

Introductory note to discussion papers Spring 2023

Commission to deliver a simpler and more integrated railway

14 March 2023

As part of the Commission to deliver a simpler and more integrated railway the Great British Railways Transition Team is publishing a series of discussion papers to open its thinking up to industry experts and stakeholders. The work of the Commission covers many topics and touches on the interests of nearly 100 different stakeholder organisations. This introductory note provides context for these papers.

The note includes:

- The remit and scope of the Commission;
- Guiding principles informing our work;
- A summary of the discussion papers; and
- Details on the feedback process.

Not all stakeholders will be impacted by the topics in all papers and this note is designed to help industry colleagues identify which upcoming papers will be of interest.

We are keen to support our partners to navigate this important stage in improving industry processes and providing an appropriate role for Great British Railways (GBR) as an integrated guiding mind. If you require further information regarding the Commission and topics covered, please contact railwaycommission@gbrtt.co.uk.

We have not yet taken decisions about what recommendations to make to the Department for Transport later in 2023. The papers are intended to help us develop recommendations, and the propositions within them will be subject to change as we engage and carry out further work. The ORR have been involved in supporting work done so far and have provided views and input. However, the ideas being explored do not represent ORR policy, or Government policy.

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1. Introduction

The ability to integrate across rail delivery and simplify planning and operational functions is central to rail reform. It is critical to delivering a good service more efficiently for passengers and freight customers.

The businesses that deliver for customers need easier and simpler processes, whether they are contracted passenger operators, open access operations or freight businesses. Rail reform also requires us to set Great British Railways up so that it acts as a responsive and effective ‘guiding mind’ for the industry, taking decisions that deliver for the wider country and being accountable for punctuality, quality, efficiency, and safety. The framework needs review to recognise the most significant legal change, which will see GBR becoming the contracting authority for passenger services in England as well as taking over functions from Network Rail. GBR decisions will be informed by customers and the industry, and driven at regional level, with a design that supports the cross-regional flows that matter to rail customers. Railway plans will be developed on a joined-up basis under GBR across track and train functions, seeking to deliver overall benefit across passenger and freight and manage cost and revenue decisions.

In order to successfully deliver social and economic benefit, GBR has to support other parties using the rail network and support them in taking the initiative, developing and managing their own businesses across passenger services and rail freight.

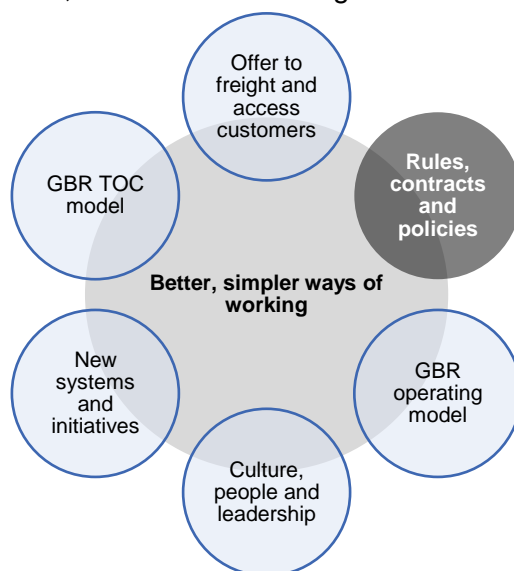
The work of the Commission is a critical enabler to unlock and define the integrated role envisioned by the Government’s rail reform programme. Our key task is reviewing the framework of rules, contracts and controls that govern major cross-industry processes and decisions, with a focus on capacity and use of the railway, performance and operations and station and depot change. The Commission will ultimately make recommendations for revisions to secondary legislation (if required) and changes to other contracts and processes. Alongside producing recommendations to the Department for Transport later this year, the Commission will develop an implementation plan, and begin the process for producing key new instruments. We expect this to include an Access and Use Policy, that the Office of Rail and Road will have to take regard to and will be approved by the Secretary of State for Transport . . . The Government has consulted on legislative proposals and other elements of rail reform, and our work is based on those proposals¹. Government will confirm its plans for legislation in due course.

Industry parties and stakeholders will have a number of further opportunities to be consulted and input to changes after the Commission has made recommendations. Where legislation, access contracts and industry processes need to be adjusted, the process for revising these instruments is generally overseen and governed by established processes run by the Government and the Office of Road and Rail. This means that many Commission recommendations will require further consultation before they are agreed, for instance any recommended changes to secondary legislation would have to be accepted and consulted on by Government and through a parliamentary process. Other recommendations may be taken forward more quickly following engagement with industry and the Office of Road and Rail.

A successful Commission will create the blueprint for a framework for simpler industry processes resulting in efficiencies, cost reduction, greater potential for inward investment, more industry certainty and improved performance for passengers and freight end users. It will enable GBR to deliver benefits from integrating across rail, within a framework that works for freight operators, freight customers and the full range of different passenger operators.

¹ The Williams-Shapps Plan for Rail: A Consultation on Legislation to Implement Rail Transformation, June 2022

Our ultimate goal is to achieve real world change, to improve user experience and change industry ways of working. However, the Commission’s scope is limited to considering the legal and contractual arrangements for joint processes. Our recommendations will therefore be enablers. They will not drive change by themselves, but they will be critical to achieving change. The wider design work with the industry will be being taken forward in the coming months and will need to cover several interlinked areas, illustrated in the diagram below.



2. Spring 2023 discussion papers

Starting in March 2023 we are issuing discussion papers for comment and feedback. Paper content and feedback will be used to identify pros, cons and options to support the recommendations we make later this year to the Department for Transport. These papers do not represent Government policy, and the Department will consider our recommendations before deciding on how to progress these issues.

The Commission is planning to issue around eight discussion papers. As noted above, these are not formal recommendations or positions at this point. These propositions are being developed by the Great British Railways’ Transition Team and do not represent Government policy. The papers set out a range of ideas and discussion topics. They are intended primarily to provide context and test early ideas that will enable a full discussion with stakeholders – this is where further thinking and testing will take place and will support more robust recommendations. A broad exploratory discussion will help the quality of the recommendations that the Commission ultimately makes to the Secretary of State for Transport. All feedback, even where out of scope, will be collected and passed to relevant workstreams within the Great British Railways Transition Team or the wider reform programme.

On several key topics, we have already involved industry experts and practitioners. We have also been working closely with the Office of Rail and Road, who have been asked by the Secretary of State to stay closely involved and help us ensure developing recommendations meet the goals set out by Government.

Discussion papers will explore how things could work in the future and will - to varying degrees - make more detailed proposals as to the mechanisms required to enable changes. Different topics are at different levels of development at this mid-stage in the Commission’s work.

Mechanisms will be subject to further exploration with stakeholders but the papers being issued set out some key ‘concepts’ for discussion:

- **A proposal for a new GBR Code:** replacing the Network Rail Network Code and incorporated documents and parts of station and depot access conditions.
- **Developing a new Access and Use Policy** to guide consistent, fair and transparent decision making in GBR. Subject to confirmation by Government, ORR will have a new duty to have regard to GBR's policy on access and use of the railway, alongside its wider duties as regulator. This policy will be approved by the SoS, who we expect will be required to consider views of devolved bodies.
- **Updated change approach and contractual framework for Stations and Depots:** Further detail on how stations and depots will be governed and the process for making changes to their fabric and contracts.
- **Finding opportunities to improve performance incentives and drive better insight:** making the most of the new structure to provide better, more effective incentives that benefit users, and focus industry effort more tightly on generating insight that can drive real improvements.
- **High level approach to changes for secondary legislation:** Changes may helpfully increase flexibility, while retaining key protections around non-discrimination, transparency and equitable treatment. Furthermore, there is potential to set out the process steps or stages more clearly in planning and managing use of the railway with industry partners and access customers.

3. Guiding the Commission's work

We have identified underlying principles in order to guide our thinking and test proposals. These are built on those outlined in the letter from the Department for Transport to Andrew Haines commissioning GBRTT to lead the reforms.

Shaping principles are those that support creating an integrated body that can act as the 'guiding mind' for the industry. Recommendations should:

- **Serve social and economic benefit.** Decisions can be made based on the social and economic benefit rather than privileging some parts of the industry.
- **Support a 'guiding mind'.** A framework that allows GBR to be a 'guiding mind', that is able to collaborate with all parts of the industry, work collaboratively with railway users and be the franchising authority for England.
- **Be legally robust.** The new model can deliver in a legally robust way on the vision of GBR delivering economic and social benefit with operating companies and partners of all kinds, working in an aligned way with the Office of Rail and Road.
- **Give the ability to plan and manage the network.** An integrated body is able to plan and manage the use of the railway more efficiently.

Simplifying principles are those that promote simplification and efficiency when reviewing industry processes, codes and supporting architecture. Recommendations should:

- **Lay foundations for simpler processes.** Frameworks, processes and codes are not only simpler for GBR but for all parties.
- **Support cost reduction.** Unnecessary costs are reduced, and money is no longer shifted around the industry with diminishing returns.
- **Allow for flexibility.** Industry processes or codes could be used instead of more rigid legislation allowing the GBR and the industry to be responsive and deliver for passengers and freight.
- **Promote ability to find rules in one place.** Simplicity can be delivered by transposing existing requirements into a joined up single code where possible.

Serving principles are those that put the interests of passengers and freight customers first and consider all parts of the industry.

- **Be based on non-discrimination.** Rules, processes and frameworks are non-discriminatory and provide transparency for freight, open access operators and devolved authorities.
- **Take due consideration of the impact on other infrastructure managers.** The impact and intersection with other infrastructure managers is duly considered and, as far as possible, seamless.
- **Allow for flexibility for freight.** Freight growth is supported by rules and processes that help identify spare capacity and allow for flexible operations.
- **Support different commercial models.** Freight, passenger open access and contracted passenger services can all be accommodated, and their needs balanced.
- **Support future investment.** GBR can enter a range of flexible and bespoke commitments with investors with the aim of giving a secure basis for investment.

4. More information on the Commission workstreams

The papers explore a range of topics of varying complexity and agreement. This means that the papers have varying levels of detail and differing approaches. In some areas we have more detailed propositions at the level of contracts (such as station and depot change) whereas in others we are sharing principles and direction of travel. We know that many partners are waiting for the next stage of detail, and are less interested in high level principles, but that others will want to see overall direction and are keen to understand what we are trying to achieve.

The workstreams are summarised below.

Workstream 1: Planning and use of the railway

In Workstream 1, the Commission is exploring how to bring together the disjointed legacy processes in a single overarching framework for making holistic decisions on the future use and development of the railway.

The railway needs to maintain a 'line of sight' such that the context of decisions, and the value they should deliver, does not become lost or forgotten through the planning and timetable production process. 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. We aim to balance the agility of the railway to respond to changes in market conditions with the need for appropriate certainty to underpin investment.

Workstream 2: Performance and operations

Poor performance affects passengers and freight users every day on the railway and the situation has been getting worse. Improved processes and structures, in the context of a reformed railway, have the potential to deliver a more reliable and coherent network for the benefit of passengers and freight end users. A discussion paper will explore:

- Opportunities to adapt and evolve the existing framework that governs operational and control decisions;
- Potential reform to how delay attribution processes are governed in order to support future change; and
- Whole industry benefits from moving to new incentive arrangements for GBR-contracted TOCs.

Workstream 3: Stations and depots

In Workstream 3, the Commission is exploring the opportunity to simplify Station and Depot Change processes which are currently contained in station and depot access conditions, but which interact in critical ways with other change processes, including stations Minor Modifications which is a process defined in legislation and overseen by the Secretary of State. Reducing complexity and aligning processes should allow changes to be delivered more quickly and without today's high levels of red tape and friction, making third-party investment much more attractive. We are also exploring the opportunity to significantly consolidate and simplify the current contractual framework to enable parties to focus on the parts that are really necessary and important, reducing conflicts and the costs of mobilising and managing rail contracts.

We believe these proposals will put the interests of passengers and freight customers first, serving all parts of the industry, and ultimately lead to a better customer experience at stations.

This workstream recognises that decisions on the operating model for GBR-contracted TOCs at stations and depots will follow in due course and need greater work with the sector – we therefore are looking to make recommendations that fit with a range of future roles. The proposals are focused on stations and depots that will be operated under National Rail or Passenger Service Contracts. However, we recognise that they may impact other operators and Devolved Authorities and will work closely with these parties to ensure there is not any undue discrimination. We will also explore opportunities to alter existing arrangements with these parties to incorporate any proposals where they are supported.

Workstream 4: Cross-cutting

Some topics cut across all Commission workstreams and are captured in Workstream 4. This workstream will cover underlying principles, the future AUP, issues for other infrastructure managers (i.e., those that will not be part of GBR) and potential secondary legislative changes. Cross-cutting work is essential to deliver the benefits of the other workstreams so that Commission recommendations will help simplify processes and allow GBR to integrate for positive outcomes across the whole industry.

Paper 4.1 describes what we mean by the overall "framework" that sets rules and controls between the IM and operators and explores some of the big changes we are proposing for how controls are set and governed. The paper will explore principles for a future system, the proposal to create a GBR Code – with an appropriate role for ORR - and the challenge of structuring requirements so that the right level of detail and certainty is provided at the right level (for instance so that change can be made flexibly while still offering appropriate certainty to businesses and funders).

A later paper will cover the purpose, scope and challenges for the **new GBR Access and Use Policy**. The paper will explore how the creation of a railway guiding mind can work for all parties, and how we can take consistent decisions on the use of the railway, drive efficiency and value, and unlock the benefits of the new model.

A final paper will be about our **emerging thinking on secondary legislation and the Access and Management Regulations 2016**. The Commission will be making recommendations to Government where we identify those changes to secondary legislation are necessary to implement simplifications. The paper will explore removing blockers to a more flexible system, while retaining protections on non-discrimination, transparency and fairness, and the opportunity to achieve a clearer set of processes that are more easily understood by all parties and less subject to varying interpretations. Ultimately secondary legislation is a matter for government and the workstream will be shaped by any emerging legislative proposals and government approaches to retained EU legislation.

5. Feedback process

The Commission is committed to engaging with stakeholders – to help us build stronger proposals, test our ideas with organisations delivering day-to-day on the railway and generate new ideas. Industry experts have been engaged developing the ideas in the discussion papers through Workstream Practitioners' Groups.

Once the papers are published a wider group of stakeholders will be invited to review and comment on the papers both in writing and at in-person plenary sessions. Dates for responses and further information on these sessions is available via railwaycommission@gbrtt.co.uk.

6. Conclusion

The papers are a staging post and exploratory stage to much more detailed work including drafting a new GBR Code, Access and Use Policy and policy framework for Stations and Depot Change. How the industry will transition to these will also be fleshed out. Some contractual and legal arrangements are likely to need to be in place from day one of GBR, but it is recognised that the implementation of rail reform is likely to unfold over several years following the stand up of GBR, and this will require some industry processes to be changed iteratively as we move towards the end-state operating model.

The railway was built almost 200 years ago to carry goods and people across Britain, connecting society. It changed the world. We are rightly proud of that. But fragmentation, escalating costs, and inconsistent customer experiences mean those connections have faltered. Action is necessary, nostalgia is not. Let's look back decades from now and say, 'we fixed that'.