

DEPARTMENT FOR TRANSPORT/ NETWORK RAIL REPORTING REQUIREMENT

The objective of the Department for Transport (DfT) is reliable, safe and secure transport for everyone which respects the environment.

Network Rail is a private sector 'not for dividend' company, regulated by the Office of Rail Regulation. Network Rail's role is to operate, maintain, renew and develop the rail network in a safe, reliable and efficient manner.

This document describes how we work together. It is for the guidance of staff throughout Network Rail and DfT who have contact with each other and should be used as a reference as part of the overall 'binding arrangement'.

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SECTION 1: STATUS OF THIS DOCUMENT

1.1 This document sets out the reporting requirement which the Secretary of State has agreed with Network Rail. The reporting requirement sets out the arrangements for effective communication between Network Rail and the Secretary of State. The principle of effective communication between Network Rail and its funders such as the Secretary of State is a 'reasonable requirement' under Condition 7 of Network Rail's licence and so any breach of the licence condition is enforceable by ORR. Separate arrangements have been or will be drawn up in relation to Government financial support for Network Rail's debts and in relation to specific enhancement projects sponsored or funded by Government.

1.2 This document is not a contract and is not contractually enforceable. Notwithstanding this, this arrangement is without prejudice to any other duty or obligation of Network Rail to furnish to the Secretary of State such information that he considers necessary for the purpose of facilitating the performance of any of his functions or activities in relation to railway services.

1.3 It is understood and agreed by Network Rail and ORR that the arrangements set out in this document are entered into by the Secretary of State wholly without prejudice or fetter to the manner of exercise by him from time to time of any existing or future powers he may possess or acquire whether under contract, statute or common law enabling him to require information (including advice) from ORR or Network Rail as the case may be. If and whenever, notwithstanding the preceding sentence, the effect of this document or any provision in it shall be to fetter the exercise of any such power as aforesaid, then to that extent each such provision shall be deleted and cease to have effect.

1.4 The Secretary of State and Network Rail will keep the reporting requirement under review. If it appears to either party that the requirement is inappropriate for its intended purpose, or would otherwise benefit from amendment, the parties will discuss in a timely manner and in good faith with a view to agreeing appropriate amendments to the requirement.

SECTION 2: INTRODUCTION

2.1 The White Paper *The Future of Rail* proposed a binding arrangement between the Secretary of State and Network Rail. Under this arrangement, at the outset of a periodic or interim review the Secretary of State has a duty to notify ORR of his desired high level outputs from the railway and the likely available public finances¹. This duty also applies to Scottish Ministers who will draw up a parallel arrangement as regards Scotland.

2.2 The role of ORR is to determine the level of income that Network Rail will require to meet the Secretary of State's desired outputs for the railway and to set regulatory targets which Network Rail will be obliged to achieve as part of its licence conditions in order to deliver those same outputs. The Secretary of State, ORR and Network Rail have agreed that the regulatory targets will form the major part of the Secretary of State's "reasonable requirements", as described in Condition 7 of Network Rail's network licence and, as such, will be enforceable by ORR.

2.3 ORR is responsible for specifying the information that Network Rail is required to report regularly to demonstrate that it is meeting its obligations under the terms of the licence and any other agreements then extant. ORR will also publish an annual stewardship report and a quarterly balanced scorecard and has primary responsibility for informing the Department for Transport (DfT) about any issues arising - both proactively and at the request of DfT.

2.4 It is also a reasonable requirement for the purposes of condition 7 of Network Rail's licence that the Secretary of State, as the major funder of the network in England and Wales, is kept properly informed by Network Rail on progress in achieving the Secretary of State reasonable requirements as established through output targets set at interim and periodic reviews.

2.5 ORR, in carrying out its role of monitoring and reporting on Network Rail's licensed activities, receives information from Network Rail on those activities. The Secretary of State will also need Network Rail's input in connection with his other statutory functions and activities in relation to the rail sector, in particular, franchise specification, rolling stock strategy, and regional planning assessments. The Secretary of State has therefore agreed with ORR and Network Rail that there should be a reporting requirement setting out his working relationships with Network Rail and how Network Rail should report progress to him.

2.6 The purpose of this reporting requirement is to ensure the timely provision of relevant information to the Secretary of State so as to assist him in discharging his statutory functions and other activities in relation to rail transport, including as main public sector funder of the railway. It is no part of the purpose of this arrangement that the Secretary of State should be involved in, or in any way seek to influence, the management of Network Rail or the manner in which it conducts its business.

2.7 DfT will work closely with ORR and receive from ORR advice and information on the interpretation of the information received. Where information provided by Network Rail shows actual performance falling short of one or more trajectories to deliver its key output targets, such that the Secretary of State considers that there is a need for him to understand Network Rail's remedial plans, this will normally be done through tripartite meetings between DfT, ORR and Network Rail.

¹ See paragraph 1D of Schedule 4 to the Railways Act 1993, as amended by paragraph 1 of Schedule 4 to the Railways Act 2005.

2.8 For its part, Network Rail will need information and advice from the Secretary of State in order to facilitate the efficient discharge of its responsibilities , for example in relation to the methodology for the appraisal of options being considered for a Route Utilisation Strategy.

SECTION 3: PRINCIPLES OF WORKING TOGETHER AND REPORTING

The Secretary of State and Network Rail have agreed to follow the six principles set out below.

1. *Constructive relationships*

To seek mutual understanding of each organisation's position, respect between individuals, a commitment to manage issues proactively, and to avoid surprises in the relationship. A good relationship will be maintained through regular and ad hoc bi-lateral meetings. Those attending meetings will be of appropriate seniority having regard to the issues for discussion and will take steps properly to inform themselves about the issues to be discussed in advance of the meetings. Where decisions are to be taken, or may need to be taken, those staff will have the appropriate authority.

2. *Consistency*

To encourage the unified rail industry approach through tri-lateral meetings and other working between the Secretary of State, ORR and Network Rail. The Secretary of State and ORR will seek to ensure that their respective information requirements are consistent and avoid conflicts of interest or unnecessary overlap and duplication. The Secretary of State, so far as is practicable, will make use of measures and reports already required within Network Rail, and align with ORR's reporting requirements.

3. *Focus on Output Delivery*

To focus on the outputs that are being delivered by comparison with the trajectories set for those outputs, although it is recognised that there may be a need also to take account of the inputs required to achieve the outputs.

4. *Transparency*

To continue to take an open and transparent approach to ensure that there is a common understanding of the Secretary of State's objectives and of how Network Rail is managing its business. Network Rail will provide information, access and analysis of adequate quality and quantity for the matter in question. On request, Network Rail will provide details of the methodology used to prepare the information.

5. *Proportionate involvement*

To ensure that the information that the Secretary of State receives in relation to Network Rail's business is proportionate to the magnitude of the issue. The Secretary of State will focus on key delivery aspects and matters involving wider public interests. Where information that the Secretary of State requires is not readily available, he will carry out an impact assessment to ensure that the impact on Network Rail is reasonable, and Network Rail will provide such information as is reasonable and proportionate in the light of the assessment. Network Rail will provide the Secretary of State with all reasonable assistance in conducting such assessments.

6. *Effective gateways*

To encourage the most appropriate and effective contacts for communication and information transfer. Direct liaison between DfT and Network Rail staff is facilitated through the framework and processes set out in later sections.

SECTION 4: REPORTING

4.1 ORR receives information from Network Rail to carry out its role of monitoring and reporting on Network Rail's licensed activities, including the delivery of output targets set at periodic or interim reviews to meet the Secretary of State's reasonable requirements. To the maximum extent practicable, the Secretary of State will draw on this in monitoring NR's performance in delivering output targets against trajectories established by NR in its business plan. Should the Secretary of State require additional information, he will approach the ORR and, in the first instance, seek that information through ORR.

4.2 ORR specifies matters which should be addressed in Network Rail's Business Plan in order to meet the reasonable needs of customers and funders. Should the Secretary of State wish to submit proposals on such matters for consideration by ORR, he will discuss these with ORR and Network Rail, and Network Rail will provide advice and assistance to ORR and the Secretary of State.

4.3 The Secretary of State will have a particular interest in :

- Network Rail's best forecast of the rate at which improvement in performance or reduction in cost will be delivered;
- the key steps which Network Rail will take (either on its own account or together with its suppliers or with the TOCs) to secure performance-improvement or cost-reduction with an indication of the significance of those steps which are forecast to deliver the greatest changes;
- Network Rail's assessment of the scope for bettering the performance-improvement or cost-reduction established in the periodic review.

4.4 Network Rail agrees that it will establish in its first Business Plan, after the conclusion of a periodic or interim review, a trajectory for delivering each of the principal outputs which are set in the review and a trajectory for securing the efficiency gain which is assumed in the review.² ORR, and the Secretary of State will monitor Network Rail's performance against these delivery trajectories.

4.5 The Secretary of State also needs to be sufficiently well informed to be able to discharge his statutory functions and other activities, in particular the informed specification of franchises and the high level outputs for the railway.

4.6 Details of the information which the Secretary of State currently requires are set out at **Annex A**.

² Network Rail currently sets out trajectories and delivery plans against the regulatory targets set for the period April 2004 to March 2009 in the 2003 Access Charges Review. The Secretary of State will set the first High Level Output Specification for ORR's 2008 Periodic Review.

SECTION 5: DfT / NETWORK RAIL MEETINGS

A series of regular meetings, listed below, has been established, each with its own remit and purpose. These meetings will supplement reporting and information requirements as detailed in section 4.

Meetings

1. Secretary of State Regular Meeting with Network Rail Chief Executive
2. High Level Progress Meeting
3. Rail Strategy Steering Group (including franchising)
4. Investment Programme Board
5. Performance and Delivery Group
6. Performance Directors' Meeting
7. DfT/Network Rail European Liaison Meeting.

This suite of meetings will be kept under review and further channels of contact will be opened up if necessary. Ad hoc meetings may be arranged as necessary. There are various industry groups (e.g. Rail Industry Planning Group and individual RUS Stakeholder Groups) which are not referred to above.

Meeting terms of reference

1 Secretary of State / Network Rail Chief Executive Meeting

Purpose: To discuss general industry and strategic issues and identify major issues for further discussion in specific/ designated meetings and to determine policy in respect of Network Rail's working with DfT and their working together (in their respective roles) with other stakeholders in the relationship.

Timing: normal expected frequency: monthly / duration: 1 hour

Coverage:

- performance;
- current industry issues;
- update and discussion of DfT's rail strategy/ policy development;
- issues escalated from High Level Progress Meeting;
- reports on action plans/ initiatives intended to deliver improvements e.g. Integrated Control Centres, governance changes;
- reports on specific issues which may have caused problems from time to time e.g. security of power supplies, weather conditions.

2 High Level Progress Meeting

Purpose: To review all significant, current issues in terms of status, progress and next steps and for Network Rail to alert DfT in advance to forthcoming issues/problems which may cause public concern.

Timing: scheduled monthly / duration: 2 hours.

Coverage:

- current industry issues;
- update on current DfT/ Network Rail areas of work;
- discussion of adequate supporting data for DfT to argue rail's case in

- connection with OGD policies;
- issues affecting the company or the rail industry which are attracting (or are likely to attract) wider public concern;
- costs arising from additional obligations due to UK or European legislation.

3 Rail Strategy Steering Group

Purpose: To enable government to liaise with Network Rail on Route Utilisation Strategies (RUSs) and related links with functions such as letting franchises.

Timing: scheduled monthly / duration 2 hours.

Coverage:

- appraisal criteria;
- franchising policy;
- issues to be considered by the Rail Industry Planning Group, including the high level objectives of RUSs.
- interaction between RUSs franchise specification, franchise procurement and timetable development

4 Investment Programme Board

Purpose: To discuss current Investment programme issues and progress.

Timing: scheduled periodically / normal expected duration 2 hours

Coverage:

- high level progress of all aspects of the Investments portfolio;
- organisation (development & implementation);
- escalated issues from Project Development Groups.

5 Performance Delivery Group

Purpose: To discuss and assess rail industry progress on improving performance.

Timing: every four weeks.

Coverage:

- overall progress with the industry's trajectory for rail performance;
- individual progress made by Network Rail and train companies in reducing delays;
- progress in joint performance improvement plans;
- national performance initiatives, progress with the Joint Rail Performance Plan (JRPP) and any remedial actions, plans or required intervention.

6 Performance Directors Meeting

Purpose: To discuss and assess rail industry progress on improving performance.

Timing: every four weeks

Coverage:

- review of JRPP and Ministerial performance report;
- review in preparation of PDG meeting.

7 DfT/ Network Rail European Liaison Meeting

Purpose: To ensure both parties understand the other's position on European current issues and to discuss lobbying positions.

Timing: scheduled 2 monthly / normal expected duration 1-2 hours

Coverage: general European issues.

SECTION 6: SITE VISITS

6.1 Network Rail will facilitate site visits for Ministers and officials where specific reasons, and clear, defined and agreed purpose and objectives are in place in advance of the proposed date, and the visit will not impose unreasonable burdens on Network Rail or unreasonably disrupt normal railway operations.

6.2 Requests for visits, and planning and logistics are co-coordinated by Network Rail's Government & Corporate Affairs team.

6.3 Agreement over media access and releases is handled with the Network Rail Press Office.

SECTION 7: CONFIDENTIALITY OF INFORMATION RECEIVED

7.1 As a public body, DfT is subject to disclosure for information requests including any made in accordance with the Freedom of Information Act 2000, including information it has received from Network Rail. Much of this information will also be published by Network Rail pursuant to its licence obligations or by ORR and it is expected that this should meet the requirements of most other stakeholders. Network Rail will make clear which information it considers commercially sensitive or confidential before it is sent for both regular reporting and ad hoc information provided to DfT. DfT will consult with Network Rail on requests for information which have been identified as commercially sensitive or confidential or may potentially fall under this area, before disclosure and Network Rail will work with DfT to provide an appropriate and speedy response.

SECTION 8: COMMUNICATION GATEWAYS

Within Network Rail

8.1 The Government and Corporate Affairs (G&CA) team and the Planning & Regulation (P&R) team in Network Rail are responsible for managing Network Rail's relationships with the Government. This is to facilitate discussion with appropriate individuals within Network Rail and to coordinate the supply of information.

8.2 The first point of contact for reputational issues in G&CA is Victoria Pender, Group Director, Government & Corporate Affairs, or:

- Media – Chris Rumfitt
- Parliamentary questions and briefings – Garry White

8.3 The first point of contact for funding, regulation and policy or other issues in P&R is either Paul Plummer or:

- Regulatory issues – Ian Marlee
- RUSs – Richard Eccles
- Business planning – Charles Robarts
- European policy issues – Michael Robson

8.4 Furthermore, the Secretary of State will copy all meeting notifications, minutes, and high level correspondence with individuals within Network Rail to G&CA and / or P&R as appropriate.

8.5 On the specific and defined workstreams listed below the gateways to facilitate all regular communication are:

- Projects - as established at Joint Programmes Board
- Performance - Adam Bennett

Within DfT

8.6 As a general rule all contacts should be channeled through or copied to DfT's Rail Network Management and Freight Division:

- Tim Wellburn - Head of Division
- Tom Oscroft / John Carding - Network Rail Branch

8.7 Both parties will notify any changes in personnel to each other as soon as possible.

31 October 2005

Information currently required by the Secretary of State in order to discharge his statutory functions and other activities.

Securing efficiency

The Secretary of State will be particularly interested in Network Rail's progress in the following areas:

- securing reductions in the cost of operating the network;
- securing reductions in the cost of maintaining the network;
- ensuring that investment in renewing and enhancing the network is necessary to achieve the outputs specified in a periodic review and that it is procured cost-effectively.

Aspects of specific interest currently include:

- progress on developing an asset register which records accurately the condition of Network Rail's assets and permits Network Rail to make informed decisions on the case for replacement or enhancement of assets;
- progress on the development and implementation of whole-life and whole-system costing;
- progress in benchmarking performance (a) between different Network Rail Routes on the network and (b) with the operators of other networks;
- the results of such benchmarking exercises;
- the steps which Network Rail is taking to help suppliers plan ahead by providing them with accurate forecasts of the company's future purchasing requirements, and progress on work with the Railways Industry Association to improve supply-chain management;
- the steps which Network Rail is taking to revise its strategy for possessions and evaluation of the effects of such revisions.

Improving the reliability of passenger services

Network Rail provides reports every 4 weeks detailing the current performance of the passenger railway industry as well as progress with measures taken and proposed within the industry and within Network Rail to secure improvement in rail performance in line with Government PPM targets.

The 4-weekly report will cover in particular:

- progress towards, and forecasts against securing, the Government's rail performance Public Service Agreement;
- detail of progress and forecasts broken down by relative performance metrics and progress by individual franchise area;
- key performance trends;

- progress of national industry rail performance initiatives (e.g. Integrated Control Centres and timetable amendments) and the reporting of their delivery benefits where identified;
- an assessment of the risks to delivery and their management.

Such reports should cover, where appropriate, details of performance management initiatives such as benchmarking, joint Performance Improvement Plans and/or initiatives dealing with key performance issues e.g. the preparedness for severe weather.

Enhancements

Following the transfer of the management of the Single List of Enhancements from a joint Network Rail/Strategic Rail Authority activity to one which is managed by Network Rail, the Secretary of State and ORR will also need Network Rail to keep them informed of progress in identifying, prioritising and delivering small enhancements.

Other topics

In addition to the above issues, the Secretary of State will need Network Rail's input in connection with his other statutory functions and activities in relation to the rail sector, in particular the franchise specification, rolling stock strategy and regional planning assessments. Separate arrangements will be made for these and discussed through meetings summarised in section 5.