



# Guidance to the Office of Rail and Road

## Introduction

- 1 This guidance is issued to the Office of Rail and Road (ORR) in respect of its functions in relation to railways under section 4(5)(a) and section 4(5B) of the Railways Act 1993. This document replaces the guidance issued in July 2012. The Secretary of State has consulted the Welsh Government in preparing this guidance.

## Safety

- 2 The Secretary of State wishes ORR to ensure that the industry continues to focus on maintaining and improving the safety of the railway for rail users, rail workers and the general public. In doing so, he wishes ORR to act as a joined-up safety and economic regulator, ensuring that regulation supports a sustainable railway that is both safe and cost effective over the long term.
- 3 The Secretary of State wishes ORR to use its powers to ensure level crossing risk is managed effectively by the industry and that, where closures cannot be appropriately achieved, the practicable application of new and existing technology is used as an alternative.

## Valuing passengers as customers

- 4 The Secretary of State considers that train service punctuality and reliability is of paramount importance. He wishes ORR to ensure that Network Rail's (NR) routes work closely with train operators, freight operators and end users (including representative organisations, such as Transport Focus) to determine appropriate metrics and challenging, yet realistic, target levels for performance, as well as support their effective delivery.

- 5 The Secretary of State wishes ORR to use its powers to hold the industry to account for its obligations to passengers under licences and wider consumer law. He welcomes ORR's annual "Measuring Up" report as a means of monitoring, communicating and incentivising the industry's performance in key consumer interest areas. He wishes ORR to continue to develop this approach to further improve industry accountability and transparency about how the regulatory process is leading to better outcomes for consumers, where appropriate working with franchising authorities.
- 6 The Secretary of State wishes to see ORR support industry efforts to simplify and modernise ticketing, making it easier for passengers to choose the best value fare for their journey. He also wishes ORR to play an active role in improving accessibility, supporting vulnerable consumers and improving passenger communication, particularly during periods of disruption.
- 7 The Secretary of State recognises that there is a long history of successful collaboration between ORR and Transport Focus. He wishes ORR to maintain and, where appropriate, further develop that existing collaboration.
- 8 The Secretary of State wishes the ORR to continue to support the delivery of an effective rail passenger services ombudsman, which improves redress for passengers.

## Reforming our railway

- 9 The Secretary of State wishes ORR to support an ambitious approach to reforming the railway, so that it delivers more effectively for its users. He considers that this should include:
  - Pursuing an ambitious approach to route based regulation, so that Route Managing Directors have the authority to deliver their Business Plans.
  - Supporting his priority of better joining up track and train through deeper collective working between NR's routes and train operating companies to simplify interfaces, improve punctuality and reliability, and enhance the overall passenger experience. In addition to providing appropriate support in upcoming franchise competitions, this should include helping to ensure (i) that NR's routes identify opportunities for greater collaboration and have the freedom to implement plans; (ii) that the regulatory incentives faced by NR under route scorecards are significantly better aligned with the contractual incentives faced by franchisees (and that complex regulatory mechanisms which could cut across these are avoided); and (iii) a high degree of transparency by NR in order that industry has confidence in working with NR more collaboratively.
  - Implementing scorecards, developed following a genuine and effective process of engagement between the National System Operator, the routes and NR's customers, to ensure that NR is held to account. This should include meaningful engagement with the Welsh Government on the content of the Wales route scorecard.
  - Supporting effective system operation. His priorities include ensuring the National System Operator, which he considers should be independently regulated from any infrastructure manager, is effective at strategic, long term planning of the network and carrying out specific analysis and studies into

capacity or punctuality and managing capacity. It should also ensure planned and unplanned disruption are managed at a cross-route and national level to minimise the impact on rail users.

- 10 The Secretary of State wishes ORR to have regard to all notified strategies, statements and policies issued by the UK Government which have an impact on railway issues. This includes providing appropriate support to the UK Government to support the process of leaving the European Union.

## Value for money and investment

- 11 The Secretary of State is determined to secure value for money from public expenditure and improve efficiency. He expects ORR to take a rigorous and robust approach to hold NR to account for improving cost effectiveness, securing deliverability and reducing unit costs, during the remainder of CP5 and throughout CP6. This should include assisting the Secretary of State to confirm the funding requirements set out in his initial SOFA, to help to ensure affordability and a sound basis for planning. He expects the ORR to rigorously challenge the cost effectiveness of NR for its operations, maintenance and renewals expenditure during the periodic review process and ensure the implementation of a regulatory framework for CP6 which holds NR to account, including through the use of reputational incentives. As part of this, ORR should ensure NR is effectively collaborating and contracting with the supply chain to reduce unit costs and increase productivity, including through effective planning of credible profiles for spending. The Secretary of State also expects that the ORR ensures that the financial framework for NR reflects reclassification, supporting effective cost control and strong financial discipline.
- 12 The Secretary of State is committed to securing value for money for the investments made in the railway. This includes having regard to securing the benefits from business cases. He also wishes ORR to support (being mindful not to duplicate) through the regulatory regime the “develop, design and deliver framework” and pipeline approach to delivering enhancements, ensuring clear accountability, recognising the more limited nature of ORR’s role in relation to enhancements in CP6. He also wishes ORR to work with the Welsh Ministers to support their franchising responsibilities.
- 13 The Secretary of State wishes ORR to ensure that the regulatory framework creates certainty for the supply chain and investors and fosters investment in whatever form. This includes taking all appropriate steps to facilitate a greater level of private investment, including through ensuring that third party investors (both public and private sector) are afforded appropriate protection through the regulatory framework. This should include ensuring the supply chain has good visibility of NR’s project pipelines and that suppliers have the appropriate incentives and support to invest in skills, technology and innovation and contribute to the delivery of the Rail Technical Strategy. He also wishes ORR to work with local and regional parties to develop appropriate investment projects. This includes, but is not limited to, working pro-actively with the Welsh Government to support the implementation of schemes they fund for delivery by NR.
- 14 The Secretary of State wishes ORR to have regard to the Transport Investment Strategy (2017). He wishes ORR to engage with the National Infrastructure

Commission and, where relevant, take account of Endorsed Recommendations made by the Commission. He also wishes ORR to engage constructively with the Welsh Ministers to support the railway's contribution towards meeting their objectives and as they establish an Infrastructure Commission in Wales.

## Sustainability and standards

- 15 The Secretary of State wishes ORR to have regard to the industry's Sustainable Development Principles. In particular, he wishes ORR to monitor and benchmark industry progress against and capability to deliver those Principles.
- 16 The Secretary of State considers the appropriate application of standards to projects can help deliver economies of scale and a lower cost railway that is safe and fit for purpose. However, the inappropriate and rigid application of standards might contribute to significant cost-escalation and delay in project delivery. The Secretary of State wishes ORR to encourage the industry to demonstrate a proportionate approach to applying standards that meet legal requirements as well as the need to minimise whole-life, whole-system costs. Specifications need to be clear and exhibit relevant flexibilities and innovative solutions. He also wishes ORR to carry out its approvals role to support the efficient and effective introduction into service of new rolling stock and infrastructure.

## Access, charges and competition

- 17 The Secretary of State wishes ORR to maintain and improve the regulatory incentives on NR to ensure that the costs it passes on to customers and funders are fair and reasonable, and to increase transparency in charging.
- 18 The Secretary of State wishes ORR, when allocating access, to take full account of all the punctuality, reliability and capacity implications (including power availability), with a view to ensuring that granted rights do not detrimentally impact on these issues. He wishes to see ORR, working closely with industry, to have regard to the need to build resilience into the timetable, including consideration of breaks in the timetable, where appropriate, to allow for recovery from delays.
- 19 The Secretary of State considers that passengers benefit from competition through the franchising process. He is also supportive of open access in particular circumstances where these do not significantly impact on affordability or the value for money from public investment. This is likely to be on those routes which are not already well served by the franchising system and not on densely used commuter routes. He considers, however, that a pre-condition for an increase in open access is that all operators make a fair contribution to the costs of the network. He therefore encourages ORR to continue with its proposals to reform track access charges, recognising that this is likely to be only one of the steps necessary to facilitate a greater level of open access competition.

## Stations

- 20 The Secretary of State wishes ORR to engage with a cross-industry steering group on stations and to facilitate, where appropriate, development of the

regulatory system in a way that supports and facilitates station capacity improvements; considers changes to station charging arrangements; provides reliable measures of station asset condition, capacity and passenger experience; is linked to the funding NR receives through the regulatory settlement; and ensures that contractual documentation reflects a modern industry.

## Rail freight

- 21 The Secretary of State wishes ORR to have particular regard to the objectives set out in the Government's Rail Freight Strategy (2016). He particularly wishes ORR to have regard to the affordability of freight charges and to ensure that the rail freight industry has sufficient clarity and certainty about the costs that they will face in CP6 as soon as possible. More generally, he wishes ORR to take all appropriate steps to support the growth and development of the rail freight sector.

## HS2

- 22 High Speed Two is the biggest investment in the UK rail system for over a century. Realising the full benefits of the scheme will require reconfiguration of services on existing lines, as well as the introduction of new high speed services some of which are planned to continue onto existing lines. The High Speed Rail (London-West Midlands) Act 2017 requires ORR to facilitate the construction of HS2.
- 23 The Secretary of State additionally wishes ORR to facilitate the introduction of HS2 operations on both new and existing infrastructure, and the realisation of planned benefits from the investment in HS2. In the exercise of its duties to have regard to the funds available to the Secretary of State for railway services and to have regard to securing value for money for funders of the railway, ORR should in particular take account of the strategic enhancement to the rail network, the level of Government investment and anticipated revenue return from HS2 services. In the exercise of all its duties and functions, the Secretary of State wishes ORR to take account of his plans for HS2, as set out from time to time in published business cases, and the scale of this planned investment to improve the national rail network on behalf of passengers, taxpayers, communities and the UK economy.

## Working together

- 24 With full respect for ORR's independence, the Secretary of State wishes ORR to work with him, the Welsh Ministers, Transport for London and regional transport bodies cooperatively and constructively on issues of legitimate common interest wherever it makes sense to do so and where there is no conflict of interest. He wishes all such engagement to be based on the principles of good communication, mutual respect and no surprises. He also encourages ORR to collaborate with other regulators wherever appropriate.