

Stakeholder relations code of practice

Passenger track access for new and potential train operators

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1.1

Contents

1. Introduction	3
2. Initial steps	3
3. Timescales	4
4. Development of a track access contract	4
5. Further guidance material.....	4
6. Who do I contact?	5
Appendix A: Assurances required by Network Rail	6
Appendix B: Applicable charges.....	7
Appendix C: Gaining a track access contract process.....	8
Appendix D: Timetable development process	9
Appendix E: Process for obtaining the Office of Rail Regulation’s approval	10
Appendix F: Assurance checklist	11

1. Introduction

This section of the code of practice has been designed to give a potential customer a good insight into how we will work together to develop a track access contract.

2. Initial steps

After your first approach as a prospective new passenger train operator¹, our [Commercial Advisor, Contracts & Franchising](#) will normally determine the route where most or all of your proposed train services will run. Our commercial advisor will then process your request.

The Commercial Advisor will outline your main points of contact in our team, and give you an example of a track access contract ([Model Clause format](#)). This is when you have an opportunity to examine the commercial and regulatory framework, and decide if you want to continue discussing your proposal.

The Commercial Advisor will give you guidance about how likely it is that paths will be available on the network for your proposed service. He'll base this on the timetable at the time, and on any technical constraints that may exist on the areas that you intend to operate, please consult [this link](#) for details.

If you want to continue, the commercial advisor will guide you through the process. In most cases, that means:

- a) We will seek the assurances and information in [Appendix A](#) to evaluate your background, and your ability to deliver the proposed services
- b) We will negotiate with you on the terms of the track access contract and approval by the Office of Rail Regulation (ORR).
- c) We will give you robust train slots through the timetable development process, including taking part in the annual timetable conference. Charges may apply to any special timetabling work that we carry out beyond the normal timetabling process - see [Appendix B](#) for details.

After that, we will work with you on various aspects, including finance, performance, operations, and safety and compliance.

All the way through the process, we'll keep you informed of the timescales that apply. You should allow 18 months for the entire process. This can vary, though, depending on the quantity and flexibility of services you need, the level of certainty of rights you need, and how complex the timetabling is.

You can see a process chart showing the stages of the procedure and the anticipated timeframes in [Appendix C](#).

¹ We talk about a 'train operator', but it could also mean other parties who are entitled to purchase and hold access rights which are exercised on their behalf by a licensed operator. If you're not a train operator and want to enter into a new track access contract, your first step should be to contact the Commercial Advisor, Contracts & Franchising.

3. Timescales

Throughout the process, we'll keep you informed about the timescales involved in developing a track access contract and agreeing an approved train service. You can find out more about developing timetables in [Appendix D](#).

4. Development of a track access contract

Once we have the assurances we need, we'll start negotiating with you to draw up a track access contract.

You can start negotiating before, after, or at the same time as developing a timetable, but it's normal to agree the contract before so you can exercise your required access rights during the timetabling.

We will need to carry out timetable development work and performance modelling before we can determine what capacity we can offer in the contract. If we carry out this work as part of our normal timetabling process, we won't charge you for it. If we carry it out before, we might have to charge you. We'll discuss and agree any charge with you before we take any action.

If you don't know your requirements at the time, we can agree a track access contract either during or after developing a timetable. In these circumstances, you might want to look for current timetable paths that are under development, or paths which are operating. Either way, you'll need to accept that we'll give your requests a lower priority, and will conclude a track access contract on the basis that the paths are actually made available in the timetable.

In either case, you won't be able to exercise access rights by physically running trains until the track access contract has been approved by the ORR and is in place.

A track access contract sets out your contractual relationship to us. A new track access contract will usually be carried out under a submission under section 18 of the Railways Act 1993, where the contract's terms are approved by the ORR. You can read about this process in [Appendix E](#).

Where it is not possible to agree the terms of a track access contract, you can make an application to the ORR for a new agreement under section 17 of the Railways Act 1993. This part of the Act lets you submit where you haven't been able to reach an agreement with us.

5. Further guidance material

The ORR has published two useful documents that you can read alongside this document:

[Starting mainline rail operations: a guide to the regulatory framework](#).

['Criteria and procedures for the approval of track access contracts'](#)

6. Who do I contact?

To discuss your proposal and the process for obtaining a track access contract, please contact:

Peter Craig
Commercial Advisor, Contracts & Franchising
Network Rail
Kings Place
90 York Way
London N1 9AG

Tel: 020 3356 9316
Email: peter.craig@networkrail.co.uk

If you have a general query however, or need to contact us for any other reason, please call our 24 hour National Helpline on 08457 11 41 41.

Appendix A: Assurances required by Network Rail

We need the following assurances to be met - or be given evidence of a realistic expectation that they will be met – before incorporating any bid to run train services into a timetable, and before entering into negotiations to draw up a track access contract:

As a prospective operator you'll need to assure us that you're financially and practically able to operate a successful train service. You must also agree to be bound by the timetabling process. As operator of the network, we will decide if your evidence is satisfactory.

So you need to demonstrate:

- a) that you have a sound business case
- b) that you as the operator will have sufficient funds to pay your liabilities to us
- c) that you can source rolling stock and staff
- d) that you meet the requirements of the Railways and Other Guided Transport Systems Regulations 2006 (ROGS)
- e) that you have an operating licence or exemption, or that the ORR or Secretary of State has given public notice that they are minded to grant such a licence
- f) that you have the necessary railway expertise, including train planning experience and train service operation
- g) that you have the relevant permissions to use the terminals, freight facilities or stations that you need

We will also need to consider:

- a) whether there's enough capacity on the whole of your proposed route, for the entire duration of the proposed service(s)
- b) the impact of any new service proposals on the [Route Utilisation Strategies](#).

You should also consider the assurance checklist in [Appendix F](#).

Appendix B: Applicable charges

We are funded to carry out timetable development work and performance modelling which arises under [Part D](#) of the Network Code. The cost of this work is part of the ordinary operating costs that are part of our role as network operator. However, if a request falls outside our timetable development process, we'll need to recover our Strategic Access Planning team's costs.

We base our charges on an hourly rate of between £33 and £64, with an intermediate rate of £51 depending on how senior the analyst involved is.

Factors which determine the final charge are the scope of the analysis (both time and geographical), the operational complexity of the location, the way we undertake the analysis, and the resource we use to deliver it. Because the work varies according to the request, it's hard to state definitive costs – but we've given three examples below as an example.

We'll give you an estimate of charges for work with the project specification before we start working on it. All costs are on an emerging cost basis.

Example 1

Constructing indicative timetables from train service specifications

Approximate cost - £20-40k

Example 2

Performance modelling of indicative timetables

Approximate cost - £15-25k

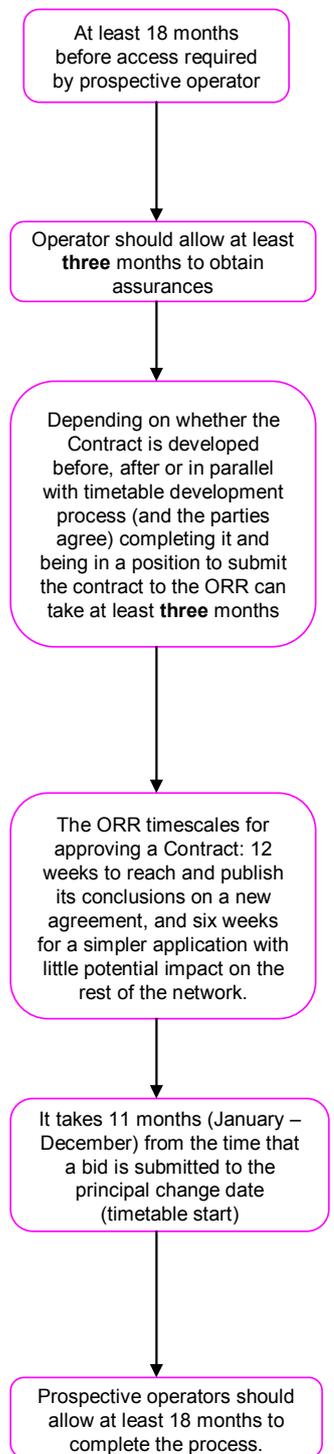
Example 3

Evaluating proposed timetables / modelling analysis delivered by a third party

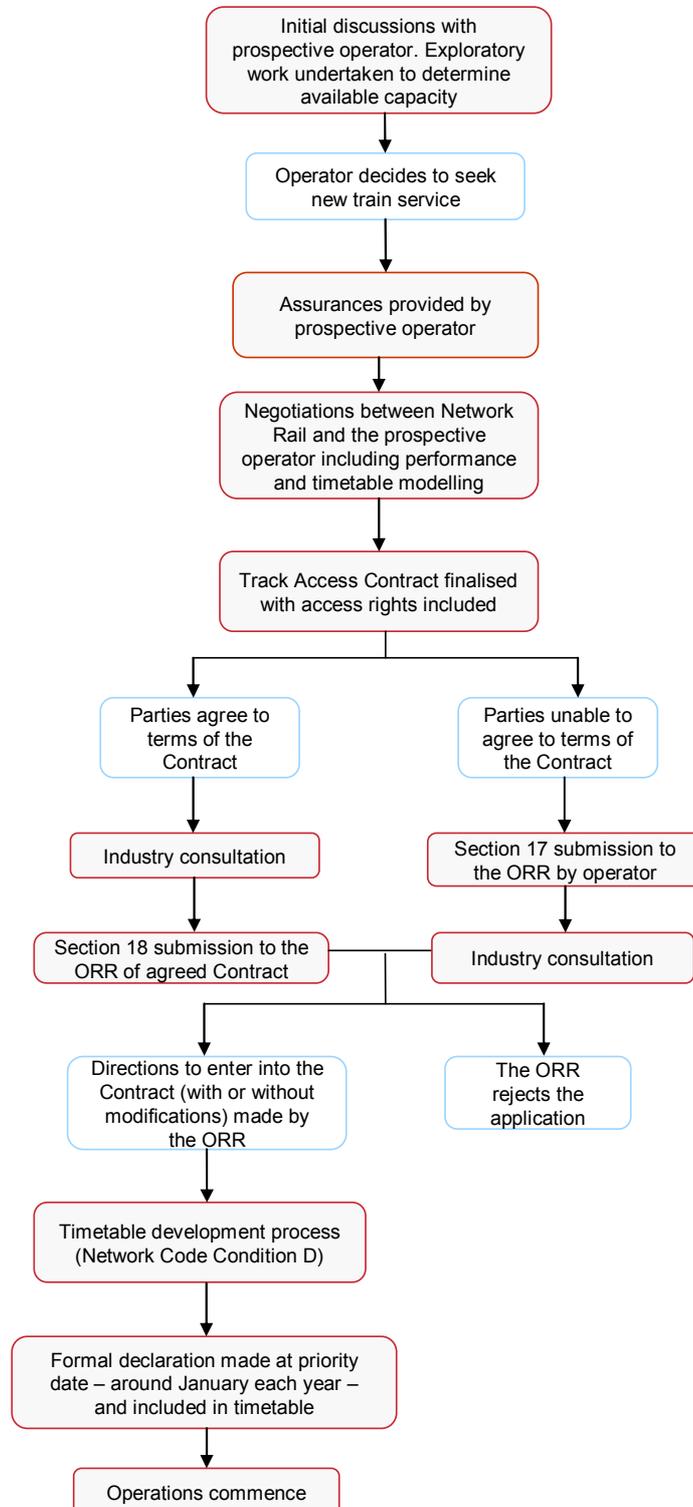
Approximate cost - £1-5k

Appendix C: Gaining a track access contract

Indicative timeline



Process



Appendix D: Timetable development process

The Customer Relationship Executive will give you details of the appropriate train planning contact to help you develop your service plans to the process set out in Part D of the [Network Code](#). The Network Code is an industry document which describes the rules which are incorporated into each access agreement.

The Customer Relationship Executive will, in most cases, act as the key contact for train planning and will help you assess if and where space exists in a future timetable for potential new services.

[Timetable Planning Rules](#) contains a plain English description of the timetable planning process, together with details of the planning schedule and requirements you'll need to meet as you bid for train paths. The Customer Relationship Executive will be able to guide you through the exact process you'll need to follow

After we've received declarations from every train operator that wants to run services in the new timetable, we will consult with them all and develop a draft timetable. As a train operator, you can amend, delete or add to your bid up to four weeks before we issue the draft timetable. Once it's been issued, all the train operators have time to assess the draft and tell us about any amendments they need.

We won't keep the information you give us in the timetable process confidential, unless there are exceptional circumstances. We'll publish an initial list of operators' aspirations for using the network before the timetable conference.

The exact timescales for the timetable development process vary from year to year. The Customer Relationship Executive supplies those details.

Once paths have been identified to a prospective operator, that operator can exercise them as soon as we have expressed them in a valid track access contract.

Spot bids

Operators whose commercial needs dictate that they need access to the network more quickly than the full timetable process allows can use the 'spot bid' process. This gives them access to train slots, as long as there's an approved track access contract in place when they use the slots. You'll find full details in the Network Code and in the Timetable Planning Rules (see above).

You must request access from train planning in an agreed format. We expect to make offers within one week of submission, as long as you already have a relevant track access agreement and can use an existing train path. There are occasions when finding a train slot for spot bid traffic is difficult, in which case it can take longer.

Appendix E: Process for obtaining the ORR's approval

The Customer Relationship Executive will work with you to fill in the [template model track access contract](#). They will develop successive drafts until both parties are happy that the document reflects the contractual relationship they want to work under.

Once we've agreed your proposed access rights in principle and set out in the track access contract, we will consult with other operators about your proposal's impact on their access rights. If necessary, and with your agreement, we might amend or flex your rights to avoid conflicts with other operators' rights.

After a period of industry consultation we'll jointly submit the final track access contract to the ORR with feedback from the consultation with other operators. You can find out more about this in section 3 of '[Criteria and procedures for the approval of track access contracts](#)'.

The ORR must approve the contract before you can operate train services.

If the ORR is satisfied, it will give directions to you and to us to enter into the track access contract, which may have modifications.

When it's been signed and exchanged, the agreement is 'live' and you can start the operations it permits.

Appendix F: Assurance checklist

ASSURANCE REQUIRED	DETAILS	CONTACT
ROGS (Railways and Other Guided Transport Systems Regulations (2006))	ROGS were introduced to put the requirements of the 2004 European Railway Safety Directive into place with the aim of creating a common European railway safety framework. ROGS require the majority of railway operators to maintain a safety management system and hold a certificate stating that the safety management system has been accepted by the ORR.	The ORR is responsible for granting certificates which indicate that an operator's safety management system has been accepted by the regulator.
Operating licence	<p>Section 6 of the Railways Act 1993 (as amended) makes it an offence to be the operator of a railway asset without a licence or a licence exemption. Licences are granted by the ORR.</p> <p>New passenger operators will need to obtain a passenger licence and, depending on their proposed operation, a station licence and/or a light maintenance depot licence.</p>	You can get detailed information about the types of licence a new operator needs, and the processes and timescales that apply, from the ORR
Business case	The new operator's business case proposal must be realistic and achievable, and must be consistent with the reasonable requirements of other customers and funders.	You should contact the relevant Network Rail Commercial Advisor (Passenger) or Route Freight Manager (Freight) to discuss the details of any business case.
Financial robustness	The new operator will have sufficient funds to cover their financial liabilities to us.	Please contact us to obtain more information about the type of financial assurances we need.
Rolling stock and staff	We need to be confident that new operators will have adequate rolling stock and staff for train services to run. They should supply us with firm confirmation of the availability of appropriate rolling stock (e.g. route cleared, and capable of keeping to the proposed timetable) and recruitment plans.	You should ask for a detailed explanation of our requirements from the relevant Network Rail Commercial Advisor (Passenger) or Route Freight Manager (Freight).
Claims allocation and handling agreement (CAHA)	<p>All licensed rail operators should have appropriate claims handling protocols agreed by the ORR. CAHA is the only relevant protocol. The aims of the agreement are:</p> <ul style="list-style-type: none"> • to minimise the cost of claims handling to the rail industry • to reduce the costs of inter-industry 	The ORR requires all operators to sign up to CAHA protocols as part of their operating licence conditions. You should ask the ORR for details.

ASSURANCE REQUIRED	DETAILS	CONTACT
	<p>disputes by use of a pre-determined allocation regime for small claims</p> <ul style="list-style-type: none"> to verify claimants are not prejudiced by disaggregation of the industry. 	
<p>Railway expertise e.g. train planning</p>	<p>Planning and running a train service on the rail network in Britain is extremely complex. We need to know that new operators have the experience, skills and knowledge they need to be an effective and efficient operator of passenger trains.</p>	<p>When a potential new operator first contacts us, our commercial team and Capacity Allocation Manager will work closely with them to verify that they have the necessary expertise and understanding of the complexities of the rail industry.</p>
<p>Railway industry Emergency Access Code</p>	<p>It may be necessary for licence holders to grant other parties access to their network to alleviate the effects of an emergency on the Network Rail network.</p> <p>The Emergency Access Code defines everyone’s responsibilities, rights and obligations. The code lets everyone who has signed up to it gain access to railway facilities that are operated by other licence holders when it becomes necessary, so that railway vehicles that cause or are the subject of emergencies can be removed from and/or accepted onto another network as soon as it is possible.</p>	<p>We are responsible for managing the procedures and processes relating to the Emergency Access Code. This includes executing and delivering admission documents and informing the ORR and all other parties of any entries to, or withdrawals from, the code.</p> <p>Initial contact should be made with the relevant Network Rail Route Commercial Advisor (Passenger) or Route Freight Manager (Freight).</p>