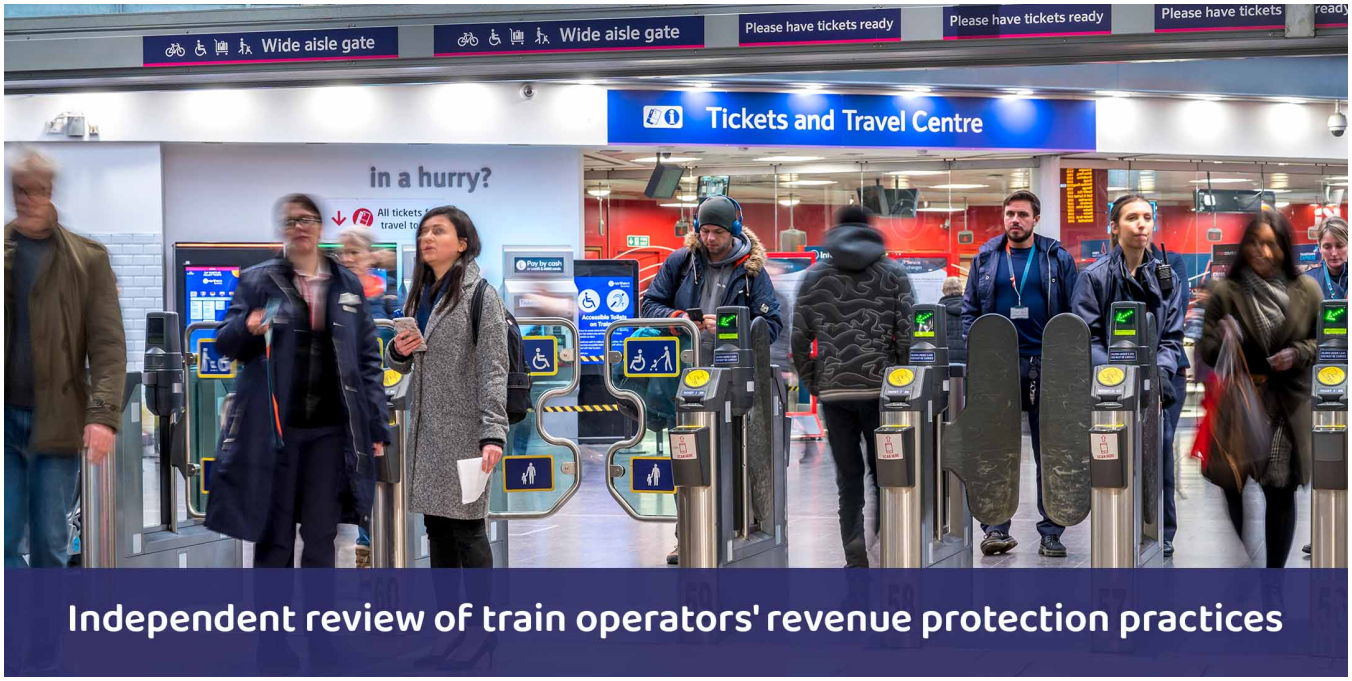
Independent review of train operators' revenue protection practices

A report to the Secretary of State for Transport



Executive summary

Introduction

1. Fare evasion is a crime and costs Britain's railway hundreds of millions of pounds every year, denying train operators legitimate revenue and undermining fare-paying passengers' sense of fairness in the system. Less industry revenue means higher fares, higher taxpayer subsidy and less money for investment to improve services.

2. It is therefore right that there are measures in place to deter and hold to account those who

deliberately evade their fare. However, it is vital that these are applied appropriately and fairly, and in a way that maintains trust in the system.

3. During 2024, the media reported on a number of cases of train operators appearing to take disproportionate action against passengers who, on the face of it, had made genuine errors with their tickets. This led, in some cases, to prosecution.

4. These cases involved individuals being penalised for seemingly unintentional or minor transgressions of fares and ticketing rules, including where:

- there was no possible revenue loss to the industry; and
- a rule had technically been broken, but the circumstances were such that the passenger's error appeared to have been made innocently and without them realising. For example, where the terms and conditions (T&Cs) of a railcard may not have been clear to a passenger when purchasing their ticket.

5. In addition, in August 2024, the Chief Magistrate quashed six fare evasion convictions that had been prosecuted incorrectly using the fast-track 'Single Justice Procedure' (SJP). This then led to just over 59,000 similar convictions being quashed. While this was on the grounds of a specific procedural error by train operators (rather than a fundamental problem with the case for prosecution), it raised concerns about the oversight and assurance of the processes for prosecution within both the train operating companies (TOCs) involved and the court system.

6. In response, on 13 November 2024 the then Secretary of State for Transport commissioned the Office of Rail and Road (ORR) to conduct an independent review of train operators' revenue protection practices. Her overriding priority in doing so was to ensure that fare evasion was being addressed, but in a way that was fair to passengers and in line with the correct procedures.

Background

7. There are a range of circumstances in which a passenger may innocently attempt to travel without a valid ticket for their journey. For example, they may make a mistake during purchase, they may accidentally board the wrong train, they may misplace their ticket or leave their railcard at home.

8. However, many of these reasons can also be used as excuses by passengers who deliberately choose to underpay or avoid their fare. This creates a number of 'grey areas' where it can be

difficult for rail staff to determine the passenger's intent and decide how to address the situation.

9. Making this more challenging is the railway's complex fares and ticketing framework. This has grown more complicated over time, with more features being added as the industry has responded to developments such as the introduction of mobile apps for ticket purchases, and has offered new ticket products to meet evolving passenger needs and expectations.

10. While this has provided a wide array of choice, it has also increased the scope for passenger confusion and error, with more options and T&Cs to understand. In the past, passengers were able to rely on the advice of booking office staff to get this right. But with around 60% (source: Table 10, Ticket purchasing behaviour and preferences among rail passengers, DfT. Research carried out in February and March 2023) of tickets now bought online or at ticket machines, there is now much greater onus on passengers themselves to navigate this.

11. The complexity and nature of the system has also increased the number of vulnerabilities available for fare evaders to exploit. In this context, as intent can be hard to determine, a passenger making an innocent mistake may be assumed to have acted deliberately.

12. The rail industry's ticketing rules impose a strict requirement on passengers to hold a valid ticket for their journey (with a few limited exceptions). Added to this, under railway byelaws, it is an offence not to be able to present a valid ticket for a journey – regardless of the passenger's intent. This 'strict liability' framework makes the consequences for a passenger not holding a valid ticket potentially very serious.

13. This, and the challenge of verifying a passenger's true intention, can mean that disproportionate action can end up being taken against some passengers.

The passenger perspective

14. As part of our review, we issued a Call for Evidence inviting passengers to submit their experience of revenue protection practices. We have included a number of quotes and case studies from this in our report and include some of these below to illustrate some of the reported outcomes that have arisen under the current system.

A sample of passenger case studies from our Call for Evidence

- A passenger was threatened with prosecution for accidentally selecting a 16-25 railcard

discount when they had a 26-30 railcard. Both railcards provide the same discount. So, although the ticket was technically invalid, there was no difference in the fare and therefore no net loss to industry. The case was eventually dropped after their MP became involved.

- A passenger's printed e-ticket was water damaged and so could not be scanned by a member of rail staff. Despite subsequently providing proof of a valid ticket for the journey, they were threatened with prosecution and in the end agreed to settle out of court for £81 to avoid the risk of conviction.
- A passenger successfully appealed a penalty fare but discovered four years later (after a criminal records check for a job) that they had been convicted for fare evasion without knowing about it (they claimed they had never received any documentation or court material).

The rail industry perspective

15. Fare evasion is a crime and rigorous enforcement action is needed to tackle deliberate fare evasion and related fraud. In addition, rail staff can face challenges in dealing with aggressive and abusive behaviour when undertaking revenue protection duties.

16. Rail staff we spoke to described how fare evasion is becoming normalised among certain passenger groups and increasingly more challenging to tackle. As well as occasional opportunistic fare evaders, there are some individuals who use a range of techniques to persistently underpay and avoid their fares. Added to this, some fare evaders consider that it is a victimless crime and are either not aware of or are undeterred by the consequences of being caught.

17. It was clear from our conversations with revenue protection teams that they consider that passengers making genuine mistakes should be treated fairly and proportionately. But, as noted, establishing this intent can be difficult.

Conduct of this review

18. We structured our review around the issues that the Department for Transport (DfT) asked us to investigate, as set out in the review's terms of reference.

19. We have followed an evidence-based approach, underpinned by significant stakeholder engagement, taking into account the perspectives of both passengers and the rail industry. We have been informed and challenged throughout by both an Expert Advisory Group comprised of

outside experts in relevant fields and a Cross-Industry Working Group.

20. We have also shadowed ticket office staff and revenue protection teams from a cross-section of TOCs. This enabled us to witness some of the circumstances in which passengers can make innocent mistakes and to see first hand the challenges that revenue protection staff face in tackling fare evasion.

Main findings and recommendations

Overview of our findings

21. We have found that current revenue protection practices in rail are not working as well as they need to and require improvement in the interests of passengers, the rail industry and taxpayers.

22. Fare evasion and revenue loss are increasing, despite new technology that can aid detection. In response, enforcement action by TOCs has become more frequent and robust within the context of the strict liability framework. And process changes – such as the introduction of the SJP – have made it easier for TOCs to prosecute passengers.

23. However, passenger safeguards have not kept pace with these developments, and current revenue protection practices are largely weighted towards the industry. This may result in unfair or disproportionate outcomes with passengers being penalised for innocent or minor mistakes.

24. Action needs to be taken to improve fairness, consistency and transparency while ensuring that TOCs are able to deal with deliberate and persistent fare evaders robustly. Our recommendations to address this are set out below.

Recommendation 1: Make buying the right ticket simpler and easier

Passengers need clearer information about ticket types, ticket validity, usage restrictions, and peak/off-peak travel times at the point of sale.

Ticket rules and restrictions can be complex, poorly explained or not widely understood – leading to confusion and unintentional mistakes, and passengers being penalised for genuine errors. This in part is because of outdated retail systems that can make it hard for retailers to access and present clear information to passengers. This lack of transparency can raise concerns in the context of consumer law. However, we have seen examples of good practice that work around some of these issues and which could be adopted more widely in the interim until these systems

issues are addressed.

Actions

- Short / medium-term – Provide plain English explanations of ticket types, validity and restrictions (e.g. on timing, routes, railcard usage, etc.) at the point of purchase.
- Medium / longer term – Redesign ticketing systems and review policies to eliminate known points of confusion and to ensure that essential T&Cs are presented clearly at the point of sale (such as on restrictions relevant to the use of railcards).

25. Our review found that where passengers are buying tickets online or at a ticket vending machine, key information on validity restrictions and other relevant T&Cs is not always provided, or provided clearly. This is particularly the case for tickets with time, route or operator restrictions or where railcards are used.

26. Whereas some gaps in information provision could be resolved easily, others are more difficult to address. Outdated retail systems can make it hard for retailers to access and present clear information to passengers. However, we have seen some retailers demonstrate good practice by developing ways to work around some of these issues, and in principle these could be adopted elsewhere to benefit more passengers.

27. And while key information may not be consistently provided at the point of purchase, more broadly we found clear evidence that many passengers do not understand key terms. Areas of confusion, lack of awareness and error include (among others):

- the meaning of certain ticket types and ticket restrictions;
- railcard T&Cs. For example, some railcards have restrictions that only apply from September to June; and
- the child age limit causing confusion because the adult ticket age is from 16 years old, whereas some other transport systems set the adult age at 18.

Recommendation 2: Strengthen consistency in how passengers are treated when ticket issues arise

Passengers should be treated fairly and consistently when they are found without a valid ticket, with a focus on industry targeting intentional fare evasion as opposed to genuine mistakes and responding proportionately.

Train operators use a wide range of policies, approaches and legal powers that can lead to inconsistent treatment of passengers and sometimes unfair or disproportionate outcomes, where the scope for passengers to challenge this may be limited.

Actions

- Short / medium term – Adopt consistent principles as part of a new governance framework for revenue protection, including use of an escalated approach to determining the appropriate response based on likely passenger intent.
- Short / medium term – Identify and adopt best practice in encouraging behavioural change, including through better passenger education and awareness of the importance of travelling with the correct ticket and the potential consequences of not doing so.
- Medium / longer-term – Improve data sharing across the industry to support identification of persistent offenders, while protecting those who have made genuine mistakes. This data could also support identification of and action against other systematic fraudulent activity.

28. Individual TOCs have considerable scope to set their own approach to revenue protection. Different TOC policies, as well as variation in how frontline staff apply these, mean that passengers can face inconsistent treatment and outcomes for similar types of ticketing issue across the network.

29. Aside from penalty fares (which are prescribed in legislation, with a three-stage appeal process), most of the tools used by TOCs to deal with invalid tickets are not defined in any consistent or transparent way across the industry. While there is a need to reflect specific operational and commercial circumstances, some differences appear arbitrary. This can result in action being taken against a passenger with no formal appeals process in place should the passenger wish to challenge that action.

30. When a passenger claims to have made a mistake with their ticket, the challenge is determining whether this is genuine or not. The judgement of frontline staff plays a key role in this. However, while new technology can help, it is not always possible to determine a passenger's intent accurately. In such circumstances, a passenger who has made a 'one-off' mistake might be penalised or a deliberate fare evader may be given the benefit of the doubt.

31. Building on some existing good practice we have seen, one way of addressing the issue of intent would be for the industry to establish a more systematic approach to recording incidents of

ticket irregularities. Where passenger intent is unclear, revenue protection staff could check whether the passenger has a track record of travelling without a valid ticket. If they do not, they could give them the benefit of the doubt, but log the passenger's details. The passenger could then pay the correct fare due, without being penalised, and the TOC would have greater assurance that they have not let a repeat fare evader off the hook.

32. Likewise, where a penalty fare is appealed, if the appeals body is able to see whether a passenger has a track record of ticket irregularities, that would enable them to better judge whether to give the passenger the benefit of the doubt.

33. Making better use of data in this way would also allow an escalatory approach to be adopted where, if a passenger is found without a valid ticket on subsequent occasions, the consequences become increasingly more serious. This would help to rebalance protections so that they are fairer for fare-paying passengers who have made a 'one-off' mistake, while providing for TOCs to deal robustly with those intentionally defrauding the railway.

34. This approach would also be consistent with TOCs putting a greater emphasis on encouraging behavioural change among passengers, which we know a number of TOCs are increasingly looking to do. This includes ensuring passengers see and experience a system that is working for them, where they get support to buy a valid ticket and that they are aware of the consequences of not doing so.

35. In considering this further, we recommend that the industry should establish a common framework for dealing with cases of ticket irregularities. This would include a set of consistent tools underpinned by clear principles, including for example:

- a fair and consistent right of appeal for all types of notice;
- not penalising passengers where there is a ticket irregularity involving no risk of revenue loss;
- consistent with a more escalatory approach, not prosecuting passengers under byelaws for a first or second offence unless there are aggravating factors (such as tailgating or refusing to remedy the lack of a valid ticket); and
- a more coordinated approach to training and evaluation for frontline revenue protection staff to ensure consistent high standards and application of policy.

36. As part of this, there is an opportunity for governments to make clear the overarching strategy for revenue protection. For example, this could make clear the importance of fairness to

the process.

Recommendation 3: Introduce greater consistency and fairness in the use of prosecutions

Prosecution decisions should consider fair, evidence-based criteria and only be taken when clearly justified and in the wider public interest.

Prosecution policies vary considerably across train operators. This includes decisions on whether to bring charges against an individual (the test for prosecution); the choice of law and legal procedure; use of third-party agents; the approach to out of court settlements; and the use of digital tools that quicken and streamline the prosecution process. This means that passengers can face significantly different outcomes and treatment for similar issues depending on which TOC they travel with.

Actions

- Short-term – Introduce a consistent test for prosecution, including guidance on weighing public interest factors in favour of (or against) prosecution.
- Short-term – Develop best practice principles applying to the use of out of court settlements, including the basis of calculating the settlement fee.
- Longer-term – Undertake a wider review of revenue protection legislation to simplify, clarify and provide greater consistency across the rail sector, including the use of railway byelaws, where currently a passenger can be prosecuted for travelling with an invalid ticket, even when a genuine mistake has occurred.

37. Our review found that prosecutions for ticketing offences have been increasing. Charges brought against passengers under the Railway Byelaws 2005 have risen by 52% in recent years (2023 compared to 2019), while passenger numbers have fallen by 7%. However, the extent to which each TOC uses prosecution varies considerably, even when normalised for passenger numbers.

38. Prosecutions should only be undertaken where it is appropriate to do so, given that a conviction is a serious and potentially life changing matter.

39. Crown prosecutors in England and Wales (private prosecutions are very rare under Scottish Law, and so this section focuses on England and Wales) must meet key criteria both to ensure

there is sufficient evidence of a crime to secure a conviction and that it is in the public interest to prosecute. This is known as the 'Full Code Test'. TOCs, as private prosecutors, are not obliged to follow this test but there are good reasons for them to apply or align with it.

40. While it was reassuring to find that many TOCs apply a test that is similar to the Full Code Test, this is not the case for all the TOCs that prosecute. There were six TOCs for whom we either did not see evidence of a formal test or where it was unclear what test they were applying in practice. And more broadly, we saw scope for improvement in the tests that some TOCs applied.

41. The lack of a consistent robust and transparent decision-making framework across the industry risks prosecutions being undertaken where they are not in the public interest, as well as arbitrary treatment depending on which TOC a passenger travels with. There is evidence both from our Call for Evidence and from Transport Focus research that passengers have been prosecuted (or faced prosecution) where it would not be in the public interest.

42. Instead of pursuing a prosecution, TOCs can offer passengers the opportunity to settle out of court. This can sometimes serve the public interest better than a prosecution and provide a better outcome for the passenger. However, it is important that TOCs do not use the prospect of prosecution to leverage an unfair settlement.

I thought the settlement offer and threat of court was unfair and heavy handed, considering the nature of the offence and impact it had on myself. I do not think the case would pass the public interest test for [prosecution].

Call for Evidence respondent

43. While we found the policies of several TOCs to be reasonable in terms of how they calculate out of court settlements, and some examples of good practice that could be adopted more widely, the policies of other TOCs were less clear.

44. There were also some TOCs whose written policies state they may pursue out of court settlements even where there is insufficient evidence to prosecute. We have been unable to clarify this point owing to the time constraints of the review and therefore have no clear evidence that it is happening in practice. However, if TOCs were doing this while leaving passengers under the impression that they will be prosecuted if they do not pay, we consider this would be without basis and unreasonable.

45. TOCs that prosecute need to have fair, evidence-based criteria and should only proceed when

it is clearly justified and in the wider public interest. Equally, TOCs need to have similarly clear best practice principles for using out of court settlements.

Legislation

46. We note that current byelaw strict liability offences regarding travel without a valid ticket empower TOCs to prosecute passengers where there is no evidence of intent or revenue loss and provide passengers with very limited defences in law. While this can be helpful in enabling TOCs to take action against deliberate fare evaders, it puts passengers who have made an honest mistake at risk of prosecution.

47. Following TOCs being authorised to use the SJP to prosecute railway byelaw offences in April 2016, it has arguably become easier for them to prosecute. The roll out of a new digital case management system ('Common Platform') by HM Courts & Tribunal Service is likely to make it even easier.

48. There is a case therefore for a broader review of the legislation used by the industry to deal with fare evasion. This would include ensuring that there is an appropriate balance between protecting passengers who have made an innocent mistake and protecting the railway and taxpayers from the impact of fare evasion.

Ministry of Justice consultation on reforms to private prosecutions

49. During our review, the Ministry of Justice (MoJ) launched a consultation on reforms relating to private prosecutions, including introducing (among other things): a mandatory code of practice; an inspection regime; safeguards for the use of the SJP; and greater data transparency. These matters have relevance to the issues and recommendations covered by this report. MoJ's consultation closed on 8 May 2025 and it is currently considering the responses it has received.

Recommendation 4: Make information on revenue protection easy to access and understand

Passengers should be able to easily find and understand information about T&Cs, their rights, how penalties, prosecutions, out-of-court settlements, and appeals work, including through online information and in any letters or formal notices they may receive.

Actions

- Short/medium term – Review and improve passenger-facing revenue protection information to ensure it is accessible, clear, and easy to understand. Where action is taken against a passenger, the process should be clearly set out, with access to further information and any options for resolution where appropriate.

50. Our review found very limited information about industry revenue protection policies or the consequences of travelling with an invalid ticket on third-party retailer apps and websites. TOC apps and websites provide more relevant revenue protection information but this can be spread across different webpages and documents. Documents often cross-refer to other relevant material but do not always provide links, leaving it for the passenger to seek these out. And policies do not always make clear important things like the circumstances in which a TOC is likely to prosecute.

51. There is scope for greater use of plain English (rather than legalistic drafting that passengers may not understand). There is also an opportunity for the industry to develop more high-quality single source information, drafted clearly and concisely, that can be broadly adopted (including, for example, passenger correspondence templates).

52. In relation to penalty fares, we note that there is a lack of clarity on the key ground for appeal (which provides for appeals to be upheld if there are "compelling reasons" why a passenger should not have to pay a penalty fare). Given the strict liability framework on the one hand, and the intent behind the Railways (Penalty Fares) Regulations 2018 that established the current appeal system on the other, the meaning of this could be clearer both for passengers and the industry.

53. There is also scope to enable passengers to more readily access key T&Cs by streamlining and simplifying the National Rail Conditions of Travel (NRCoT) to make them clearer and more accessible. As well as improving the wording, this would include incorporating other relevant T&Cs into the NRCoT to avoid passengers having (as now) to locate, read and understand different sets of T&Cs that may be applicable to their journey. The Rail Delivery Group is already in the process of a staged review of the NRCoT; this may provide a good opportunity to take account of the issues we have identified.

Recommendation 5: Greater coordination, oversight and transparency of revenue protection activity

Revenue protection activity should ensure passengers are treated fairly, support the sharing of best practice in tackling revenue loss, and make effective use of data to drive efficiency and improvement in how this is done.

Processes and practices have proliferated over time. The legal framework is complex and poor implementation or inconsistent practices can impact both individual passengers and wider industry. There is no body with a role in oversight of this area and limited data to assure the public on how effectively the system is working.

Actions

- Short-term – Establish an appropriate forum or body tasked with identifying and promoting best practice across all aspects of revenue protection policy and enforcement (underpinning recommendations 2, 3 and 4).
- Medium-term – Create a shared revenue protection dataset with consistent measures to support long-term oversight, improve transparency through publication of key metrics, and help the industry make the best use of its resources.

54. Our review found that, despite TOCs having significant powers to penalise and prosecute passengers, there is very little external oversight of whether they are using these powers fairly, consistently and proportionately. In addition, there is no transparency, as no data is published on what actions TOCs are taking and what the outcomes of these are for passengers or in reducing revenue loss. This means there is very little accountability.

55. The data that TOCs record internally to measure and analyse their revenue protection activities varies across the industry. Based on what was submitted to us in this review, we did not find that all TOCs have data covering the range of actions they take and the outcomes of these for passengers – for example, in relation to prosecutions. This means that some TOCs may not have sufficient oversight of their own processes to provide meaningful assurance that their approach is operating fairly or to support continuous improvement.

56. Similarly, there is no external oversight of the two companies that determine penalty fare appeals to ensure that they are making decisions in line with the spirit of the regulations. While one company publishes some basic data on the outcomes of appeals, greater transparency would

help provide assurance to passengers regarding the effectiveness of the appeals process.

57. Furthermore, there are no consistent metrics across the industry and TOCs use different terminology for similar processes and actions. This means that data is not always directly comparable. This limits the ability of TOCs to share data to benchmark their performance and identify what interventions work best both to address repeat fare evasion and optimise the efficient use of resources.

58. While there is good practice among TOCs, during this review we have noted that there is scope for the industry to do more to collaborate and coordinate to continuously improve how revenue protection is undertaken.

59. For example, we are aware from our engagement with ticket office and revenue protection staff that they see common issues arising from the retail of tickets that lead to passengers travelling without a valid ticket (both unintentionally and intentionally). However, there is no system for this feedback to be acted on. Greater collaboration between retailers and revenue protection teams, along with stronger change control at the design stage of new products, has the potential to address issues before they lead to revenue loss and before innocent passengers fall foul of them.

Matters relevant to our recommendations

60. While our recommendations are relevant to the industry as it is now, we recognise that the creation of Great British Railways (GBR) will lead to significant structural changes. In particular, 14 TOCs currently running passenger services on behalf of DfT will enter public ownership under GBR. However, several mainline TOCs will remain outside of GBR, including open access TOCs and those operating on behalf of the Scottish and Welsh governments and devolved city regions.

61. Rail reform will inevitably affect how the recommendations in this report are addressed, but it does not mean that the changes need to wait. We have highlighted some areas where improvements could be made quickly. Also, under the UK Government's public ownership programme, TOCs currently contracted by DfT will gradually move into DfT Operator Limited as their contracts expire. This may provide impetus for the industry to begin acting in a more coordinated way and lead to some of the medium and longer term actions that underpin our recommendations being addressed ahead of the creation of GBR.

62. We have not had time within the constraints of this review (or indeed the data) to consider

the full cost implications of the recommendations or to carry out cost benefit analysis. This would need to be considered separately. However, in some cases there may be existing or planned work by government or the rail industry that could take account of our recommendations in a way that minimises additional costs.

Next steps

63. ORR's role was to investigate and report in line with the terms of reference for this review. The next step will be for the Secretary of State and DfT to consider the recommendations and how (and the extent to which) these should be implemented. While our role is now complete, we stand ready to support this in any way we can.

- → Next 1. Context to the review