

**Head of Rail Strategy
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Dear Andrew,

RAIL DELIVERY GROUP (RDG) - FORMALISATION

Thank you for the opportunity to respond to this consultation.

General observations on the consultation are set out below. Specific responses to the consultation's questions are attached as an annex to this letter.

Transport Scotland broadly welcomes industry initiatives which support closer working and which seek to improve quality, efficiency and value for money in rail services. In order to achieve the right outcomes, the members of the RDG have to set aside vested interests and act in the best interests of the passengers and freight users.

In order to achieve credibility and buy in amongst the rail industry, rail users, wider stakeholders and government the RDG has to produce tangible, effective outcomes soon.

Linked to the above, membership of RDG should bring with it a real commitment to change. In this sense, the proposed licence conditions are arguably weak, requiring in effect only participation in the group.

Regionalisation and decentralisation are key features of the rail reform agenda, and in many respects the network in Scotland is ahead of the game as a result of the executive devolution of powers to the Scottish Ministers under the Railways Act 2005. It is therefore essential that RDG has the capability to understand and

reflect geographical differences in the outcomes of their work. This is particularly acute for Scotland where among other things the Scottish Ministers have the power to develop a strategy for railways, which may necessitate on occasion a different approach from that taken on the GB network more generally.

Similarly, the RDG should be equipped to reflect differing requirements at a sectoral level. In particular, that there is a strong social as well as economic dynamic to the provision of rail services. In addition, the interests of freight operators should also be fully reflected in the work of the RDG.

I hope this response has been helpful. I am also content for the response to be made available on the ORR 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
Transport Scotland

ANNEX – CONSULTATION QUESTION RESPONSES

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

We broadly support the purpose and believe that the RDG should focus on those outcomes which best serve passenger and freight user interests, ensuring that regional differences are given proper consideration.

The RDG should not limit its focus to the recommendations of the McNulty study and in particular should fully reflect the aspirations and priorities of Scottish Ministers. It is critical that distinctly Scottish considerations are not overlooked when considering GB wide issues.

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

The position of minor operators has to be protected: this should be monitored and where necessary enforced by the ORR under their Section 4 duties.

I would suggest that as a minimum there should be at least one representative from the minor operators on the Board who is equipped to speak on behalf of the collective. And as per my opening paragraphs, it is essential that the RDG Board has the expertise and understanding to assess the impact of outcomes at a sectoral and geographic level.

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

This is for the RDG to resolve.

4. In view of the proposals would you be content to agree to the introduction of the new condition in Annex B into your licence? If not, what changes would you wish to see which allow you to provide that agreement.

This is primarily an issue for licence holders, who have to be in agreement before any changes can be made. However, I would appreciate more detail from the ORR on how they intend to enforce the licence condition and how they believe a licence provision will provide "the necessary support".¹

That condition, as it is, only requires that the rail companies become members; in effect the only requirement would be to attend the RDG meetings. For the RDG to achieve its ambitions, it must become a body for action and change and the expectations it places on its members should reflect this.

¹ Item 2.34, page 13, ORR consultation on the formalisation of the Rail Delivery Group

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

It is far more important that the industry and its supply chain send a clear signal that they are committed to implementing guidance/policies from the RDG. It is also important that there is collective responsibility for the implementation of guidance/policies and I seek clarity on how the ORR and RDG will ensure this is the case.

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

This is a matter for the ORR, who should ensure compliance with relevant legislation.

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

An annual levy is consistent with the approach taken in other areas of the rail industry. However, we would have a very clear expectation that there will be no increase in the call on public funding as a result of RDG activity.