

**Caroline Webber**

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9 October 2018

William Lawson  
Station and Depot Portfolio Surveyor  
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Nick Shaw  
Stations Mobilisation Manager  
Keolis Amey Operations Limited  
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Dear William and Nick,

**Connection contract between Network Rail Infrastructure Limited (Network Rail) and Keolis Amey Operations/ Gweithrediadau Keolis Amey Limited (KA) at Canton Light Maintenance Depot**

1. On 9 October 2018 the Office of Rail and Road (ORR) approved the terms of the proposed connection contract, with modifications, that was submitted on 19 September 2018 by Network Rail and KA (the parties) under section 18 of the Railways Act 1993 (the Act), relating to the connection at Canton Light Maintenance Depot. Please find enclosed a copy of our directions notice, directing both of you to enter into the contract. This letter sets out the reasons for our decision.

**Background**

2. On 23 May 2018, the Welsh Government awarded KA the contract to operate the Wales and Borders and the South Wales Metro franchise from 14 October 2018 and as such, a new connection contract is needed for Canton Light Maintenance Depot.
3. This connection contract is not suitable for General Approval due to the level of charges involved.

**Consultation**

4. Network Rail ran an industry consultation for the new connection contract from 24 August 2018 to 7 September 2018. Paragraph 20 of the industry code of practice for track access application consultations states the standard consultation period should be 28 calendar days<sup>1</sup>. However in exceptional circumstances, it may be appropriate to consult for a shorter period.

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<sup>1</sup> [http://orr.gov.uk/data/assets/pdf\\_file/0006/17592/code-of-practice-for-track-access-application-consultations.pdf](http://orr.gov.uk/data/assets/pdf_file/0006/17592/code-of-practice-for-track-access-application-consultations.pdf)

5. For this application, you undertook a shortened consultation period of two weeks. No outstanding objections to the consultation were declared in the application. We note the context of the franchise handover taking place on 14 October 2018, and the shorter than usual period between the franchise being issued and its start date. We also note that no one formally objected to the shortened consultation period or requested more time to comment. Further, there were no subsequent issues raised with ORR by any third parties. We would however remind all applicants that the industry normally expects a 28 day consultation period for connection contract applications, other than in exceptional circumstances. The general principles for industry consultations are set out in our guidance module 'industry code of practice for track access application consultations'.

### **ORR Review**

6. We received the application on 19 September 2018. We queried with Network Rail how it had calculated the cost of the activities submitted. We are now content with the explanation of its calculation methods.
7. However, we did identify discrepancies between Network Rail's Maintenance Cost Calculation Database and Schedule 1 of the contract. Network Rail resolved these errors and the parties submitted an amended connection contract with the costs corrected on 3 October 2018.
8. We also queried why "in advance" was used instead of "in arrears" in Clause 15.1.1. The parties have agreed to change this to "in arrears", and the modification is included in the directions.

### **ORR Decision**

9. This application is under section 18 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement as modified.
10. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
  - (i) to protect the interests of users of railway assets;
  - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
  - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
  - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
11. Under clause 18.2.3 of the connection contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and KA. We look forward to receiving the conformed copy.

12. In entering any provision on the register, we are required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:
  - any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
  - any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that body.
  
13. When submitting the copy of the signed agreement would you therefore please identify any matters which you would like us to consider redacting before publication. You will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Caroline Webber'.

Caroline Webber