



## **Annex to support ORR investigations:**

**The framework for how ORR monitors and enforces Network Rail's delivery of train service performance**

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# Network Rail's regulated performance outputs

Public Performance Measure (PPM) and CaSL (Cancellations and Significant Lateness) are whole-industry measures which we assess Network Rail's performance against.

## Public Performance Measure

PPM is the proportion of trains that arrive at their final destination on time. On time is defined as arriving at the destination within five minutes of the planned timetable for London and South East, Regional and Scotland operators, or within ten minutes for Long Distance operators.

The moving annual average (MAA) reflects the proportion of trains on time in the past 13 periods. In P13, the MAA also represents the PPM for the financial year. A higher score indicates higher performance.

## Cancellations and significant lateness

CaSL captures the percentage of trains that have caused significant disruption to at least some passengers.

The moving annual average (MAA) reflects the proportion of trains cancelled or significantly late in the past 13 periods. In P13, the MAA also represents the PPM for the financial year. A lower score indicates higher performance.

A train is considered to be significantly late if it calls at all booked stations, completes its entire booked journey and arrives between 30 and 119 minutes after the scheduled arrival time at the final destination.

A train is considered to be a part cancellation if it covers more than half the scheduled mileage and either failed to run the whole journey or failed to stop at any station on the way. Trains completing their scheduled journey but arriving at their final destination late by 120 minutes or more also count as part cancellations.

A train is considered to be a full cancellation if it covers less than half the scheduled mileage, or does not run at all.

A train that fails CaSL also fails PPM.

## Network Rail's regulated performance outputs

We look at issues affecting overall performance delivery including the scale of external factors (such as severe weather) and TOC and Network Rail caused delays. Our focus is

on whether Network Rail did everything reasonably practicable to achieve its regulatory performance targets.

In Scotland, Network Rail's regulated output is an annual PPM target of 92% for years 1-4 for CP5 and a CP5 exit target of 92.5%. There is no CaSL target.

In England and Wales Network Rail's regulated outputs are

- PPM: A target of 92.4% for franchise TOCs for 2016-17.
- CaSL: A target of 2.2% for franchised TOCs for 2017-18.
- No TOC to exit Control Period 5 (CP5)<sup>1</sup> with a PPM below 90% except for:
- Virgin Trains East Coast (VTEC) must not exit with PPM below 88% or CaSL above 4.2%
- Virgins Trains West Coast (VTWC) must not exit CP5 with PPM below 88% or CaSL above 2.9%
- Great Western high speed services must not exit CP5 with PPM below 88% or CaSL above 2.2%

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<sup>1</sup> Control period 5 (1 April 2014 to 31 March 2019).

# Network Rail delivery of operational performance

## Overview

The railway network needs to be run for the benefit of the whole country. ORR regulates Network Rail, holding it to account for delivering high levels of performance and service, as well as value for money – for passengers, the freight industry and taxpayers.

ORR's approach to enforcement is set out in our Enforcement Policy and Penalties Statement<sup>2</sup>. In general, our policy is to monitor rigorously delivery of performance requirements and take effective enforcement action where this is in the public interest. ORR's focus is on using our regulatory powers to resolve serious or systemic issues that are not dealt with in contractual relationships. ORR's monitoring will generally focus on such issues.

We will monitor and hold Network Rail to account against its network licence. Under condition 1 of the licence<sup>3</sup>, Network Rail is required to achieve the purpose of the condition to the greatest extent reasonably practicable having regard to all relevant circumstances (including the ability of Network Rail to finance its licensed activities).

The purpose of condition 1 is to secure the:

- (a) operation and maintenance of the network;
- (b) renewal and replacement of the network; and
- (c) improvement, enhancement and development of the network,

in each case in accordance with best practice and in a timely, efficient and economical manner so as to satisfy the reasonable requirements of persons providing services relating to railways and funders, including potential providers or potential funders in respect of:

- (i) the quality and capability of the network; and
- (ii) the facilitation of railway service performance in respect of services for the carriage of passengers and goods by railway operating on the network.

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<sup>2</sup> ORR's Enforcement Policy and Penalties Statement:  
[http://www.orr.gov.uk/\\_data/assets/pdf\\_file/0018/4716/economic-enforcement-statement.pdf](http://www.orr.gov.uk/_data/assets/pdf_file/0018/4716/economic-enforcement-statement.pdf)

<sup>3</sup> Network Rail Infrastructure Ltd Licence:  
[http://www.orr.gov.uk/\\_data/assets/pdf\\_file/0012/3063/netwrk\\_licence.pdf](http://www.orr.gov.uk/_data/assets/pdf_file/0012/3063/netwrk_licence.pdf)

## CP5 requirements

In the PR13 final determination<sup>4</sup>, we set performance outputs for each of the five years 2014 - 2019. These include minimum PPM and maximum CaSL requirements by franchised operator, these are summarised below.

	Output
<b>Train Service Reliability</b>	<ul style="list-style-type: none"> <li>Public Performance Measure (PPM)<sup>5</sup> for England &amp; Wales (annual and CP5 exit of 92.5%), Scotland (annual 92% and CP5 exit of 92.5%) and franchised Train Operating Companies (TOC) in England &amp; Wales (rolling annual output Joint Performance Improvement Plans (JPIP)<sup>6</sup>, no TOC to exit CP5 below 90%, except East Coast and Virgin who must not exit CP5 with PPM below 88% or Cancellations and Significant Lateness (CaSL)<sup>7</sup> above 4.2% and 2.9% respectively, and 88% for First Great Western High speed services at the end of CP5).</li> <li>CaSL for England &amp; Wales (annual and CP5 exit of 2.2%) and rolling annual output JPIP.</li> <li>Freight Delivery Metric<sup>8</sup> (National annual 92.5%)</li> </ul>

Network Rail and TOCs have the flexibility to work together to set the ‘trajectory’ to reach the 2019 outputs, using the industry led Performance Strategies.

PPM and CaSL Moving Annual Average (MAAs) for each franchised operator, as described in Performance Strategies, continue to be monitored and enforced as Customer Reasonable Requirements (CRRs).

<sup>4</sup> PR13 final determination: [http://www.orr.gov.uk/\\_data/assets/pdf\\_file/0011/452/pr13-final-determination.pdf](http://www.orr.gov.uk/_data/assets/pdf_file/0011/452/pr13-final-determination.pdf)

<sup>5</sup> PPM is the proportion of trains that arrive at their final destination on time. A train is defined as on time if it arrives within five minutes of the planned destination arrival time for London & South East and regional services; or ten minutes for long distance services.

<sup>6</sup> JPIPs are joint performance improvement plans. As an outcome from Network Rail’s Performance Planning Reform Programme, they are likely to be renamed but the targets and initiatives committed to in these plans will have the same status as JPIPs.

<sup>7</sup> CaSL represents the proportion of trains which arrive at final destination greater than 30 minutes from planned arrival, or full/part cancelled or missed calls. Scotland does not have a CaSL target as the Scottish Government’s HLOS did not specify one.

<sup>8</sup> Freight Delivery Metric (FDM) measures the percentage of freight trains arriving at their destination within 15 minutes of scheduled time. It only covers delay caused by Network Rail.

We may intervene in certain circumstances, for example if an operator's PPM (MAA) appears likely to fall more than two percentage points below its agreed PPM output or CaSL MAA appears likely to increase more than 0.2 percentage points above target.

## Monitoring

### Approach to monitoring Network Rail's performance in years one and two of CP5

Network Rail entered year one of CP5 (2014-15) at much lower levels of performance than anticipated in our PR13 Final Determination. The company forecast that it would miss a number of regulated performance outputs during the first two years of CP5.

Network Rail developed the CP5 Performance Plan, which brought together a number of initiatives to improve train performance in the first two years of the control period.

We concluded that in years one and two, delivery of the plan would indicate that Network Rail was doing everything reasonably practicable to comply with its licence obligations.

### Approach to monitoring performance in years three to five of CP5

Network Rail has now devolved responsibility for the day-to-day running of its infrastructure from its centre to ten 'strategic' devolved routes, each with their own management team. This model involves a rebalancing of operational responsibility from the centre, with greater devolved accountability for the routes and the creation of a Route Services Directorate to act as a provider of services to the routes for which economies of scale or scope might be retained through centralised delivery, or for which a degree of network-wide coordination is needed.

Each Route Managing Director has an annual route scorecard that is agreed with their customers, the train and freight operators, and which will be used to judge end of year performance. They include a number of categories, one of which relates to train service performance.

We now use the route scorecards as further evidence when assessing whether Network Rail is doing all it should to meet the regulated performance targets. Ultimately Network Rail is still held to account for delivery of the regulated targets but the scorecards provide evidence as to whether it has done all that is reasonably practicable to meet its regulated targets.

A move to route based monitoring also supports recent recommendations in the Shaw Report<sup>9</sup> which suggested Network Rail should move to greater devolution to its routes.

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<sup>9</sup> The Shaw Report Match 2016:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/510179/shaw-report-the-future-shape-and-financing-of-network-rail.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510179/shaw-report-the-future-shape-and-financing-of-network-rail.pdf).

## Intervention

We do not expect that failure by Network Rail leading to it missing a target would generally, on its own, constitute a licence breach.

We expect parties to try to resolve any problems themselves in the first instance. In deciding what action to take, we will look at all the circumstances of the case including past, current and likely future performance, what action Network Rail is or has taken to try to resolve poor performance, whether Network Rail's plans to improve performance are adequate and appropriate and any mitigating or aggravating factors, as well as looking at whether the TOC has acted reasonably.



# Relevant Railways Act 1993 legislation

The Office of Rail Regulation (ORR) must discharge the statutory duties placed upon it by section 4 of the Railways Act 1993 (as amended by the Transport Act 2000 and the Railways Act 2005).

## Section 4 of the Railways Act 1993

- (1) The Office of Rail Regulation shall have a duty to exercise the functions assigned or transferred to it under or by virtue of this Part or the Railways Act 2005 that are not safety functions in the manner which it considers best calculated —
  - (zb) to promote improvements in railway service performance;
  - (a) otherwise to protect the interests of users of railway services;
  - (b) to promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of that railway network, to the greatest extent that [it] considers economically practicable;
    - (ba) to contribute to the development of an integrated system of transport of passengers and goods;
  - (bb) to contribute to the achievement of sustainable development;
  - (c) to promote efficiency and economy on the part of persons providing railway services;
  - (d) to promote competition in the provision of railway services for the benefit of users of railway services;
  - (e) to promote measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator;
  - (f) to impose on the operators of railway services the minimum restrictions which are consistent with the performance of its functions under this Part or the Railways Act 2005;
  - (g) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

- (2) Without prejudice to the generality of subsection (1)(a) above, the Office of Rail Regulation shall have a duty, in particular, to exercise the functions assigned or transferred to it under or by virtue of this

Part or the Railways Act 2005 that are not safety functions in the manner which it considers is best calculated to protect—

- (3) the interests of users and potential users of services for the carriage of passengers by railway provided by a private sector operator otherwise than under a franchise agreement, in respect of—
- (a) the prices charged for travel by means of those services, and
  - (b) the quality of the service provided, and
- (4) the interests of persons providing services for the carriage of passengers or goods by railway in their use of any railway facilities which are for the time being vested in a private sector operator, in respect of—
- (a) the prices charged for such use; and
  - (b) the quality of the service provided.

The Office of Rail Regulation shall be under a duty in exercising the functions assigned or transferred to it under or by virtue of this Part or the Railways Act 2005 that are not safety functions—

- a) to take into account the need to protect all persons from dangers arising from the operation of railways; and
- b) to have regard to the effect on the environment of activities connected with the provision of railway services.

Sections 3A, 3B and 4 relate to the Secretary of State and the Scottish Minister

The Office of Rail Regulation shall also be under a duty in exercising the functions assigned or transferred to it under this Part or the Railways Act 2005 that are not safety functions—

- (a) to have regard to any general guidance given to it by the Secretary of State about railway services or other matters relating to railways;

(aa) to have regard to any general guidance given to it by the Scottish Ministers about railway services wholly or partly in Scotland or about other matters in or as regards Scotland that relate to railways;

(ab) in having regard to any guidance falling within paragraph (aa), to give what appears to it to be appropriate weight to the extent (if any) to which the guidance relates to matters in respect of which expenditure is to be or has been incurred by the Scottish Ministers;

(b) to act in a manner which it considers will not render it unduly difficult for persons who are holders of network licences to finance any activities or proposed activities of theirs in relation to which the Office of Rail Regulation has functions under or by virtue of this Part or that Act

(whether or not the activities in question are, or are to be, carried on by those persons in their capacity as holders of such licences);

c) to have regard to the funds available to the Secretary of State for the purposes of his functions in relation to railways and railway services;

(ca) to have regard to any notified strategies and policies of the National Assembly for Wales, so far as they relate to Welsh services or to any other matter in or as regards Wales that concerns railways or railway services;

(cb) to have regard to the ability of the National Assembly for Wales to carry out the functions conferred or imposed on it by or under any enactment.

d) to have regard to the ability of the Mayor of London,<sup>25</sup> and Transport for London to carry out the functions conferred or imposed on them by or under any enactment.

(5A) Before giving any guidance for the purposes of subsection (5)(a) above the Secretary of State must consult the National Assembly for Wales.

(5B) In exercising its safety functions, other than its functions as an enforcing authority for the purposes of the Health and Safety at Work etc Act 1974, the Office of Rail Regulation shall be under a duty to have regard to any general guidance given to it the Secretary of State.

In performing its duty under subsection (1)(a) above so far as relating to services for the carriage of passengers by railway or to station services, the Office of Rail Regulation shall have regard, in particular, to the interests of persons who are disabled.

Without prejudice to the generality of paragraph (e) of subsection (1) above, any arrangements for the issue and use of through tickets shall be regarded as a measure falling within that paragraph.

(7ZA) Where any general guidance is given to the Office of Rail Regulation for the purposes of subsection (5)(a) or (aa) or (5B)—

- it may be varied or revoked by the person giving it at any time; and
- the guidance, and any variation or revocation of the guidance, must be published by that person in such manner as he considers appropriate.

(7A) Subsections (1) to (6) above do not apply in relation to anything done by the Office of Rail Regulation in the exercise of functions assigned to it by section 67(3) below (“Competition Act functions”).

(7B) The Office of Rail Regulation may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of subsections (1) to (6) above, if it is a matter to which the Office of Fair Trading could have regard when exercising that function.

...

(8) In this section—

“the environment” means all, or any, of the following media, namely, the air, water and land (and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground);

“notified strategies and policies”, in relation to the National Assembly for Wales, means the strategies and policies of that Assembly that have been notified by that Assembly for the purpose of this section to the Office of Rail Regulation;

“the passenger transport market” means the market for the supply of services for the carriage of passengers, whether by railway or any other means of transport;

“railway service performance” includes, in particular, performance in securing each of the following in relation to railway services –

- a. reliability (including punctuality);
- b. the avoidance or mitigation of passenger overcrowding; and
- c. that journey times are as short as possible;

“safety functions” means functions assigned or transferred to the Office of Rail Regulation:

- i. under this Part;
- ii. under or by virtue of the Railways Act 2005; or
- iii. under or by virtue of the Health and Safety at Work etc Act 1974;



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