

APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER TRACK ACCESS AGREEMENT, OR AMENDMENT TO A PASSENGER TRACK ACCESS AGREEMENT UNDER SECTIONS 17-22A OF THE RAILWAYS ACT 1993

1. Introduction

Please use this form to apply to the Office of Rail and Road (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our [criteria and procedures](#) (C&Ps). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published [model passenger track access contract](#) as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us [here](#).

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: www.orr.gov.uk

2. The application

2.1 Title of proposed contract or supplemental agreement (please also include the section of the Railways Act 1993 under which you are applying):

First Trenitalia West Coast Rail Limited 30th Supplemental, applied for under Section 22A of the 1993 Act

2.2 Contact details (Company and named individual for queries):

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail	Company: First Trenitalia West Coast Rail Limited
Contact individual: Paul Harris	Contact individual: Sue Rhymes
Job title: LNW Customer Manager	Job title: Track Access Manager
Address: Network Rail Baskerville House Centenary Square Broad Street Birmingham B1 2ND	Address: Ground Floor Victoria Square House Victoria House Birmingham B2 4DN

2.3 Licence and railway safety certificate: please state whether you intend to operate the services yourself or have them operated on your behalf.

Does the proposed operator of the services (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and** (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006. If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

C&Ps paras 3.9-3.15

Train operating licence: West Coast Trains Limited (the "Train Operator") holds a valid train operating licence under section 8 of the Railways Act 1993 and a European licence for the purposes of the Railways (Licensing of Railways Undertakings) Regulations 2006.

Railway Safety Case: The Train Operator holds a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

3. The proposed contract or amendment

OFFICE OF RAIL AND ROAD
ONE KEMBLE STREET, LONDON, WC2B 4AN

Switchboard 020 7282 2000 • Fax 020 7282 2040 • Website www.orr.gov.uk

Form **P**

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3.1 Executive summary: please provide an executive summary of the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment). **C&Ps para 3.22-3.28**

Please also explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#). If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

This application proposes the following amendments to Schedule 5, Table 2.1 and Table 4.1 in Network Rail and First Trenitalia West Coast Rail Limited's track access contract from the Subsidiary Change Date (September) 2021.

Proposed commencement date: 12th September 2021

End date: PCD 2031 - at the time of the expiry of the First Trenitalia West Coast Rail Limited Track Access Contract (a Section 17 Application is being made in parallel with this for a Track Access Contract to run from PCD 2022 (the Expiry of the current track access contract) to PCD 2031.

Services in green were able to be accommodated in the proposed timetable during the planning process, services in red require further work to identify pathing opportunities:

NORTH WEST & WALES

Saturday

- **1D33 19:10 Euston to Chester**. Additional service calling at Milton Keynes Central (pick up only)

Sunday

- **1A91 10:16 Chester to Euston**. Additional service calling at Crewe and Watford Junction (set down only)
- **1A58 16:36 Chester to Euston**. Additional service calling at Crewe and Milton Keynes Central (set down only)
- **1K91 19:35 Chester – Crewe** to be withdrawn (see below)
- **1A81 19:35 Chester – Euston**. Additional service running in the path of 1K91 between Chester and Crewe non-stop Crewe to Euston
- **1D87 13:08 Euston to Chester**. Additional service calling at Milton Keynes Central (pick up only) and Crewe
- **1P04 18:29 Euston to Preston**. Additional service formed of a 221. Calling at Tamworth, Lichfield Trent Valley, Crewe, Warrington Bank Quay and Wigan North Western

WEST MIDLANDS

Saturday

- **9G48 21:20 Euston to Wolverhampton.** Additional service formed 390. Calling at Watford Junction (pick up only), Milton Keynes Central (pick up only), Rugby, Coventry, Birmingham International, Birmingham New Street and Sandwell & Dudley

Sunday

- **1B02 08:32 Wolverhampton to Euston.** Additional service formed 390. Calling at Sandwell & Dudley, Birmingham New Street, Birmingham International, Coventry, Milton Keynes Central (set down only) and Watford Junction (set down only)
- **1B06 09:35 Wolverhampton to Euston.** Additional service formed 390. Calling at Sandwell & Dudley, Birmingham New Street, Birmingham International, Coventry, Rugby and Milton Keynes Central
- **9G50 18:43 Euston to Wolverhampton.** Additional service formed 390. Calling at Milton Keynes Central, Coventry, Birmingham International, Birmingham New Street and Sandwell & Dudley

3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): please set out here any areas of the application which have ***not*** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. **C&Ps para 3.102**

Network Rail has stated that they cannot currently support any additional access rights on West Coast Main Line South, as a result of the Declaration of Congested Infrastructure and associated Access Rights Policy, which has declared the Fast Lines between Camden Road South Junction and Ledburn Junction to be congested infrastructure.

First Trenitalia West Coast Rail Limited continues to engage constructively with Network Rail in this area, and through active involvement in the WCML Industry Planning Group workstream, and has requested further clarity on the aspirations for capacity utilisation affecting the WCML South, and to ensure these are up to date to inform the associated capacity analysis.

As referenced in Section 4.2, the parties have worked closely and collaboratively in the development of this application to assess and mitigate any performance risks identified with the small incremental change to rights proposed.

3.3 Departures from ORR's model passenger track access contract: please set out and explain here any:

- areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. **C&Ps paras 2.34-2.37**
- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps paras 5.1-5.44**
- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. **C&Ps paras 6.2-6.3**

Not Applicable

4. The expression of access rights and the use of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

These additional rights being sought will underpin key service enhancements committed to as part of First Trenitalia West Coast Rail Limited's Franchise Commitment. These new services will enhance the current level of journey opportunities to and from London Euston to and from the North West and Wales, and the West Midlands, particularly at weekends to support additional capacity.

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

First Trenitalia West Coast Rail Limited has undertaken internal path validation and performance analysis, and has engaged closely and collaboratively with the Network Rail performance team, on both the service extensions and additional paths to be delivered from September 2021. The additional services will also be considered as part of our September 2021 timetable readiness workstreams, to ensure they are delivered robustly.

The internal performance analysis focused on delay based on comparator trains, and AML/PPM correlated, based on recent delay history to these trains. This indicated a very minor variance of PPM by First Trenitalia West Coast Rail Limited service group of between -0.05% and 0.09% with these new services in operation.

To build a greater understanding of reactionary delay, we have commissioned further performance modelling (RailSys performance modelling) by Tracsis plc. in support of the additional services to/from London Euston at weekends in our application.

The Railsys model demonstrates the comparative punctuality and delay of the base December 2019 timetable, against a variant timetable with the selected September 21 changes in place, on the West Coast South area.

The model has some caveats (e.g. it does not simulate severely disrupted days as it can't account for Control interventions), however it does simulate normal performance perturbations, and takes an average over 250 days to give confidence that the results are representative of real-life.

For Saturday changes, the results show that the performance impact is minimal, overall showing a slight improvement in performance measures. For Sunday changes, results show a small increase in delay per day, but average lateness levels along the route and overall punctuality measures remain largely unchanged (e.g. T-3 0.1% lower for Avanti, 0.2% lower overall, T-10 within 0.05% for Avanti, 0.1% lower overall).

The proposed additional services are all in off-peak weekend hours, and we have worked carefully to ensure our timetable bid is aligned with known plans of other operators to inform the September 2021 validation process.

On the basis of the internal validation, Railsys modelling and dialogue with Network Rail we believe that adequate network capacity exists for these service alterations and extensions.

We will continue to work closely with Network Rail and other operators to ensure alignment and operational deliverability during the validation process, to best fit all access parties' requirements for September 2021 onwards.

4.3 Flexing rights: please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

Not Applicable

4.4 Journey time protection: please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

Not Applicable

4.5 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of the vehicle and route acceptance procedure in the Network Code (Part F) has been completed. Please explain whether you have, or will have, the rolling stock necessary to exercise the rights being sought. **C&Ps paras 8.87-8.90**

Not Applicable

4.6 Franchise obligations: please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

The Rights sought will underpin service enhancements committed to under the First Trenitalia West Coast Rail Franchise Agreement (Train Service Requirement).

4.7 Public funding: please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

Not Applicable

4.8 Passenger Focus and, where applicable, London TravelWatch: please state whether (and if so to what extent) the proposed services have been discussed with these bodies. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

Transport Focus will be consulted as part of this application.

4.9 Route utilisation strategies (RUSs): if applicable, please state which RUSs (including the Freight RUS) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. **C&Ps paras 4.5-4.8**

The WCML RUS (published July 2011) identified the need to provide additional capacity between London Euston and the West Midlands / North West and Scotland. In the short to medium term, the RUS advises increasing the number of long distance high speed services during off-peak times.

The West Midlands and Chilterns RUS (published August 2017) notes that enhancements to train services is central to "...delivering economic growth by connecting people to jobs, and businesses to markets".

The Welsh Route Study (March 2016) notes that "More and more people are using the railway in Wales and the border counties, and demand will continue to grow strongly in the future."

5. Incentives

5.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. **C&Ps paras 4.26-4.36**

Not Applicable

5.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance. **C&Ps paras 4.26-4.36, 5.1**

Not Applicable

5.3 Monitoring of services: would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

Not Applicable

5.4 Performance regime changes (for applications under sections 17 or 22A only): where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed. **C&Ps para 5.38-5.40**

The proposal does not depart from the established Schedule 8 in the TAC.

6. Enhancement

6.1 Enhancement details: where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework). **C&Ps paras 4.80**

Not Applicable

6.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

Not Applicable.

7. Other

7.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). **C&Ps paras 3.18-3.19**

A Section 17 Application is being made in parallel with this for a Track Access Contract to run from PCD 2022 (the Expiry of the current track access contract) to PCD 2031.

7.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it. **C&Ps paras 6.12-6.16, 6.21**

Supplemental Agreement

Schedule 5

Table 2.1

Table 4.1

7.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34**

Not applicable

Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed

8. Pre-application consultation

8.1 The consultation: has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **C&Ps paras 3.62**

The pre-application consultation was carried out by Network Rail on behalf of Avanti West Coast. The standard 28 days was allowed for responses. Two responses were received (see 8.2). These responses and further correspondence are attached. Parties consulted were: [redacted email addresses]

8.2 Resolved issues: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation.

We received two responses to this application following external consultation. CrossCountry responded to say that they support our proposals. The detail of East West Rail's response is shown in 8.3 below.

8.3 Unresolved issues: please set out any issues raised by consultees which have not been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you think these issues should not stop ORR approving the application.

East West Rail's response centred on concerns around a potential impact our additional services could have on available capacity between Bletchley and Milton Keynes Central. Avanti West Coast responded to EWR's questions on 21/12/20, offering to discuss our application and provide more detail if required; we haven't heard anything further. The correspondence with EWR is included with this application.

9. Certification

Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution **C&Ps para 3.40**

In the case of agreed applications under section 18 or 22, Network Rail should fill in the required information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

I certify that the information provided in this form is true and complete to the best of my knowledge



Signed ... Date..... / /20

Name (in caps) SUE RHYMES... Job title...Track Access Manager

OFFICE OF RAIL AND ROAD
ONE KEMBLE STREET, LONDON, WC2B 4AN

Switchboard 020 7282 2000 • Fax 020 7282 2040 • Website www.orr.gov.uk

Form **P**

433399

For (company)First Trenitalia West Coast Rail Limited

10. Submission

10.1 What to send: please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. ***C&Ps para 3.39***

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). ***C&Ps para 3.37-3.38***

10.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail and Road
One Kemble Street
London
WC2B 4AN