



Freight Customer Panel

28 March 2019

The Freight Customer Panel is part of ORR's wider commitment to engage directly with freight customers. The panel provides a structured forum for engagement and helps to ensure our policies and regulatory decisions take into account the commercial environment that freight customers work within. The panel members assist us by contributing views, expressing opinions and advising us on freight issues. This note summarises the main themes and issues discussed at the sixth meeting of the Freight Customer Panel.

The meeting was chaired by Catherine Williams, ORR Deputy Director of Railway Markets and Economics.

Freight Customer Panel delegates: Chris Swan (Tarmac), David Turner (WH Malcolm), Maggie Simpson (RFG), Martin Woor (HPUK), Paul Garnham (MSC), Simon Blake (Aggregate Industries), Robert Brook (VTG Rail). Apologies: Alex Veitch (FTA).

The panel focused on the following themes:

- Terms of Reference
- Health and Safety
- Holding Network Rail to Account
- Model clauses for Facility Access Agreements
- Service Facility Transparency
- Charges

ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future



Delay attribution review

Freight panel customer event

March 2019

Purpose of these slides

- **To explain the background, objectives and scope of the delay attribution review**
- **To invite input from the freight customer panel**

Background

■ What is delay attribution?

- Delay attribution is the process by which the reasons for delays to train services are determined—both the ‘what’ and the ‘who’.

■ What is delay attribution used for?

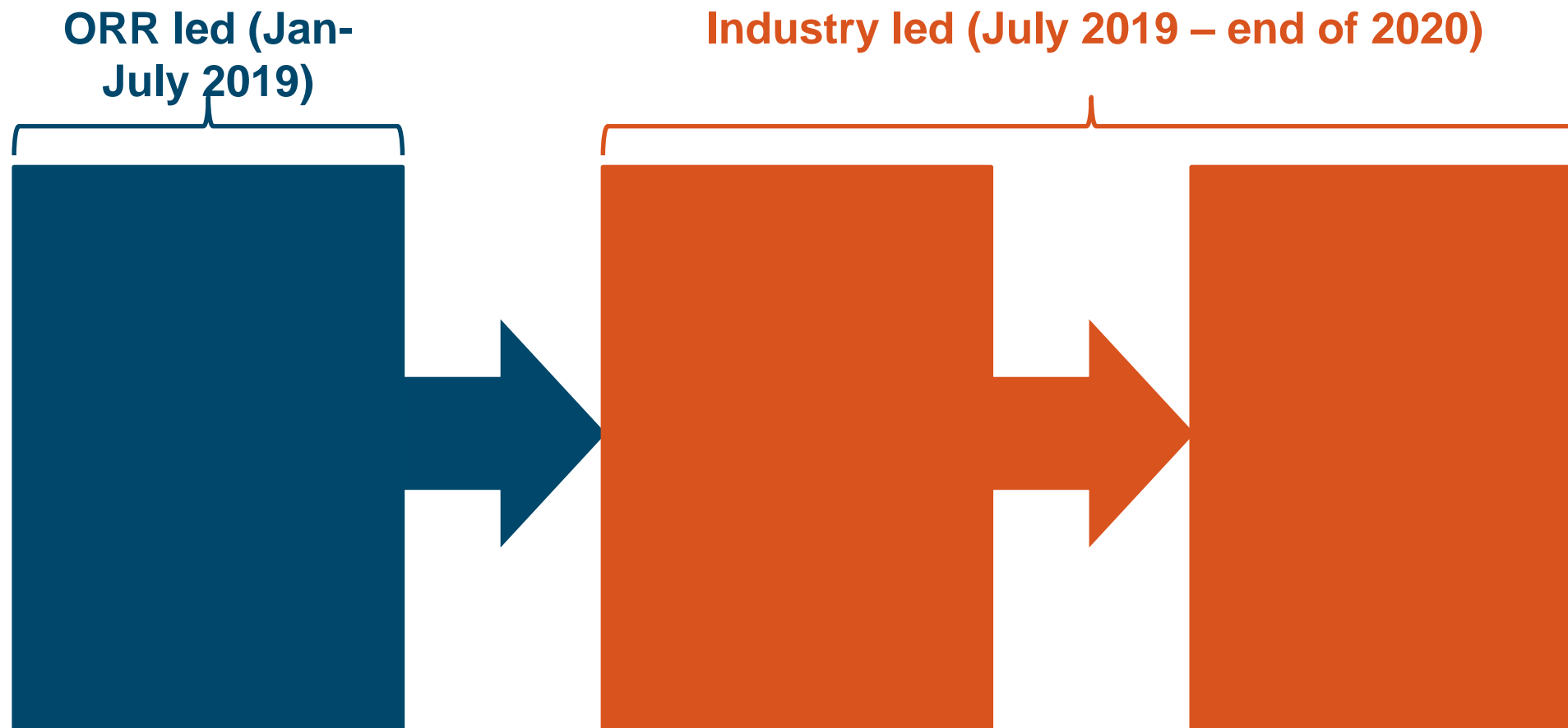
- I. To provide information to help understand the causes of poor performance on the network
- II. To provide data that underpins compensation payments between Network Rail and train operators for unplanned disruption.

■ Why are we reviewing delay attribution?

- During PR18 several stakeholders raised concerns with the current delay attribution system, including:
 - ✗ issues with specific delay attribution rules;
 - ✗ effectiveness of the governance arrangements; and
 - ✗ the amount of industry resources the process requires.
- Due to the importance of delay attribution we are keen that the process is fit for purpose and provides the right information and incentives for industry.

Plan for the structure of the review

- Our proposal is for the review to be split into three stages:



Scoping stage

- The purpose of the scoping stage is to:
 - articulate objectives;
 - establish facts;
 - identify priority areas for improvement; and
 - suggest potential courses of action.

■ This

ed by



Problem solving and implementation stages

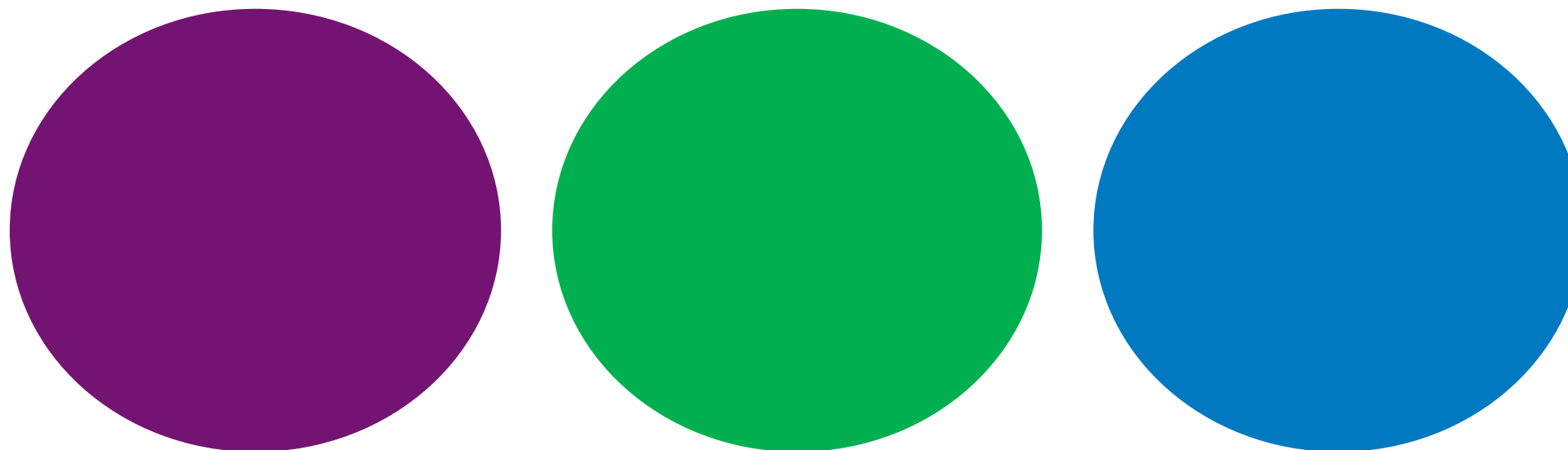
- Following the publication of our recommendations in June 2019 we expect the subsequent stages of the review to be led by industry.
- To facilitate the subsequent stages of the review we envisage an industry working group being set up. The industry working could then:



- The exact timing and approach for the subsequent stages of the review will be agreed with stakeholders in due course.

Scope of review

- We propose to structure the review around the following three themes:

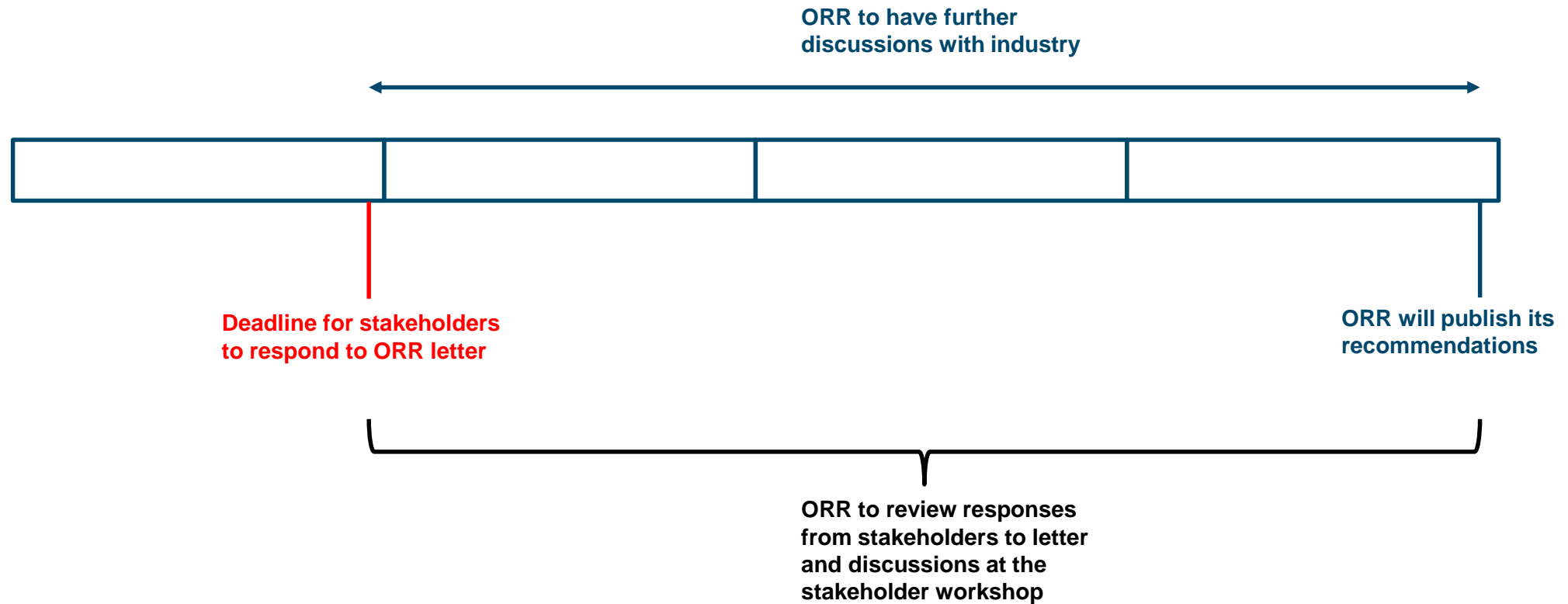


- ❖ **Out of scope**

- **Schedule 8:** Any potential reforms to the functioning of Schedule 8 are out of scope of this review, they will be considered as part of PR23.

Next steps

- Below sets out the immediate next steps in the review of delay attribution.



ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future



Questions for stakeholders (1)

- Below are the questions we have included in our letter to stakeholders.
 - **Decision-making and value added**
 - What are the benefits of delay attribution to your organisation?
 - How do the outputs of the delay attribution process inform decisions in your organisation?
 - To what extent does delay attribution help support improved performance?
 - What requirements should an effective delay attribution framework meet?
 - **Resources**
 - How much resource (staff time, consultancy spend etc.) does your organisation devote to delay attribution?
 - How many delay attribution events roughly does your organisation deal with each year?
 - **Accuracy**
 - Are delay attribution systems sufficiently accurate to meet the needs of your organisation?
 - Are there any areas in particular need of improvement?
 - Do you use any systems to support delay attribution, beyond those that are standard to the industry?

Questions for stakeholders (2)

■ Below are the questions we have included in our letter to stakeholders.

– **Dispute resolution**

- What proportion of delay attribution events lead to disputes (by disputes, we mean incidents where the cause and/or the responsible body are not agreed at the first stage)?
- What is the typical time taken to resolve disputes?
- What proportion of disputes require independent adjudication?
- How satisfied are you with existing dispute resolution procedures?
- What proportion of your overall resources devoted to delay attribution go towards dealing with disputes?
- Are there particular types of incident or specific delay attribution rules that cause a disproportionate amount of disputes?
- Do you have any delay attribution agreements with other industry parties, that follow rules other than those set out in the Delay Attribution Principles and Rules (DAPR)?

– **Effectiveness**

- What aspects of the delay attribution framework work well?
- What aspects of the delay attribution framework would most benefit from improvement?
- How do you feel improvements could best be achieved?
- Are there any aspects of the delay attribution framework that create perverse incentives?

Questions for stakeholders (3)

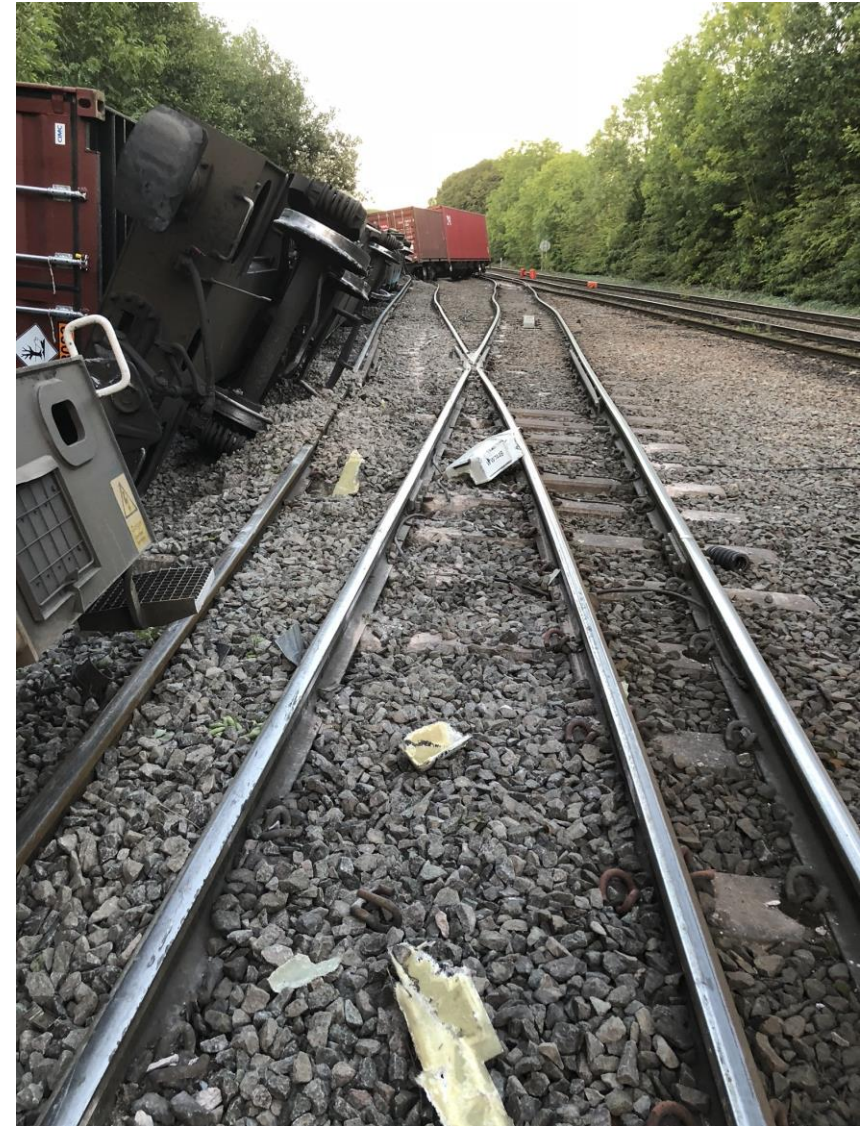
- Below are the questions we have included in our letter to stakeholders.
 - **Proposals for improvement**
 - Can you tell us of any specific proposals that you believe would enable delay attribution to better meet the requirements of your organisation and of the wider industry?

ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future



Health & Safety

Hams Hall Derailment, September 2018



Learning Points

- Infrastructure maintenance at boundaries between private and NR infrastructure
- Inspection regimes
- Arrangements for prioritising and review of infrastructure faults identified during maintenance

Health & Safety

- General discussion
- Any matters you wish to raise?

Tank Containers- Assistance



- Location of access ladders
- Feasibility of loading with ladders blocked in

ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future



**Model Facility
Access
Agreement**

Background

- At last year's Freight Customer Panel meeting, we discussed if ORR should develop a model freight facility access agreement, similar to the well-used model connection contract.
- Various agreements have been developed and entered into over the years, which in turn have been used as a "guideline" for future agreements.
- Following positive feedback from both freight customers and freight operating companies, we have been developing a type of model freight facility access agreement (FAA) that we hope will be useful.

- We considered the development of a whole model contract (similar to the connection contract), but this didn't seem the most practical avenue due to the varying requirements of each agreement.
- However, we are instead proposing to provide a selection of model clauses. We have done this by looking at previously approved FAAs and identifying the most popular clauses.
- We would intend the model clauses to be used on a “pick and choose” basis, based on the needs of the agreement.

For example...

7. OPERATION AND MAINTENANCE

7.1 General

Without prejudice to the other provisions of this contract:

*(a) the Train Operator shall maintain and operate the Specified Equipment used on the Facility in accordance with **Clause [5.1]** with a view to permitting the provision of the Services on the Facility in accordance with the permission to use under this contract*

ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future



Questions to the Panel

- Are model clauses, rather than a whole model contract, suitable for the needs of an FAA?
- Does this approach appear user-friendly?
- Would you use this if you were looking to enter into an FAA?
 - If so, which model clauses are most valuable?
 - Should alternative clauses be available to cater the type of facility owner?
- RPI and CPI – which would be preferable?
- Is the ORR guidance useful?
- Who should be consulted on this, and for how long?

ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future



Thank you