

**RAIL PUBLIC REGISTER COPY
REDACTED IN ACCORDANCE WITH FOIA 2000**

Dated	19 July 2024
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- (1) The Secretary of State for Transport
- (2) DFT OLR Holdings Limited
- (3) Northern Trains Limited

Northern

Breach Remedial Notice



Department for Transport

Northern Trains Limited
George Stephenson House
Toft Green
York
YO1 6JT

Attention: Tricia Williams

CC: Fiona White, Alex Hynes

[by email]

Dear Tricia,

AMENDMENT AND RESTATEMENT AGREEMENT DATED 31 JANUARY 2023 IN RESPECT OF THE SERVICE CONTRACT ENTERED INTO DATED 24 FEBRUARY 2022 (THE "SERVICE CONTRACT") BETWEEN THE SECRETARY OF STATE FOR TRANSPORT (THE "SECRETARY OF STATE"), DFT OLR HOLDINGS LIMITED ("DOHL") AND NORTHERN TRAINS LIMITED (THE "OPERATOR")

WRITTEN NOTICE PURSUANT TO CLAUSE 8 OF THE SERVICE CONTRACT – "BREACH REMEDIAL NOTICE"

1. Words and expressions defined in the Service Contract have the same meaning when used herein unless the context otherwise implies.
2. Further to our letter of 15 July 2024 (the "Breach Notice") the Secretary of State hereby issues a "Breach Remedial Notice", for the purposes of securing and facilitating compliance with the Service Contract with regard to the following:
 - i) Schedule 7.1, Paragraph 8.1. The Operator's performance is worse than the Breach Performance Level for "TOC on Self Cancellations" and has been for three (3) consecutive Reporting Periods: Period 1, 2 and 3 for the year 2024/25.

¹ 9 October 2024 (Date of Redactions Approval) Where text has been omitted from the document - this is because the Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000 (R - NTL - Oct 24 - 001 - 20241001 - Breach Remedial Notice Redaction).

² 9 October 2024 (Date of Redactions Approval) Where text has been omitted from the document - this is because the Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000 R - NTL - Oct 24 - 001 - 20241001 - Breach Remedial Notice Redaction).

Market Lead: Gary Bogan
Market Team: Rail North Partnership
c/o Midlands, North and Wales

c/o Rail Services Group
4th Floor
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: [REDACTED¹]
E-Mail: [REDACTED²]
Website: www.gov.uk/dft

Date: 19 July 2024

In accordance with Clause 8.5 of the Service Contract, this Breach Remedial Notice sets out;

the steps which the Secretary of State reasonably requires the Operator to take in order to remedy or prevent the occurrence of any such contravention:

Produce a clear plan which details how compliance with the contract will be achieved, including milestones for the programme of activity, individuals accountable and how progress will be reported to RNP; which includes:

- a. Detail of how each breach will be addressed in terms of
 - i. Clearly identifies and quantifies the inherent issues, which have led to the contravention of the contract.
 - ii. Has a clear plan with milestones for the programme of activity to ensure complete compliance with the contract including actions where the result is quantified in terms of improvement in the number of TOC on Self cancellations. This should include a plan to address each of the inherent issues.
 - iii. Specific and distinguishable inclusion in the plan of the actions required to address the fact that the Business Plan KPI "On - Time depot train departures as a percentage (%) of the total number of services leaving the depot." is below target (and is on a downward trend). This should be part of the overall performance narrative of the full Remedial Plan and should satisfy the requirements under Schedule 8.4 paragraph 5.3 of the Service Contract.
 - iv. How this will support wider improved performance delivery and customer experience in terms of quantified and staged benefits.
 - v. Where actions are not within the operator's full control, the specific asks of other parties in order to achieve the improvements needed for contractual compliance. These should be laid out clearly in terms of what needs to be true to meet targets, quantified staged improvements expected if these actions are completed, what Northern will do to ensure these actions are taken and what help is being sought at what level within the Operator/ Owing Group to ensure delivery.
 - vi. What assurances, checks and contingency plans will be put in place to ensure the plan is on track. A comprehensive communication and stakeholder plan to support this plan

and, the period within which the Secretary of State requires such steps to be taken:

A draft Plan by 29 July 2024 as agreed in the meeting between both parties held on the 18 July 2024.

3. The Secretary of State and the Operator acknowledge and agree that the Operator remains bound by its obligations, as listed in paragraph 2, above, in relation to this Breach Remedial Notice.

4. The Operator shall carry out, implement and complete each of the commitments and actions specified in the Breach Remedial Notice of this letter and submit evidence of successful completion to the satisfaction of the Secretary of State by no later than the Breach Remedial Notice period.
5. As per Clause 8.6 of the Service Contract, the Operator shall comply with the terms of any Breach Remedial Notice except in circumstances where to do so would result in the Operator being in breach of any legal or statutory duty. In those circumstances, the Operator shall as soon as reasonably possible, give notice to the Secretary of State and DOHL with details of the breach which would arise, and comply with any reasonable instructions issued by the Secretary of State in those circumstances.
6. The Operator shall comply with this Breach Remedial Notice in accordance with its terms at its own cost.
7. The parties agree that nothing in this Notice shall, of itself, constitute a Change for the purposes of the Service Contract.
8. This Breach Remedial Notice and any non-contractual obligations arising out of or in connection with it shall be governed by the law of England and Wales.
9. The courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with this Breach Remedial Notice, including (without limitation) in relation to any non-contractual obligations.
10. A copy of this letter shall be placed on the Department's Contract Management System (CMS) for essential record keeping and to monitor ongoing compliance, in line with our obligations under the Service Contract.
11. In addition, the Secretary of State may choose to publish a copy of this or future 'Breach Remedial Notice' letters with passenger facing/impacting contraventions on the Rail Public Register where it is deemed in the public interest, in line with our other contract publication activities.

Yours sincerely,

SIGNED FOR AND ON BEHALF OF The Secretary of State for Transport)))))	
Print Name of Authorised Signatory:	Gary Bogan	
Position:	RNP Director / Market Lead	
Date:	19 July 2024	