

3 May 2018

Dear stakeholders,

### **Decision on Schedule 4 notification factors**

1. In December 2017, we consulted on a range proposals to amend Schedule 4 notification factors in line with the most recent evidence on passenger awareness of disruption. This followed industry concerns about their effectiveness.
2. Specifically, we consulted on:
  - a proposed methodology for any updates to notification factors;
  - updating the notification factors for the three existing notification thresholds in line with the proposed methodology; and
  - adding a new intermediate threshold at 14 weeks before the timetable week of the planned possession.
3. We received 15 responses to the consultation. Responses were broadly supportive of the proposal to update the notification factors in light of the new evidence and our proposed methodology.
4. Although there was some support for the principle of introducing an intermediate notification threshold, there was general concern about whether the 14-week threshold we proposed would be appropriate. A number of respondents, including the Rail Delivery Group (RDG), suggested further work should be done by industry to consider fully the implications of a new intermediate threshold and help determine what an appropriate threshold would be.
5. Having considered all the responses to our consultation we have decided that the notification factors relating to the existing three notification thresholds should be updated in line with the methodology we proposed.
6. With regard to the proposal to introduce a new intermediate threshold, we have asked RDG to take forward the additional work it suggested to inform a future decision on whether to introduce a new intermediate threshold. We are



encouraged that it has already set up a working group to look at this and we will continue to engage with RDG over the coming months. To allow us make a decision on this ahead of our final determination, we need the working group to submit any proposals to us by no later than 30 June 2018.

7. Further detail on the views expressed by respondents to our consultation, along with our response to the points made, can be found in the Annex to this letter.
8. If you wish to get in touch to discuss this letter, please email our PR18 Schedules 4 and 8 inbox ([PR18.Schedules4and8@orr.gsi.gov.uk](mailto:PR18.Schedules4and8@orr.gsi.gov.uk)).

Yours faithfully,

Chris Hemsley

## **Annex: Summary of stakeholder views and our responses**

1. We would like to thank all those that provided responses to our consultation, which we have considered and reflected in our decision. This document provides a high-level summary of these responses.
2. We received 15 responses<sup>1</sup>. On balance, responses were supportive of our proposal to update the notification factors in light of the new data collected by AECOM, but were more mixed on our proposal to introduce an intermediate notification threshold.

### **Our proposed methodology for updating the notification factors**

#### *What we said in our consultation*

3. Both the Rail Delivery Group's (RDG) 2015 review of charges, our letter and responses to our November 2015 stakeholder letter raised concerns with how the CP5 notification factors were affecting Network Rail's decision-making.
4. In light of these shared concerns, we commissioned research into passengers' awareness of disruption. We used that research to develop a proposed methodology for updating the notification factors. We consulted on this methodology as part of our December 2017 consultation.

#### *Stakeholder views*

5. A number of respondents including the Department for Transport (DfT) and Network Rail welcomed the new research and were supportive of using passenger awareness to inform notification factors.
6. Two respondents (FirstGroup and Transport for Greater Manchester (TfGM)) expressed concern about whether information about when passengers planned their journey or bought a ticket were reasonable proxies for passenger awareness, and therefore whether the research directly answered the research question.
7. Network Rail was also concerned that passengers are likely to over-report instances of disruption which may result in bias in the research and therefore overcompensating operators for the effect of planned disruption on passengers.
8. Two respondents (Southeastern and Network Rail) were concerned about the proposal to exclude commuters and season ticket holders from the data. They noted that commuters were the most aware passenger group, whilst infrequent

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<sup>1</sup> Available [here](#)

leisure travellers are generally least aware of planned possessions, and were concerned that excluding commuters could unintentionally skew the results of the analysis.

*Our response and updates since our consultation*

9. We are mindful that the latest research does not directly reveal when respondents find out about planned disruption. It is not practical to measure passenger awareness directly because, amongst other things, we did not know when each possession was announced or have a reliable way of directly measuring when each passenger became aware.
10. Our view is that the assumptions we made as part of this methodology are reasonable given the data constraints, and that this approach, which relies on actual passenger behaviour (as regards planning and booking their journeys), is an appropriate way of ensuring that the notification factors in Schedule 4 are based on robust up-to-date information about passenger awareness. This approach also reduces the concern about passengers over-reporting disruption, as we are relying on their planning and booking habits rather than their recollection of disruption.
11. Our methodology removed commuters and season ticket holders because the research is less effective at revealing their behaviour. Unlike other travellers, commuters and season ticket holders do not make decisions on a journey-by-journey basis. Therefore, it is difficult to gauge awareness from information about when they plan or book their journey.
12. While we accept that removing commuters and season ticket holders is a limitation in principle we do not think it will unduly impact the results because:
  - the vast majority of possessions take place overnight and/or at weekends, outside the commuter peak; and
  - longer possessions that are more likely to affect peak times are eligible for bespoke compensation (which is not impacted by notification factors).
13. We remain of the view that the methodology we proposed is appropriate, given the evidence available, and will result in the Schedule 4 regime more accurately compensating operators and incentivising Network Rail to reduce planned disruption.

## Recalibrating notification factors for existing notification thresholds

### *What we said in our consultation*

14. We proposed updating the notification factors that apply for the existing notification thresholds so that they are more reflective of passenger behaviour. We highlighted that this should result in possessions being planned more efficiently.

	London & SE Long Distance	London & SE Short Distance	Not London Long Distance	Not London Short Distance	Airports
Early threshold (D-26)	37%	59%	36%	60%	31%
Informed traveller threshold (T-22)	37%	59%	36%	60%	31%
Late threshold (applicable timetable)	91%	86%	93%	88%	90%

**Table 1:** Proposed notification factors for existing thresholds

### *Stakeholder views*

15. Most respondents (including Network Rail, the DfT and RDG) were supportive of using the information gathered by AECOM to update the notification factors. Some respondents stated that updating notification factors to reflect more current passenger behaviour would encourage more efficient planning and lessen Network Rail's incentive to cancel early-booked possessions.
16. A number of respondents discussed the link between the notification thresholds and wider industry processes. FirstGroup were supportive of the proposal on the basis that it would not interfere with industry processes, but Arriva worried it could impact the incentives to meet industry deadlines.
17. Network Rail was supportive of the proposal to align the D-26 and T-22 notification factors. It said that this should eliminate the incentive it currently has to notify very early, before accurate possession plans are in place. It supported our statement that these two notification factors should be aligned because they have no effect on when passengers can be made aware of the possession. Network Rail also noted that it faces other incentives to notify operators of network availability (such as reputational incentives and doing the right thing for the customer).
18. Network Rail and TfGM were concerned that the change in notification factors would result in lower compensation overall for franchise operators. Network Rail was concerned that the change may encourage operators to dispute possessions

more often, which may compromise safety on the network. However, Transport for London (TfL) was supportive of lower payments between Network Rail and operators as it would result in lower ACS payments.

#### *Our response and updates since our consultation*

19. We consider it important that the notification factors and thresholds not only reflect passenger behaviour and awareness but also align with industry processes. We do not think that updating the notification factors should have a material negative impact on the existing processes. More generally, we urge all parties to continue to work together to ensure that the impact of possessions on customers is minimised. If improvements could be made to these processes (such as code changes) we would encourage the industry to take these forward.
20. We remain of the view that updating the notification factors in line with the latest research will improve the accuracy of the compensation paid to operators and should help ensure that appropriate incentives are in place for Network Rail. For these reasons, we have decided that the notification factors for existing thresholds should be updated in line with our proposal.

#### **Introducing a new intermediate notification threshold**

##### *What we said in our consultation*

21. In our consultation, we proposed introducing a new notification threshold at 14 weeks before the timetable week of the possession (T-14).
22. We recognised that any new threshold would need to both align with industry processes and reflect research on passenger behaviour. For this reason we proposed:
  - setting the threshold at T-14 to reflect the significant interaction between Network Rail and operators, with the expectation that it would fit well with existing processes; and
  - basing the notification factor on the degree of passenger awareness at two weeks before travel (this was intended to be a prudent assumption that allowed sufficient time for industry processes and the notification of passengers of alternative arrangements).

### *Stakeholder views*

23. A number of respondents (including RDG and Network Rail) were broadly supportive of the principal of introducing an intermediate threshold between the informed traveller threshold and the late notice threshold. However, several respondents (including FirstGroup and Stagecoach) were concerned about the introduction of a new intermediate threshold and thought it could have the unintended consequence of reducing the incentive on Network Rail to notify operators in advance of the early thresholds. They were concerned that this would mean more late notice possessions and that this would have a detrimental impact on both wider industry processes (such as timetabling) and on passengers.
24. Those respondents that were supportive of the principle of a new threshold expressed concerns that T-14 was not an appropriate threshold. They suggested that the use of T-14 would result in a (false) assumption that the possession would be taken into account in the timetable produced at T-12. They suggested that additional work would be needed to identify an appropriate interim threshold and further consider the impact it would have.
25. RDG also suggested that developing a new industry process, for the situation in which D-26 is missed, should be considered. It thought this could lead to a better outcome for Network Rail, train operators and passengers. For example, it noted that this could better incentivise the industry to work together to agreed timescales and reduce the incentive to appeal and prolong the process of agreeing possessions.

### *Our response and updates since our consultation*

26. We welcome the responses to our proposal to add a new, intermediate threshold to Schedule 4 and recognise the concerns that some respondents had about its potential unintended consequences.
27. While we remain of the view that an additional threshold could deliver benefits we are mindful that this would only be the case if it were set at an appropriate date. Any additional threshold would need to consider:
  - the relative benefits of incentivising Network Rail to notify ahead of the existing late threshold compared to the potential incentive not to notify before T-22; and
  - how it would fit with the wider industry processes (especially regarding timetabling).



28. RDG offered to do further work to identify an appropriate additional threshold and consider the impacts it would have. We support this proposal and have already confirmed with RDG that we would like them to take this work forward.
29. To allow us to make a decision on this prior to the PR18 Final Determination, we need the working group to submit any proposals surrounding a new intermediate threshold to us by no later than 30 June 2018. Any proposals to amend the existing industry processes should be taken forward using existing arrangements and in a timely manner.
30. We also support RDG's proposal to review the industry process and propose appropriate amendments for situations when D-26 is missed. We encourage RDG to take this forward in a timely manner.