

Final terms of reference for ORR's investigation of disruption caused by overrunning engineering works on 27 and 28 December 2014

Following the disruption caused to passengers over the weekend of 27 and 28 December 2014 on the routes from King's Cross and Paddington, ORR is investigating these incidences to establish:

1. whether there is evidence to indicate that either Network Rail (NR) or any train operator may have breached their licences, and
2. any lessons that need to be learned by the industry in order to try to prevent any recurrence.

In the event that the investigation does identify evidence of a breach of a condition (or conditions) in a licence granted to NR or a train operator it will be for the ORR board to determine what enforcement action to take.

Scope of investigation

For part 1 ORR will examine:

- a. NR's planning and oversight of engineering works:
 - identifying the process NR adopted in preparation for the works
 - establishing whether the causes of each significant over-run were preventable and a one-off, or represented a systemic failure
 - concluding whether NR prepared itself adequately - both to carry out the works and in the event that the works (or elements of the works) could not be completed within the planned possession - consistent with Part A (1) of NR's Network Licence which relates to the company's requirement to renew and replace the network in accordance with best practice and in a timely, efficient and economical manner
- b. Provision of information by NR and the relevant train operators:
 - identifying what information was provided by NR to train operators and when and whether it acted in accordance with Part A (2) of its Network Licence which relates to the provision of appropriate, timely and accurate information to train operators to enable them to fulfil their information obligations to passengers
 - identifying what action was taken by train operators in the light of that information assessing whether the industry did inform passengers consistent with their obligations in Condition 4 of the train operators' Passenger Train

Licence or Statement of National Regulatory Provisions to provide appropriate, accurate and timely information and comply with the Code of Practice established under that condition

c. Impacts on train service punctuality and reliability:

- establishing if the emergency timetable for operators using King's Cross was implemented effectively and if the operational decisions taken on the day were effective in mitigating disruption..
- concluding whether the overruns affecting Paddington and King's Cross had a material impact on the deliverability of the agreed performance targets and the recovery of the network.

For part 2 ORR will examine:

- a. the impacts on passengers and how they were dealt with by NR and train operators to ascertain:
 - whether NR and the operators made contingency plans and took decisions which were in the best interest of passengers given the information available, the availability of the network as a whole and the planned level of services
 - given the events that took place whether planning was adequate and whether there was action which could have been taken which would have helped to mitigate the impact on passengers
 - whether the actions contained in the draft industry plan in relation to improvements in the provision of passenger information, if finalised and fully implemented, are likely to be sufficient to cover all the issues that affected passengers
 - what information passengers were given in relation to compensation
- b. whether there are any observations which should be highlighted for lessons to be learnt for the planning of future renewal and enhancement work including, for example, anticipating passenger flows when contingency arrangements are developed, planning to address the needs (including safety and health) of passengers, the timing of the works, handling of disruption, arrangements for compensation. (N.B. Consideration of whether any breach of health and safety law by duty holders occurred is outside the scope of this investigation and will be undertaken in the normal way by Inspectors in ORR's Railway Safety Directorate.)

Investigation team

This investigation is led by Joanna Whittington, ORR executive director, Railway, Markets and Economics, supported by ORR experts. The project team will include representatives from teams within Railway Safety, Railway Planning and Performance, Railway Markets and Economics and Legal.

Two non-executive directors, Justin McCracken and Bob Holland, will also provide support and relevant expertise to the investigation.

How the investigation will be conducted

In carrying out its investigation ORR expects to draw upon information and reviews carried out by NR, train operators, Passenger Focus and London TravelWatch. In addition it will consider information it receives directly from passengers. Where appropriate, it will also draw upon any information generated by the investigation being carried out by ORR health and safety inspectors into these incidents. To the extent that ORR has carried out previous reviews in this area or is aware of previous relevant reviews, it will consider whether the lessons identified previously had been acted on appropriately.

Timescales

ORR aims to have prepared its initial findings by the end of January 2015, to then report to ORR's board both on what caused the problems, whether any further regulatory action is recommended and what lessons can be learnt going forwards.

The final report will be published on ORR's website in due course.

**Office of Rail Regulation
12 January 2015**