, so any decision that constitutes permission to use the track, or changes the nature of permission previously granted, must be referred to ORR.<sup>5</sup> If a simpler, better framework is to be achieved it will have to include close coordination of GBR and ORR decisions.

Careful design is required to identify a proposition that addresses the issues identified and satisfies each of these constraints.

---

<sup>5</sup> Railways Act 1993, sections 17-22A

## 3. Proposition for discussion

### 3.1. Joined-up, inclusive decision making

We have held initial informal discussions with industry stakeholders, where they told us that they value many aspects of current processes and, although they recognise that the issues with the current system must be addressed, there is no appetite to introduce more change than is absolutely necessary.

Our proposal therefore seeks to bring together the disjointed legacy processes of **Figure 1** in a form of hierarchy, with minimal (but material) change to the current arrangements in each case. This would generate a single overarching framework for making decisions on the future use and development of the railway, which is recognisably evolved from existing processes but has the potential to deliver radically better outcomes for users and funders of the railway.

Clearly, strategic planning exists to inform later decisions. The other three processes must, to some extent, run in parallel and inform each other. Using industry experience (both positive and negative) over decades of trying to make the legacy processes work, we have developed a potential planning framework to bring together and reform the processes. This is presented in graphic form in **Figure 2**.

#### Overview

The objective is to make fair and transparent decisions at the right time, involving the relevant parties; and to make them count so that, unless there are good reasons not to, they are followed through and delivered. It follows that these decisions will need to be taken with the full breadth of the industry in mind, with greater knowledge of the wider industry environment and with more regard to the full range of potential impacts. In fact, in an integrated way. This proposition exploits the creation of an integrated body that is (a) able to join up across its different functions, including its functions as franchising authority and (b) able to function as a new kind of counterparty to work with non-GBR parties to solve issues and find opportunities. The engagement of all train operators, whether contracted by GBR, by another authority or open access (freight or passenger), will be critical to successful outcomes.

It is unlikely to be possible to reach agreement, or even a majority consensus, across industry participants and stakeholders on many of the decisions taken during the planning process. The framework should be designed to allow for agreement to be identified and exploited where it exists, but otherwise to demonstrate that GBR is following due process in reaching its decisions. This includes:

- engaging with stakeholders proportionately to their role and interest in the outcome;
- listening to and considering their aspirations, concerns and objections throughout the process;
- respecting commercial confidentiality;
- making decisions consultatively and transparently, based on the best available analysis of the full range of effects in the time available;
- explaining the basis for decisions made, including assumptions and risks associated with those decisions;

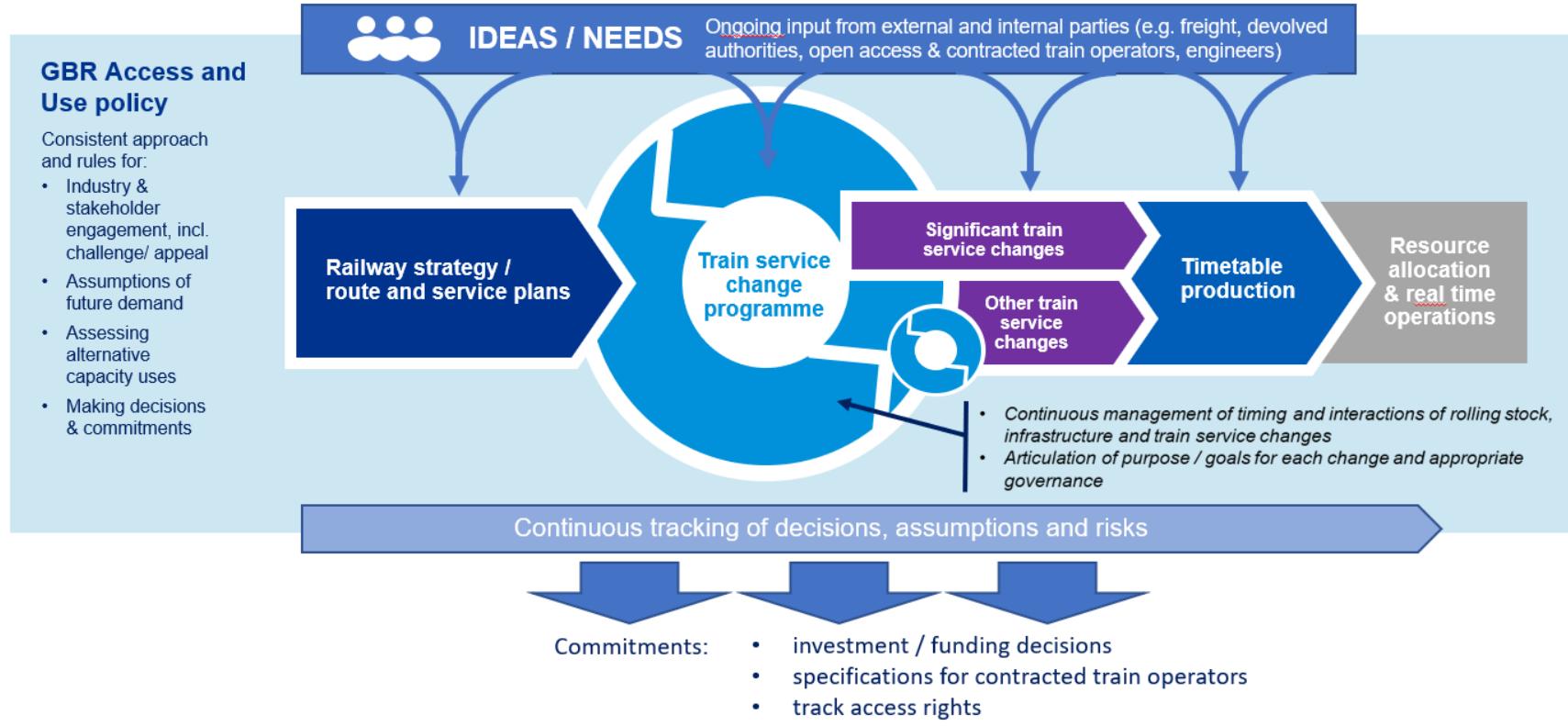


Figure 2: emerging thinking on an integrated planning process

- permitting, and resolving, challenge or appeal at each stage of the process before proceeding to the next; and
- continuously managing the full range of planning and development activities for the railway system so that plans are kept relevant and deliverable when circumstances change.

Central to the process would be a forward plan of timetable changes, driven by the longer-term industry planning activity led by GBR and involving the whole rail sector. This forward plan would be kept under regular review, providing a degree of certainty on future train services but with the ability to react to changes in market needs quickly when necessary. Continuity of risk assurance throughout the framework should enable changes to be implemented with greater success, as the full range of impacts would be considered at an earlier stage when there are more options to mitigate or redesign, while preserving the value of the idea behind the change. This could be supported by a stage-gate structure with clear degrees of development: not just of timetable work but of resource plans and the cost and benefits elements underpinning change evaluation.

### Legal and regulatory provisions

Regulations<sup>6</sup> may need to be revised to include key characteristics of the new framework. This will be considered and where necessary recommendations made as the project progresses. As a minimum, we propose that GBR would discharge its obligations to undertake such an integrated planning process in accordance with an Access & Use Policy (AUP)<sup>7</sup>. Such a policy would be developed with the rail industry, publicly consulted on, and approved by the Secretary of State for Transport taking due account of funders' priorities, interests of devolved rail bodies and the views of the ORR. The policy, and the processes implemented in accordance with the policy, would have due regard to:

- the powers and responsibilities of each participant and the ORR as statutory independent regulator;
- commitments already made (whether contractual or otherwise) regarding future use of the network;
- strategic goals set by funders of the railway; and
- public sector value for money and affordability requirements.

### Reaching decisions

The principles of the single decision-making framework would flow through decisions on access to the network made at different timetable development stages; and the criteria for making decisions at each stage of the process would have to be consistent with HM Treasury Green Book guidance and (for capacity allocation) ORR's statutory duties<sup>8</sup>.

The exact process and criteria adopted at each stage would need to be tailored to that stage and would be set out in the AUP or its subsidiary procedures. For example, it would be inefficient and probably impossible to undertake a full socio-economic appraisal of each short-term timetable change, whereas this should normally be completed as part of the development of more structural, long-term changes to the timetable.

---

<sup>6</sup> Principally the Railways (Access, Management & Licensing of Railway Undertakings) Regulations 2016, as amended 2019

<sup>7</sup> This would be consistent with paragraph 2.35 of A Consultation on Legislation to Implement Rail Transformation, June 2022 (CP660)

<sup>8</sup> The Government's consultation on legislation to implement rail transformation proposed a change to ORR's statutory duties set out in section 4 of the Railways Act 1993, to facilitate the furtherance of GBR's policies on access to and use of the railway (Question 6 in A Consultation on Legislation to Implement Rail Transformation, June 2022, CP660)

## Challenge and appeal

As decisions are reached and documented through the stages of the planning framework, interested parties must be able to challenge GBR's decisions, especially when they impact their business, plans or investments. Proportionate, independent and regulated routes for appeal and dispute will remain important. Challenges would need to be raised and resolved quickly, so that any appeal could be concluded before abortive work is done in the next stage of the framework.

In this way, decisions at each stage could be given a definitive status, because reasonable challenge has been addressed, and development work could continue in the next stage of the framework with an appropriate degree of confidence.

## Status of decisions

A key change from the current processes would be that decisions properly made through this process should not be capable of being eroded or undone at a later stage, except in specific circumstances where this is desirable. The key would be to improve confidence for railway investors about the delivery of their expected benefits, while retaining and improving the agility in the system to respond quickly to changing circumstances.

## Improving certainty

As work progresses from one project stage to the next, the key decisions reached should be logged (and made publicly available) so that participants and stakeholders can see what has been decided and why. As set out above, any challenge to the decision should be made and resolved before proceeding to the next stage. This principle would enable GBR to:

- take decisions about high-level capacity allocation (e.g. about how to share constrained capacity between different market types rather than individual operators) proactively and with industry and stakeholder participation;
- move to the next stage of development with confidence that decisions from the previous stage are committed unless specific change controls are complied with; and
- contractualise, where appropriate, commitments regarding characteristics of the future train service – whether with its contracted passenger train operators, or with providers of non-GBR train services, or with public or private sector funders.

Of course, a commitment to a train operator regarding its use of capacity in the future constitutes an access contract under the 1993 Railways Act, so would always require approval by ORR. As with other elements of the planning framework, GBR's AUP should set out how decisions could be made, and how they relate to ORR's own processes.

## Improving agility

The railway serves many markets that are subject to constant change, so GBR's planning processes must be flexible and capable of reacting to unexpected approaches for the use of its network. Frequent changes in demand have long characterised the freight sector but have recently become a feature of passenger markets too.

GBR will need to rapidly assess the deliverability of proposals received, whether they would require changes to existing services or plans, and how significant the effect of any such changes would be. To do this it needs an understanding of why the plans are as they are, and where their value lies; of what decisions were taken previously and whether they are still valid.

### Tracking decisions, assumptions and risks

Each decision is made on the basis of assumptions, and each assumption has associated risks. There will be a wide range of relevant risks in any service change, from industry risks around infrastructure, rolling stock or traincrew delivery, to wider external risks such as economic changes eroding a business case.

Recording the decisions is essential to avoid them becoming lost or undermined, and to provide a ‘line of sight’ through the planning processes. A full record would need to be kept, publicly visible (except where reasonable confidentiality concerns apply) e.g. on a dedicated database or part of a website, throughout each stage of the process framework.

Assumptions and risks would have to be managed and updated as circumstances change. This is critical to the coherent management of change. Although GBR should be much more proactive than Network Rail, as outlined above it will retain a significant reactive role responding to requests and applications from the industry.

Risks are currently managed piecemeal, within individual programmes or projects, until the timetable production process is reached. In our view Network Rail’s current timetable risk assurance process would work better as the final section in a broader risk management approach, originating in strategic planning risk assessment and maintained throughout the planning framework.

## 3.2. How is this approach better?

Problems with the current arrangements were described in section 2.1. The proposition outlined above would permit some of these to be addressed. Among the potential benefits would be:

- **Clearer, better information provided on future use of the network, allowing businesses to plan ahead and invest with greater confidence**, e.g:
  - Requirements on GBR to develop and publish appropriate plans, and then deliver against them
  - More effective requirements on GBR to develop private sector participation, including by serving freight customers flexibly at short notice and supporting train operators and customers in identifying spare capacity
  - Requirements for transparency and collaboration with non-GBR parties
- GBR able to (or encouraged to) enter into **a range of flexible and bespoke commitments with investors such as ports or other freight customers, with the aim of giving a secure basis for investment**
- Requiring the introduction of clearer advance decision points for major service and timetable change on the railway, with due consultation and in line with ORR role as access regulator - **reducing the risk of major service disruption and/or delay and giving operators and customers greater certainty for planning their businesses**
- Ensuring that the new model can deliver in a legally robust way on the vision of GBR **delivering economic and social benefit overall** through use of the network (working within the ORR regulated framework for access). This will involve planning strategic use for freight, engineering purposes and a range of different passenger services - including open access, charter and devolved services.

Of course, legal, regulatory, structural and process changes won't be enough by themselves, but they are important enablers. Changes will also be needed to behaviours, culture and capabilities, and we will include these topics in a later discussion paper.

An obvious large-scale example of the potential gains – or losses, if current practice is followed – is the enormous Government investment in High Speed 2 (HS2) and the Integrated Rail Plan.<sup>9</sup> As HS2 is delivered, the use of two areas of the historic network will become critical to the value the investment delivers: the congested northern end of the West Coast Main Line (WCML), which will have to accommodate Anglo-Scottish services from HS2 alongside existing inter-regional and growing freight services; and the released capacity on the southern end of the WCML which was fundamental to the original case for the investment.

In each case, if the traffic mix is allocated without regard to overall social and economic value, the losses would be significant. The complexity of the railway system in the Midlands and across the North of England creates great potential for perverse effects if the interests of the various parties are not considered together under a single framework with common criteria on value and affordability.

This doesn't mean sticking rigidly to plans already prepared, but instead evolving those plans as circumstances change, ensuring they reflect the latest market information and developing them inclusively and transparently. Businesses in, and dependent on, the rail sector would then be able to plan with a reasonable degree of certainty.

### 3.3. Why couldn't we adopt this approach now?

Some of these ideas could be implemented without changes to legislation, particularly if Network Rail's network licence was changed to require a more assertive role and if industry parties were supportive of changes to key processes such as the Network Code. However, the process described here cannot realistically be operated by a body such as Network Rail. Operating this process fundamentally requires an integrated body like GBR, with explicit social and economic goals, an interest in customer revenues, management of operations, maintenance and renewals, and clear obligations for freight.

Without legislative change, the process would also be reliant on securing agreement at all stages. Making real decisions on timetable planning ahead of the normal timescales would require the agreement of all parties, and the conflicting commercial interests of the different industry parties suggest that this would be unlikely to succeed in the longer term.<sup>10</sup>

This is partly because the timescales for timetable applications are constrained by law.<sup>11</sup> In particular, no deadline may be set for any application for infrastructure capacity that is earlier than a year in advance of the relevant timetable change date. We certainly don't intend to push out application deadlines in general – in fact, there are current initiatives<sup>12</sup> to shorten them – but this provision prevents any firm allocation of timetable capacity ahead of the timetable production process.

---

9 Integrated Rail Plan for the North and Midlands, November 2021 (CP490)

10 Mixed experience to date with Event Steering Groups supports this view

11 Schedule 4 of the Railways (Access, Management & Licensing of Railway Undertakings) Regulations 2016, as amended 2019

12 Under the Better Timetables for Passengers & Freight Users programme

### 3.4. Could we achieve the goals in another way?

We believe that the proposition described above provides a way of joining up the industry's planning system while retaining flexibility in recognition that the operational model for GBR, and its relationships with the rest of the rail sector, is still being finalised. Given the problems to be addressed as set out in section 2.1 and the contextual constraints described in section 2.2, we think it is the most practical way (at a macro level) of achieving this. High-level alternatives would either be more intrusive and controlling, so failing one of the critical requirements; or more disjointed and reactive, so failing to address the industry's problems.

There are, of course, many micro level alternatives as to how the broad proposition is developed and implemented: how much each element varies from previous practice, and the ways in which they are drawn together. We look forward to working through these choices with industry parties and stakeholders over the coming months, and section 4 identifies the forthcoming discussion papers that will initiate this process.

## 4. Next steps

This paper serves as an introduction to our developing thinking about planning the use of the railway. We plan other discussion papers within this workstream:

- a paper setting out our emerging thinking on each of the various components of the proposition for an integrated train service planning framework outlined in section 3.1, including behavioural and cultural issues as well as process and contractual elements; and
- a number of short papers) setting out our emerging thinking on how GBR would work with each of the various industry parties in delivering planning under an integrated framework of this type – identifying issues presented by the differing circumstances of each industry participant.

A list of the planned discussion papers<sup>13</sup> can be found, along with general information on the commission and a glossary of abbreviations and terminology, at [Simpler, better industry processes | Great British Railways Transition Team \(gbrtt.co.uk\)](https://gbrtt.co.uk)

The proposals described in this paper are intended to seize the opportunities presented by the Government's proposed reforms to improve the way the railway reaches decisions on the services it offers, to benefit passengers, freight users, private and public sector funders and all those who depend on the railway for the good of their business or community.

A key principle in the proposals is that no party has a monopoly on good ideas and the best outcomes come from inclusive working: collaboration and challenge. Applying that principle to the Transition Team's activity, we welcome your participation in the discussion that these papers are written to provoke. If you would like to be more involved in this work, please contact us at the email address below.

We will consider any input to this work, but we have provided a couple of questions here as a starting point.

### Paper 1.1: focus questions

***Q1 Given the limits of this workstream and its remit set out in section 1, do you agree with our analysis of the problems outlined in section 2.1? Are there other problems in this area that we have missed?***

***Q2 Given the contextual constraints of current plans for reform as described in section 2.2, do you agree that the general approach outlined in section 3.1 is correct? If not, what do you suggest?***

Please let us know your thoughts at [railwaycommission@gbrtt.co.uk](mailto:railwaycommission@gbrtt.co.uk) at any time, but preferably before **31 May 2023**.

---

<sup>13</sup> This list may be subject to change as the project progresses and will be kept up to date on the website