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Dear Devon and Chris

28th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Transport for Wales LTD (TfW) dated 6 August 2020

1. Today, we have made a decision on this application and, in due course, will direct Network Rail and TfW (jointly the parties) under section 22A of the Railways Act 1993 (the Act) to enter into the above supplemental agreement (SA). This letter explains the reasons for our decision. ORR's direction of this application will ensure continuity and reliability of services for passengers across the network covered by TfW's services, by providing TfW with the certainty it needs to plan and operate its timetable effectively. The decision will be effective from SCD 2026.
2. In reaching this decision, we were particularly mindful of the risk that a lack of firm access rights in certain areas could adversely affect the delivery of existing passenger services.

Background

3. On 24 April 2024, ORR wrote to industry setting out a process for access applications for December 2024, May 2025 and December 2025, given our expectation (as confirmed by Network Rail) that we would receive numerous complex and competing applications across that period. Applications were submitted to ORR for direction as "unsupported" applications, as Network Rail was not able to agree that there was sufficient capacity and therefore submit agreed applications for our approval.

Applications

4. TfW originally submitted three applications as part of the above process. These were the 28th SA, covering access rights required for the December 2024 timetable change (PCD 2024), the 32nd SA, covering access rights required for service group HL05 only required for the May 2025 (SCD 2025) timetable change and the 31st SA, also for the May 2025 timetable change.
5. The applications submitted in May 2024 reflected TfW's aspirations at that time for future timetables. These aspirations changed over time and there were also some errors that need correcting. This resulted in a number of necessary revisions to two of the applications. The 28th SA was revised on 14 August, 13 September and 27 September 2024. The 31st SA was revised on 28 November 2024.
6. After discussions between the parties and ORR it was decided to combine the 31st SA and the 32nd SA into the existing 28th SA. That combined application (still termed the 28th SA) was submitted on 20 November 2025.
7. Prior to submission of the combined application, Network Rail identified a minor error in its representations relating to a Bridgend to Cardiff Central access right (which also affected the 47th SA (submitted on 19 September 2025)) and this was corrected and reflected in the submission of the combined application. On 7 April 2026, TfW submitted a revised SA, which corrected some editing errors relating to the HL05 service group.
8. As the above process continued and Network Rail needed more time to complete the work needed to reach a definitive conclusion on applications, the parties entered into the following SAs in order to maintain service continuity, ensure access rights were in place for various timetable changes, make additional changes to access rights that were not envisaged in May 2024 and no trains were operating without access rights:
 - 35th and 36th SAs, for PCD 2024
 - 43rd SA, for SCD 2025
 - 44th SA, rolling forward certain rights from August to PCD 2025
 - 47th, 55th SAs and 59th SAs, additional rights and roll forward of certain rights from PCD 2025 until SCD 2026
 - 64th SA, approved on 19 February 2026, adding a number of firm rights until the end of the contract
9. Apart from a few examples where firm rights were agreed and other rights were no longer needed and, therefore, removed from the contract, the majority of the above applications put rights in place on a contingent basis, for one timetable at a time, with no presumption of the continuation of those additional rights beyond the end date of those timetables.
10. This 28th SA seeks to convert existing time limited, contingent rights into firm rights until the end of the contract and reflect TfW's requirements for the SCD 2026 timetable. The parties have already submitted a further application, the 54th SA, which is for firm and contingent rights for the SCD 2026 timetable change, reflecting changes planned for

Weekday and Saturday services for the North West Coast (service groups HL07 and HL08). It also extends some contingent rights in other service groups.

Industry consultation

11. Industry consultations took place covering all three of the original applications at the time they were submitted in May 2024. A further consultation took place in October and November 2024 for the amendments that had been made to the original 28th SA. There were a number of responses and TfW entered into correspondence with operators in order to resolve the matters that had been raised. Some of the responses related to the fact that Network Rail had not yet completed its analysis of the applications.
12. Industry was then invited to comment on Network Rail's final representations from 7 to 21 October 2025. One response was received, from Great Western Railway. It noted that its own access rights for services between London and Carmarthen were time limited until PCD 2027 due to uncertainty about the start date of open access operations. It commented that other operators should have the same time limitation. TfW's Carmarthen rights are also limited to PCD 2027 so we do not consider this to be an issue.
13. Aside from the GWR response, we have concluded that the lack of response from industry to the most recent opportunity to comment means that there are no outstanding objections to TfW's applications.

Statutory Consultation

14. As required under the Act, on 30 May 2024, we sought Network Rail's representations on the three applications, and it replied on 28 June 2024. We forwarded these representations to TfW and asked for its comments. TfW provided comments on 22 July 2024.

Network Rail's initial representations

15. In its initial representations, Network Rail commented on some specific aspects of the applications but stated that it reserved its position pending the outcome of capacity and performance assessments as well as setting out its plan for next steps.
16. TfW in its response, responded to the comments made by Network Rail and also expressed some concern about Network Rail's next steps.

Network Rail's final representations

17. In its final representations, Network Rail explained the background to the applications and the approach it had taken to them since they were submitted in May 2024. It set out its view on capacity and performance in particular areas (Cardiff Central, Gloucester, Manchester and Birmingham).
18. It stated that it was now in a position to support, in part, the application and set out in detail what rights it could support fully or partially and those that were not supported at

all. These decisions were generally based on whether the rights requested aligned with services expected to be running in the PCD 2025 timetable change.

19. Network Rail stated, in relation to Service Group HL04 (Birmingham to Shrewsbury and Beyond) that it was only prepared to support some of the rights requested on a contingent basis, time limited for a year, with no presumption of continuity. The reason for this was performance concerns and uncertainty around capacity at Birmingham New Street and it also noted plans for new services and stations on the Camp Hill Line.
20. Network Rail went on to say that it would like to understand the actual performance impact of the combined introduction of new services and service changes from December 2025 in the Birmingham area and would like to retain the flexibility to manage the operations around this effectively and this is why it was not supportive of TfW's request for firm rights until the end of its contract.
21. The final representations set out the significant constraints in the Gloucester area but Network Rail stated that, while this was applicable to this application, as TfW run services at Gloucester, it did not have any concerns about the rights sought.
22. They set out Network Rail's consideration of services and timetabling in Wales following the PCD 2024 timetable change (generally taken forward by the "Wales Task Force") and more specific challenges around Cardiff Central and recommendations to take matters forward. These do not impact on this application.
23. They also set out Network Rail's considerations regarding the general capacity position relating to Manchester and how it related to the rights sought in this application (contained in Service Group HL08).
24. Network Rail noted that the original 28th SA application contained a proposed definition to be added to the Schedule 5 definitions in the contract relating to the period of operation of a Rail Head Treatment Train (RHTT) and an associated footnote. It said it did not support the addition of the definition as it was "not in line with the Model Contract" before going on to say that it believed TfW no longer required the footnote.
25. Network Rail commented on the fact that at the time of the original May applications some of the tables in Schedule 5 tables were separated into Winter and Summer rights and it noted that since that time the parties had merged the tables via the 43rd SA.
26. Network Rail further commented on TfW's proposals to split out access rights in Service Group HL06 to reflect different timing loads. It said that it did not support this change as it was not in line with paragraph 2.1 of Schedule 5 of the contract.

TfW's response to Network Rail's final representations

27. In its response to Network Rail's final representations, TfW explained the background to its applications in May 2024, how they reflected its known aspirations at that time, and how TfW's access rights requirements developed over time. It noted that the parties had worked together to ensure that their contract contained contingent and/or time limited versions of the firm access rights that were originally sought for the

December 2024 and May 2025 timetables and are still required, plus additional changes to access rights that were not envisaged at the time.

28. TfW noted that Network Rail's representations listed many changes that it did not support in full or in part. It agreed with Network Rail's approach in most cases, mainly because its initial requests were superseded by further timetable development work.
29. TfW also noted that Network Rail appeared to have four reasons (two of which related to the same service group) to explain why it did not support certain TfW requests and it explained why it did not agree, as set out below:

Service Group HL04 Birmingham to Shrewsbury and Beyond

30. Network Rail cited general performance concerns for only supporting contingent rights for a year. TfW said that it did not agree with this as it created unacceptable risk to the continuation of its existing services. Linked to this, where TfW had applied to alter the 'Wales End' of certain access rights that together provide the core hourly Shrewsbury to Birmingham service, Network Rail supported only TfW's request to relinquish certain firm rights, while only supporting TfW's intended replacement firm rights as contingent for one year. This puts TfW in a worse position than it is currently and also creates an unacceptable risk to the continuation of its existing services.

Service Group HL06 Marches Mainline

31. Network Rail's position is that it is not willing to split certain existing access rights between two different timing loads, as requested in TfW's application. TfW said that it did not agree with this as it creates an unacceptable risk to the continuation of TfW's existing services.

Service Group HL08 North Wales Interurban

32. Where TfW has applied to change the 'Wales End' of certain access rights that together provide the core hourly Chester to Manchester service, Network Rail supported only TfW's request to relinquish certain firm rights, while declining to support TfW's intended replacement firm rights as contingent for one year. This puts TfW in a worse position than it is currently and also creates an unacceptable risk to the continuation of its existing services.
33. TfW noted and partly agreed with Network Rail's comments on the RHTT footnote relating to Service Group HL02 West Wales but believes that one of these access rights cannot be accommodated during RHTT season. The train for which this right is sought is 2L37 2316 Cardiff Central-Maesteg 0009; the train was introduced in December 2024 and is withdrawn during the RHTT season to enable the RHTT to run to Maesteg.
34. TfW noted that now a similar situation in Service Group HL07 North Wales Branches, where a footnote disapplying an access right between Wrexham General and return during the RHTT season has now been added to Table 2.2 through the 47th SA. TfW

said that it would welcome ORR's views on how the seasonal removal of certain trains from the timetable should be reflected in the expression of access rights in the contract.

35. Regarding Network Rail's comments on the summer and winter versions of Schedule 5 tables, TfW noted the work that had been done by the parties during 2025 to merge the tables and the benefits that had resulted from this process. It noted that some of the information used by both parties as part of the final combined application still retained the earlier format of the tables. TfW added some further background regarding its summer only access rights, noting that they were approved via the 43rd SA but a small number had been inadvertently omitted. These were then added back into the contract via the 59th SA and will be further extended to PCD 2026 by the 54th SA.
36. TfW noted and agreed with Network Rail's position, set out in its final representations, to remove footnotes from Service Group HL05 Cardiff Valley lines in table 2.1 that were time limiting the access rights. This would mean that these firm access rights would be effective until the end of the contract instead.
37. TfW went on to explain its position on the splitting of timing loads in more detail, saying that it was essential in order to ensure that it has the firm rights at the Priority Date for each timetable. It did not agree with Network Rail's interpretation of paragraph 2.1 of Schedule 5 and set out its reasons for this.
38. TfW then went on to set out Network Rail's position on each change to access rights contained in the combined application, and indicated whether it agreed or disagreed, with explanations as necessary.
39. It should be noted that, in between TfW's submission of its comments on the final representations and its submission of the combined application, the parties agreed a resolution to the concerns raised about HL08 referred to above. The combined SA in the submission was revised to reflect this.

ORR review

40. We carried out a full review of the application, taking into account issues that were being considered in relation both to this application and to the competing demands on capacity on the wider network.
41. This is a significant application both in size and complexity, given that it now contains the original three applications submitted on 20 May 2024 and also reflects multiple changes to the contract since that date, as set out earlier in this letter. All of this has meant that the submission of Network Rail's final representations, TfW's comments, the submission of the combined application and ORR's review have all been more challenging than anticipated.
42. Despite this, the parties have worked hard to collaborate and review the access rights requested in the original application, how TfW's requirements have changed over time and ensure that services running in timetable are covered by appropriate access rights. The end result of this is that TfW agrees with the majority of Network Rail's positions on individual rights set out in its final representations. Given this agreement, we do not

consider that it is necessary to comment on these rights other than to say that the parties will need to ensure that the current combined SA accurately reflects all the rights necessary to align with TfW's services in the SCD 2026 timetable, as well as ORR's decisions set out later in this letter on the "not agreed" aspects of this application.

43. It should also be noted that the parties worked proactively to resolve some minor errors in the information contained in the final representations and, as a result, TfW's concerns about service group HL08 have been fully resolved. In addition, any differing views regarding the approach to summer and winter rights have developed, been resolved and will be taken forward on an agreed basis.
44. Having reviewed the remaining areas where TfW does not agree with Network Rail's positions, as set out in its comments on the final representations, we agree with all the positions set out by TfW and, in due course, we will direct Network Rail to enter into an SA that reflects this. Our specific comments on these issues are set out below.

RHTT definition and footnote

45. This issue only relates to a small number of access rights, but at the time the final representations and TfW's comments were submitted, the parties still had different positions on it. The proposed definition and footnote did not become part of TfW's original 28th SA application until the first revision to that application on 14 August 2024.
46. The parties subsequently agreed to amend the contract to introduce an RHTT footnote in relation to a Wrexham Central to Wrexham General access right in service group HL07. This was progressed by the 47th SA and approved by ORR on 4 December 2025. The parties did not consider it necessary to introduce a specific definition in the contract and we were content to approve the application, including this footnote. By doing this we agreed with the parties that the footnote assisted in accurately expressing the seasonal removal of certain trains from the timetable.
47. We consider that this issue has moved on since the submission of the final representations and TfW's comments. TfW still consider that one additional access right between Cardiff Central and Maesteg cannot be accommodated during the RHTT season. If this remains the case, the SA we will direct should include a footnote relating to this access right.

Service Group HL04 Birmingham to Shrewsbury and Beyond

48. We note the performance evidence provided by Network Rail regarding the Birmingham rights in this service group. However, we consider that there are broader considerations beyond the performance of these specific services and relying on this as the primary piece of evidence to justify its position is not sufficient. We consider that TfW's concerns, including those relating to the changes to the 'Wales End' of certain access right, where it says that Network Rail position will result in TfW being left in a worse position, are well founded.

49. We, therefore, support TfW's request for the relevant rights to be on a firm basis until the end of the contract and this should be reflected in the SA we will direct.

Service Group HL06 Marches Mainline

50. Clearly, Network Rail and TfW have different interpretations of paragraph 2.1 of Schedule 5 of the contract in relation to the expression of timing loads in the contract. We consider that, in the particular circumstances of these access rights and this contract, that TfW's interpretation is reasonable and Network Rail's interpretation could place TfW at a disadvantage. We agree that the timing loads should be split out as TfW have requested and this should be reflected in the SA we will direct.

Our duties under section 4 of the Act and our decision

51. We have considered this supplemental agreement, and we have concluded that its approval is consistent with the discharge of our statutory duties under section 4 duties of the Act: in particular, those relating to:

- enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g))
- promoting improvements in railway service performance (section 4(1)(zb))
- protecting the interests of users of railway services (section 4(1)(a))
- promoting the use of the railway network for the carriage of passengers and goods (section 4(1)(b))
- having regard to the funds available to the Secretary of State (section 4(5)(c))

52. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should direct the application as set out in this letter. We will issue a directions notice, reflecting this decision, in due course. The parties need to work together to promptly review the current SA and ensure that accurately reflects all the rights necessary to align with TfW's services in the SCD 2026 timetable, as well as ORR's decisions set out later in this letter on the "not agreed" aspects of this application.

53. Once we have received an SA which correctly reflects this decision we will direct the parties to enter into it.

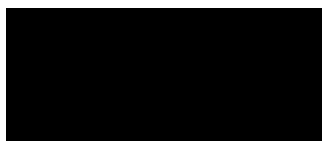
Conformed copy of the track access contract

54. Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and TfW. ORR's copy should be sent for my attention.

Public register and administration

55. Electronic copies of this letter, the directions notice and the supplemental agreement will be sent to Network Rail's Policy and Access Team. Copies of the directions notice and the supplemental agreement will be placed on ORR's public register (website) and copies of this letter and the supplemental agreement will be placed on the ORR website.

Yours sincerely



Jonathan Rodgers