

**Head of Rail Strategy
Rail**

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Philip Wilcox
Office of Rail Regulation

Sent by e-mail

Your ref:

Our ref:

Date:
12 October 2012

Dear Philip,

ORR'S APPROACH TO TRANSPARENCY – A CONSULTATION

Thank you for the opportunity to respond to this consultation. I have provided some general points in this letter with answers to specific questions in the Annex.

Transparency has always been a key commitment of the Scottish Ministers both in terms of how the Scottish Government operates as a public body and in encouraging openness across the wider public sector in Scotland.

As demand for information becomes ever greater and access to information ever faster it is critical that government and the wider public sector continually endeavour to satisfy the justifiable expectations of those who use and fund public services. The public are entitled to have opportunities to scrutinise services and have their say on how public services are designed and delivered.

The Scottish Government has endeavoured to lead by example. Transparency is a key element to achieving our national outcome of ensuring our public services are high quality, continually improving, efficient and responsive to local people's needs. This is something that has not been reflected in your consultation document – focussing instead on the UK Government.

Clearly transparency is enhanced by greater clarity around the objectives of public services, particularly in a rail context. In Scotland this has been strengthened through the recent publication of the Scottish Ministers' High Level Output Specification (HLOS) and emphasised through the refreshed Guidance to the ORR.

In strengthening transparency we must also ensure that the objectives we aim to achieve reflect the needs of the passengers and others – in terms of what and how information is provided. The rail industry in particular can be highly complex. Information must be consistent and high quality and in a format which accessible and

understandable and avoids unnecessary duplication. The transparency of information must also respect issues of commercial confidentiality where these exist. We would look to the ORR to lead this.

The Scottish Ministers welcome recent decentralisation of key decision-making processes and delivery functions in respect of rail infrastructure management and the strengthening of alliances across the industry to better align incentives and behaviours. Given both the role of Scottish Ministers under the 2005 Act and the desire for these processes to develop and flourish further there will be an even greater need for disaggregated, local information to be developed, monitored and reported for the Scottish route.

I hope this response is useful, and I am content for it to be placed on your website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steven McMahon', written in a cursive style.

Steven McMahon
Head of Rail Strategy

ANNEX

ORR'S APPROACH TO TRANSPARENCY – A CONSULTATION

Responses to the specific consultation questions

Q1 – We would like to hear consultees' views on the content and functionality of the NRT Portal.

We welcome the creation of the NRT Portal but the ORR needs to ensure that the general points raised above are taken into account when considering its content and functionality.

Q2 – We are interested to hear views on what other areas of our work consultees believe should be published and why?

Greater transparency in the ORR's decision making process would be welcomed. Currently it is some time between the end of a consultation and a decision being announced. More transparency of the process between those points and a speeding up of the process involved would be welcomed by all parties.

Q3 – We would be interested to hear consultees' views on our proposals around the publication of the results from our safety inspections and reports on the comparative performance of duty holders from our audit and inspection activities.

The Scottish Government is committed to encouraging modal shift from private to public transport. We recognise that current rail safety levels are at, or near to, all time highs. We would therefore like to see any publication of the safety inspections and comparisons to be seen in the context of rail being a far safer mode of transport than road, and that in publishing statistics there is no unintended disadvantage caused in comparison with those modes that do not have the same level of publication and scrutiny. It may also be useful to compare with international benchmarks.

Q4 – We would also be interested to hear views on the benefits and otherwise of duty holders reporting on best practice by the publication of specific KPIs.

We would welcome greater transparency from the industry and the publication of KPI's statistics would add to existing knowledge. Sharing best practice should be encouraged but we would caution against any potential for too much focus to be placed on certain KPI's resulting in the KPI becoming the driver of behaviour rather than any over arching aspirations for the railway.

Q5 - We would be interested to hear consultees' views as to the potential use that could be made of Network Rail historic performance data. In particular the extent to which this data provides a means by which the market, via third party developers, could meet consumer demand for real time train information products and services and/or information about performance at even more disaggregation than the current route sector publication.

We have welcomed the PIDD process and the inclusion of a Licence condition which should be driving the industry into providing close to real-time train information for passengers. If there is a link between Network Rail's historic performance data and real-time train information provision we would welcome it being used for that purpose. However if any link is established we expect the use to be objective and meaningful to passengers. Likewise the disaggregation of performance data should be in line with what passengers can seek recompense through the various compensation initiatives. Adding further metrics may add confusion if not carefully aligned.

Q6 - In what areas of its business could Network Rail, in your view, become more open, and what information or data would you like to see made available as a result?

We would welcome more transparency of policy and strategy development within Network Rail prior to decisions being reached. Financial information should be more transparent, particularly around centralised costs and how spend correlates to activity and performance.

Q7 - We are interested in hearing views on the scope of our and industry activities; whether the sector is moving in the right direction; whether the pace is right; and whether there are other areas that consultees believe would benefit from greater transparency and why.

Greater transparency would be welcomed providing the general points raised above are taken into account.

Q8 - We are interested in consultees' views on the use of our statutory powers and how they believe they could be applied in the context of transparency.

This is a legal matter for the ORR.

Q9 - Presentation of the data or information is key and we would like to hear views as to the likely risks and pitfalls and how best to address them.

We agree that accessibility is vital. As indicated in our general comments, ensuring simplicity and consistency is key. Any data released should be meaningful and in context – not just data for data's sake. It may be helpful to the information user for any peaks or troughs in performance to have some text explaining the reasons.

Q10 - We would be interested to hear of any other initiatives in the sector or elsewhere where transparency has resulted in positive change.

We are mindful of the "school league tables" which - according to some commentators - have driven some education industry behaviours in unintended directions. Therefore we would wish the ORR to be wary of perverse incentives or unintended consequences.

Our experience is that the Alliancing arrangements currently in place in Scotland have resulted in a positive impact by increasing transparency and providing the framework for a better understanding of each aspect of the railway business. The arrangements in place for the delivery of the Paisley Canal electrification are evidence of what this can deliver.

Q11 - We are also interested in hearing about the risks and any unintended consequences.

We believe that unless carefully moderated TOCs / Network Rail may try to achieve absolute punctuality without consideration for passenger interface or advertised connections, be they train to train, or connections from other modes such as ferries. Reasonable steps should be taken to safeguard passenger interests.

Q12 - Consultees views are sought on how we should go about evaluating the risks and benefits of more transparency and what factors we should take into account, including how we should measure whether our objectives for transparency are being achieved.

Measuring, reporting and, where necessary, enforcement are matters for the ORR. We would expect increased transparency to help drive positive change by improving understanding of the industry, both internally and externally, and ultimately helping to improve industry outcomes.