



Llywodraeth Cymru
Welsh Government

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Welsh Government response to the ORR consultation on the formalisation of the Rail Delivery Group

The Welsh Government welcomes the opportunity to comment on the Office of Rail Regulation's (ORR) consultation on the formalisation of The Rail Delivery Group (RDG).

In general, we are pleased that the consultation recognises the Welsh Government's role in the RDG (e.g. at 2.4(c)), and we want to continue to work with the ORR to embed the consideration of Welsh policy in railway matters. We welcome that ORR has stated that Welsh Government has a position alongside the UK and Scottish Government in determining the future of rail. This recognition is vital so that, in future, the Welsh Government can be involved by default in these matters in the future structure of the rail industry. We would welcome more involvement with the RDG and would want to have active engagement at Minister level when the RDG meets with the UK Secretary of State for Transport.

Our detailed response to the specific questions raised in the consultation is set out below:

Question 1 – Please comment on whether you consider that the purpose of the RDG will drive the changes and improvements envisaged by the McNulty study.

The Welsh Government agrees that the purpose of the RDG, as set out in the consultation, should enable a co-ordinated industry approach to deliver the changes and improvements envisaged by the McNulty study. The implications of McNulty are significant, with the potential for long-lasting impacts on customers, the workforce, suppliers and the accessibility of the railways. Therefore it is imperative that the RDG is transparent, particularly where we need co-ordination and consistency between industry and Government planning.

We note that the RDG is proposed to be a key resource for Government in promoting change in the industry and are pleased to note this includes a specific reference to the Welsh Government.

The need for the group to be adaptive to potential local differences in Devolved and UK Government rail policies is essential and our view needs to be reflected in the purpose of the RDG.

Question 2 – Are you content with the proposed structure of the RDG board, particularly in terms of scope of representation and criteria for membership?

The Welsh Government agrees that the RDG leadership needs to consist of the appropriate chief executives / senior executive and to maintain the provision for future membership entitlement for new owning groups. We question whether the qualifying turnover threshold of £250m will prevent any future Wales and Borders franchisee to be a future leadership group member following the next franchise in 2018.

Our view is that RDG membership should include the devolved Welsh Government's franchise operator irrespective of the turnover of the owning group to ensure appropriate representation in the group from Welsh Government (and other devolved administrations). We note (at 2.20) that specific reference of a risk to membership of freight operators is a possibility due to failing to meet the qualifying turnover threshold and we support the suggestion that the two largest freight operators membership could be stipulated irrespective of turnover. We would strongly make the point that this should be widened to include devolved administrations' passenger operations.

We would also like the ORR, through this consultation, to consider the role of employee representatives being members of the leadership group to ensure appropriate involvement in the formation of the future strategy and policies for the rail industry that will impact on its employees. It is acknowledged that such groups are currently proposed to be associate members (at 2.27) and primarily involved as invited groups with limited specific rights in terms of representation and voting.

Question 3 – Please comment on how you consider the RDG could best engage with licensed and associate members.

The Welsh Government recognises that there are a host of representative organisations that need to be reflected, including passenger representation and community rail organisations. At present rail is delivered on an England and Wales basis, and we would expect to see some degree of regional representation within the membership of the RDG.

The reference to the annual RDG forum is noted (at 2.26 (b)) and we would suggest that consideration is made to holding this forum throughout the UK, including in Wales, on a rotational basis. This is to ensure full transparency and representation.

Question 4 – (for licensed train operators and Network Rail) in view of these proposals would you be content to agree to the introduction of the new condition at Annex B into your licence? If not, what changes would you wish to see which would allow you to provide that agreement.

The Welsh Government notes the proposal of the introduction of a new licence condition as part of these proposals. We would like to understand the future funding commitment for the licence changes and if there is potential risk of increased Government revenue support.

The Welsh Government would wish to be notified prior to any ORR enforcement action (at 2.36) in respect of the failure to comply with licence conditions of the Wales and Borders franchisee or the Network Rail Welsh route.

The Welsh Government notes that the RDG articles (at 2.39/2.40) will be binding on key participants as proposed in the consultation and are to be made available through the RDG website during the Autumn and published alongside the conclusions document in October. The Welsh Government would like to have an input in the RDG articles given these will form the basis of the RDG structure, membership, voting and funding arrangements.

Question 5 – Will the proposed voting and quorum arrangements provide you with assurance that decisions taken by RDG will have sufficient cross-industry support to justify implementation.

The Welsh Government considers that appropriate consultation with Welsh Ministers should take place prior to the appointment of key personnel such as that described at 2.42.

The proposed voting arrangements would appear to provide a degree of assurance of sufficient cross-industry support. In addition we note and support the role of Network Rail in decision making as outlined in 2.47.

Question 6 – Are there any specific commercial protections that you consider will need to be included within the competition compliance document?

We note the proposal to ensure compliance with competition laws.

Question 7 – Please comment on whether you consider these funding arrangements to be appropriate.

As we have outlined earlier in our response (Question 4) we are unclear whether, especially in the case of Wales, the funding of the RDG is, partially, by Government. We note at 2.60 that the responsibility for calculating the annual budget will fall to the secretariat and would propose that the Welsh Government has some input and visibility of this process in relation to Wales.

I hope that this response is helpful, and we look forward to further discussions and involvement in the Rail Delivery Group.

Yours sincerely,

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