

Great British Railways

Access and Use Policy

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Part A: Principles and decision framework

Chapter 1 Scope and statutory status of this policy

This chapter explains the statutory basis, scope and legal framework for this policy. It sets out how the policy meets GBR’s obligations under Section 59 of the Act.

Scope and statutory status of this policy

- 1.1 GBR’s functions are set out in Section 3 of Railways Act 2026 (“the Act”). These functions include “making decisions about access to, and the use of, railway infrastructure for the operation of trains.” (Section 3(2)(b)).
- 1.2 This document sets out GBR’s policy for how it will discharge this function, in light of the wider provisions in the Act and law. It meets GBR’s obligations in Section 59 of the Act to issue an Access and Use Policy, and covers:
 - **capacity allocation:** how GBR decides the best use of network capacity, and its decisions effect through its Capacity Plan, capacity commitments and timetable production;
 - **terms of access and use:** how access contracts, model terms and GBR Codes provide permissions to use GBR infrastructure, set out procedures and establish conditions; and
 - **charging and performance:** how GBR develops the framework for charging and performance schemes that included in contracts.

Box 1: Railways Act 2026 Section 59: Access and Use Policy

<i>Section 59: Access and Use Policy</i>	
(1) Great British Railways must issue one or more documents setting out its policy about, and procedures for, access to and the use of GBR infrastructure for the operation of trains.	
(2) The document or documents must –	
(a) set out the procedure for applications to Great British Railways for access to and the use of GBR infrastructure for the operation of trains other than GBR passenger services,	Chapters 5, 6, 9
(b) set out the criteria that Great British Railways intends to apply— (i) when making decisions on such applications, and (ii) when dealing with competing demands for access to and the use of GBR infrastructure,	Chapter 2
(c) set out a procedure for resolving disputes relating to the working timetable (see section 61(2)),	In contract conditions (described in Chapter 4)
(d) include provision about the carrying out of work to maintain and improve GBR infrastructure and the effect of such work on the operation of trains,	In contract conditions (described in Chapters 4 and 5)
(e) include provision about the procedure for allowing access to and the use of GBR infrastructure by trains that cross the border between the United Kingdom and France, and	Chapters 5, 6, 9
(f) include provision about how disruption affecting GBR infrastructure or the operation of trains that use GBR infrastructure is to be dealt with.	In contract conditions (described in Chapter 4)
(3) The document or documents may also set out the terms on which access to, and the use of, GBR infrastructure for the operation of trains is to be permitted.	

- 1.3 Before making changes to this document GBR will consult:
- parties who hold track access contracts;
 - parties that have registered with GBR as prospective applicants for such contracts;
 - the ORR;
 - Scottish Ministers and Transport Scotland;
 - Welsh Ministers and Transport for Wales;
 - Transport for London;
 - the Department for Transport;
 - mayoral combined authorities and mayoral combined county authorities;
 - Transport Focus; and
 - adjacent infrastructure managers.
- 1.4 GBR may also consult other parties it considers will be affected by the policy.
- 1.5 Where specified, GBR's policy is to incorporate the provisions and procedures that are required under Section 59(2) within the contractual arrangements parties using its infrastructure must enter into. Such procedures and provisions can only be amended by using the procedures for change that are included in those contracts. Decisions made under those processes are subject to contract law and, where relevant, the dispute resolution mechanisms defined in contracts.
- 1.6 This policy also supports and gives effect to the following duties within the Railways Act:
- Section 60 – Infrastructure Capacity Plan duty: GBR must prepare and maintain a Capacity Plan setting out how, in its view, best use can be made of GBR infrastructure for the operation of rail services. GBR must have regard to the need to accommodate GBR passenger services, other passenger services, freight services and infrastructure maintenance and enhancement requirements. This is set out in Chapter 7.
 - Section 61 – Working Timetable duty: GBR must issue and maintain a Working Timetable defining planned train movements on GBR Infrastructure and may revise that timetable in accordance with the statutory framework. This is set out in Chapter 9.
 - Section 62 – Timetable preparation duty: Before issuing a Working Timetable, GBR must invite applications for train movements, consider applications received, consult applicants on draft timetable proposals and consider representations before finalising the timetable. This is set out in Chapter 9.
 - Section 63 – Capacity Duty: When determining access applications and preparing, issuing or revising the Working Timetable, GBR must ensure sufficient capacity is retained to allow for the operation of GBR passenger services, railway passenger services that it expects in future will be GBR passenger services, and the carrying out of work necessary to maintain and improve GBR Infrastructure. This is set out for each of the relevant decisions in this policy.
 - Section 64 – Charging scheme duty: GBR must make and publish a scheme setting out the charges payable for access to, and use of, GBR infrastructure. This is set out in Chapter 10.
 - Section 65 – Performance scheme duty: GBR must make and publish a scheme designed to encourage GBR and other providers of qualifying railway services using GBR infrastructure to minimise disruption or delay. The scheme may provide for penalties, compensation, bonuses and information requirements. This is set out in Chapter 11.
 - Section 66 – Consultation duty: GBR must undertake the consultations required by legislation before issuing, revising or replacing relevant access, capacity and timetabling documents, including this AUP where applicable. This is set out where relevant for each decision.

Chapter 2 Capacity allocation decisions and GBR's criteria

This chapter explains how GBR acts as the railway's directing mind when making choices about the use of capacity. It identifies the principal capacity allocation decisions and sets out the statutory duties, considerations and proportionate decision-making approach GBR applies, including when the Capacity Duty in Section 63 is relevant. It also explains how GBR publishes its key decisions and the reasons for them.

Managing capacity as an integrated directing mind

- 2.1 The nature of railway management on a busy network and the role of the integrated directing mind are important background to this policy. This role is exercised by GBR in the context of other public bodies that have statutory and operational roles in respect of their own services and railway infrastructure.
- 2.2 The railway capacity that GBR manages is limited and is costly for taxpayers to provide, with benefits delivered by multiple private and public bodies. On the busiest routes, capacity, infrastructure and railway systems are intensively used and in high demand, with significant constraints and pinch points. Railway services, operational quality and cost are linked elements of a single system. Services are often closely interconnected, so that service changes intended to benefit one group or expand a specific market will also impact other users. Capacity allocation therefore requires GBR to make real choices between duties and legitimate interests that do not always align.
- 2.3 GBR's role as the railway's directing mind is to bring these issues together, understand the available choices and reach a reasoned conclusion that serves users, communities and the wider nation in line with its statutory duties. Through efficient capacity allocation, this function has the ability to create greater usable capacity, increasing value overall. The significant benefit of proactive planning is that competing aims are considered together, attention is paid to operational constraints and opportunity costs, and trade-offs are resolved consciously and transparently.
- 2.4 In managing capacity GBR is seeking to take practical steps that make the railway work better for everyone in Britain. Our approach to discharging our statutory functions seeks to:
 - apply the same framework to options for investment and services over time as they develop from long-term planning into capacity allocation and operational delivery;
 - carry intended benefits, assumptions, dependencies and risks through each stage, rather than taking a series of disconnected decisions;
 - work effectively across regions, markets and infrastructure boundaries where passenger or freight services depend on the network as a whole;
 - settle significant choices about how to use the railway progressively, early enough to support investments and provide a credible route for plans to go into operation; and
 - preserve appropriate flexibility for later stages, allowing operators and railway operational teams to optimise services, solve practical problems and respond to changing circumstances.

GBR's capacity allocation decisions

- 2.5 GBR makes allocation choices and manages capacity through the linked decisions below. In this policy these decisions are referred to as "GBR's capacity allocation decisions". They are relevant decisions for GBR's statutory function in Section 3(2)(b) of the Act, which specifies that GBR will make decisions on access to and use of the railway.

Changes to the Capacity Plan

Major updates make significant, planned changes that are necessary when strategic or consequential capacity choices are best considered in the round. Minor revisions make more limited changes. Chapter 7 explains the decisions to:

- i. determine the critical railway outputs and scope of a major update;
- ii. revise the Capacity Plan following a major update project;
- iii. reject or modify a request to update the Capacity Plan; and
- iv. make a minor revision to the Capacity Plan.

Entering or amending access contracts

Access contracts and the GBR Codes provide the legal permission, terms and processes through which access is exercised and managed. A contract is required in order to hold a contracted capacity commitment. Applications for a new contract may be made at any time. Chapter 8 explains the decisions to:

- v. enter into or amend an access contract; and
- vi. update the Model Access Contracts, or the GBR Codes.

Deciding on applications for contracted capacity commitments

Capacity commitments give applicants defined priority to specified capacity for a defined period. They are held under access contracts and given effect through the timetabling procedures in the GBR Code. Applications may be made at any time and may either match the Capacity Plan or require a corresponding minor revision. Chapter 6 explains the decisions to:

- vii. approve, modify or reject an application for a new or amended capacity commitment, including determining its duration and conditions.

Making and changing capacity commitments held by GBR

The capacity commitments GBR holds retain capacity for GBR passenger services or for regular scheduled maintenance. Chapter 6 explains the decision to:

- viii. make or amend a capacity commitment for a GBR-operated service, including determining its duration and conditions.

Timetable production and variation

Timetabling decisions are taken in line with contractual terms. They give operational effect to the Capacity Plan and capacity commitments and provide flexibility for fine-tuning services, resource planning, engineering work, short-notice freight, charter services and other operational needs. Chapter 9 explains the decisions to:

- ix. define the timetable rules, including asset capability; operational, performance and engineering work requirements; and
- x. accept, vary or reject an application for a timetable path or for a variation of the timetable.

How GBR takes capacity allocation decisions

- 2.6 The law shapes GBR's decisions by requiring access choices to be made in line with its duties in the Act and in compliance with all other legal duties, including safety management obligations and competition law.
- 2.7 Specifically, when taking the capacity allocation decisions listed in paragraph 2.5, GBR must meet its Capacity Duty in Section 63 in such cases where that duty is relevant. GBR is also bound by its duties to have regard to the matters set out in Sections 16, and 17 of the Act, and to exercise its functions in a way that balances the matters in Section 18 of the Act.
- 2.8 GBR applies the duties set out in Sections 16, 17 and 18 of the Act when deciding how capacity should be allocated in the Capacity Plan. These duties apply to the exercise of GBR's functions, which include deciding about access to, and the use of, railway infrastructure for the operation of trains. In this policy, "best use" means GBR's view, reached in light of these duties and any wider legal requirements, of how GBR infrastructure can be used for the operation of trains in a way that meets the requirements of Section 60 of the Act.

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- 2.9 Section 63 does not apply when GBR updates or revises the Capacity Plan, because such decisions do not permit another party to use GBR infrastructure, and do not relate to the working timetable.
- 2.10 The Capacity Duty in Section 63 must be applied when GBR permits other parties to use its infrastructure, including through decisions on access contracts and capacity commitments, and when it prepares, issues or revises the working timetable. In taking these decisions, therefore, GBR must retain sufficient capacity for GBR passenger services and expected future GBR passenger services, and for work needed to maintain and improve GBR infrastructure. GBR passenger services in this context are those provided by GBR under arrangements with the Secretary of State or other public authorities (as defined in Section 73).
- 2.11 There are often multiple ways to satisfy this duty when making decisions. Provided the capacity retained is appropriate for the services and maintenance or improvement work set out, Section 63 does not prescribe a single approach for making capacity commitments, GBR timetable paths, or engineering arrangements. This means that Section 63, in many cases, leaves GBR significant material discretion which must be exercised in the context of its duties.
- 2.12 Where GBR is deciding permissions to use its network, GBR will exercise such discretion by applying its relevant statutory duties and the considerations in this chapter. Where GBR has such discretion in timetable production and engineering access decisions, GBR will follow the contractual rules in the GBR Code which give effect to the wider legal obligations on GBR.

STATUTORY DUTIES AND CONSIDERATIONS FOR CAPACITY ALLOCATION

- 2.13 GBR is required by Section 59(2)(b) of the Act to set out in this policy the criteria it uses for the following purposes:
- when making decisions on applications to GBR for access to and the use of GBR infrastructure for the operation of trains other than GBR passenger services; and
 - when dealing with competing demands for access to and the use of GBR infrastructure.
- 2.14 For the purposes of Section 59(2)(b), GBR's criteria are the relevant statutory duties and considerations below.

Box 2: Duties to have regard to statutory strategies and plans

[Great British Railways] must have regard to –

- a) the rail strategy,
- b) the Wales Transport Strategy published under Section 2 of the Transport (Wales) Act 2006, and
- c) the strategy published by the Scottish Ministers under Section 5 of the Railways Act 2005.

Railways Act, Section 16(2)

Great British Railways must have regard to –

- a) the local transport plan of each mayoral combined authority and each mayoral combined county authority, and
- b) the Mayor of London's transport strategy.

Railways Act, Section 16(3)

- i) GBR places particularly high importance on having regard to government strategies, recognising that governments are democratically accountable for the public railway bodies that they sponsor and for the public funds invested in rail.
- ii) GBR places particularly high importance on the strategies or plans of any mayoral authority or devolved government (or their transport agencies) that funds or operates services or infrastructure affected by a decision, while also taking account of other relevant strategies and plans.
- iii) When there are conflicts between strategies, GBR considers which government or authority funds or operates the services or infrastructure affected by the decisions.
- iv) To assist GBR in weighing its duties for relevant decisions, GBR uses the preferred metrics

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and assessment frameworks of such mayoral authorities and devolved governments (or their transport agencies) that fund or operate services or infrastructure.

Box 3: Duty on passenger interests

[Great British Railways] must exercise [its statutory functions] in the manner best calculated to promote the interests of users and potential users of railway passenger services including, in particular, the needs of disabled persons.

Railways Act, Section 18(2)(a)

- v) GBR considers the different interests that passengers have in making a range of journeys, for different purposes. GBR considers the interests of disabled persons wherever relevant to capacity decisions.
- vi) GBR considers the journey opportunities offered to passengers, including features such as frequencies, calls, timings, and connections.
- vii) GBR considers the quality of the passenger experience where there are material and relevant issues not already considered in light of the rail service performance duty of GBR.
- viii) GBR places importance on the ensuring reasonable continuity for passengers, considering the travel opportunities offered to make journeys to work, education, and services.
- ix) GBR will consider what best serves passengers by reference to the services being offered and expected outcomes, without presuming passenger interests are necessarily better served by single or multiple operators.
- x) Where a devolved government, mayoral authority or their relevant agency funds or operates passenger services, GBR places particularly high importance on that body's view of how to best serve its own passengers, recognising the relevant powers and duties of those bodies. GBR continues to consider relevant impacts on other passenger groups, freight users or its wider duties.

Box 4: Duties relating to rail freight

Great British Railways must, when exercising its statutory functions, have regard to –

- a) the target set by the Secretary of State [to increase the use of the railway network in Great Britain for the carriage of goods], and
- b) any strategy or policy of the Scottish Ministers relating to the use of the railway network in Scotland for the carriage of goods.

Railways Act, Section 17(4)

[Great British Railways] must exercise [its statutory functions] ... in the manner best calculated to promote the use of the railway network in Great Britain for the carriage of goods.

Railways Act, Section 18(2)(b)

- xi) GBR places particularly high importance on continuing to provide appropriate access for existing rail freight customers and shippers who rely on rail, in order to help build the reputation of rail as an attractive and commercially viable option for freight.
- xii) GBR considers the distinct characteristics of rail freight customers and operators, including the need for quality longer-distance paths that cross different operating units and boundaries with other infrastructure managers, and that freight customer demand may arise or change at relatively short notice compared to passenger demand.
- xiii) GBR considers any additional priority that is set out for specific freight uses in the targets, strategies or local transport plans that GBR must have regard to. This may include, for instance, flows identified as significant for infrastructure, housing, industrial, energy or other strategic supply chains.

Box 5: Duty on train service performance

[Great British Railways] must exercise [its statutory functions] ... so as to promote high standards of railway service performance [including, in particular, reliability (including punctuality), and the avoidance or mitigation of passenger overcrowding].

Railways Act, Section 18(2)(c)

- xiv) GBR identifies risks to train service performance on the GBR network, taking account of impacts on passenger experience and the commercial needs of freight customers. GBR considers the most appropriate way to manage such risks when taking capacity decisions.
- xv) GBR considers crowding impacts for passengers at stations and on trains, using appropriate measures in a proportionate way.
- xvi) GBR will work with adjacent infrastructure managers to take account of cross-boundary performance and the impacts on passengers and freight customers.
- xvii) GBR will use appropriate measures in a proportionate way in capacity decisions and will take account of performance and crowding measures preferred by devolved rail bodies and governments, and adjacent infrastructure managers.
- xviii) GBR considers the time the railway needs to be closed or restricted for engineering work to deliver the required asset capability and reliability.

Box 6: Duty on planning by railway service providers

[Great British Railways] must exercise [its statutory functions] [...] so as to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

Railways Act, Section 18(2)(d)

- xix) GBR considers how its decisions support GBR and other railway service providers to plan the medium- and longer-term future of their businesses with reasonable assurance.
- xx) GBR considers how its decisions provide appropriate flexibility for shorter-term planning, enabling GBR and other railway service providers to optimise and respond to change.
- xxi) GBR seeks to ensure process burdens on all parties providing rail services, including GBR, are proportionate.
- xxii) GBR will consider how decisions can best support investment by GBR and other railway service providers, where GBR considers that investment will deliver improvements in line with GBR's long-term plans and the considerations and duties set out for capacity allocation.
- xxiii) GBR considers whether the railway has sufficient capacity and capability to support proposed uses safely and reliably, including constraints arising from electric power supply, level crossings and other infrastructure or railway systems. GBR takes account of operational and performance risks and the availability of effective and deliverable mitigations.

Box 7: Duty on social, economic and environmental matters

[Great British Railways] must exercise [its statutory functions] ... in the manner best calculated to be in the public interest [including, in particular, the social and economic benefits derived from railway services, and the effect the provision of railway services has on the environment].

Railways Act, Section 18(2)(e)

- xxiv) GBR considers the contribution that both private and public rail services can make to the overall public interest for everyone in Britain.
- xxv) When setting economic, social and environment objectives that guide capacity allocation decisions, GBR places importance on relevant government strategies, statutory mayoral strategies and local transport plans.

Box 8: Duty on public funding and affordability

[Great British Railways] must exercise [its statutory functions] ... taking into account the costs that will need to be met from public funds and the need to make efficient use of those funds.

Railways Act, Section 18(2)(f)

- xxvi) GBR considers overall impacts on public funds. GBR also considers the impact on each public body or funder separately where necessary recognising the relevant roles of public bodies in respect of infrastructure and services.
- xxvii) GBR considers impacts on the funds of the Secretary of State, devolved Ministers and Mayoral bodies that fund rail.
- xxviii) GBR considers impacts on the ability of public rail bodies to deliver their statutory functions and duties efficiently, within funds available and likely to become available. This includes the ability of such bodies:
 - to deliver their statutory business plans; and
 - to deliver efficiently in line with GBR's strategic plans established as part of GBR's long-term planning programme under Section 3(2)(a) of the Act, including any provision made in those plans in respect of services funded or provided by other public bodies.
- xxix) GBR considers revenues as an integral part of the net call on public funds, and considers revenues abstracted from rail services when relevant, and in respect of different public funders or rail bodies.

2.15 When applying these criteria to relevant decisions:

- **GBR weighs its statutory duties** in Sections 16, 17 and 18 of the Act, alongside any other applicable legal obligations, having regard to the strategies, plans and targets set out in Sections 16 and 17, and balancing the requirements in 18(2)(a)-(f).
- **GBR takes into account the considerations** published below; and
- **GBR supports its decisions with evidence and analysis.** GBR will be informed by relevant evidence and carry out analysis as necessary in order to apply its duties to the facts of particular decisions.

Applying the statutory duties and considerations to decisions

STRUCTURED, PROPORTIONATE, EVIDENCE-BASED DECISION-MAKING

- 2.16 GBR will consider which duties and considerations are relevant to specific capacity allocation decisions in this policy, and will set that out when publishing its decisions.
- 2.17 Where a consideration is described above as having particularly high importance, this means that GBR will place a higher weight on that consideration in any cases where the decision would otherwise be finely balanced. It does not create material priority in any other case or allow GBR to disregard its other duties or relevant considerations.
- 2.18 GBR uses a four-stage framework to structure its decisions:
 - i) defining the scope and objectives;
 - ii) identifying the reasonable options;
 - iii) assessing the options proportionately; and
 - iv) taking the decision and publishing the rationale.
- 2.19 GBR applies a principle of proportionality to all its decision-making. GBR will only undertake analysis or gather evidence as needed to identify and weigh the duties and considerations material to the decision. The scale of such work should reflect the decision's complexity, the materiality of its

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potential benefits, the uncertainties involved and the consequences of reaching the wrong conclusion. GBR may decide a matter on the basis of a sufficiently strong likelihood and does not undertake detailed analysis or further evidence gathering where it is unlikely to materially alter its assessment or decision. This approach allows GBR to reach sound decisions sooner, focus resources on proposals capable of delivering material benefits, and avoid unnecessary cost and uncertainty for GBR, public funders and parties seeking access to the railway.

- 2.20 In applying its duties and considerations, GBR recognises the respective powers, functions and obligations of governments, and other public transport and rail bodies. GBR will work with those public bodies that fund and operate rail services and infrastructure and will take their roles into account in making relevant capacity allocation decisions. As a matter of principle, GBR does not seek to substitute its own judgement for that of such bodies in respect of their own functions and will seek to develop mutually agreed solutions wherever reasonably practicable. In doing so, GBR will also have regard to the wider impacts on other railway users, other relevant bodies and the matters arising from its statutory duties.
- 2.21 Government strategies, local transport plans, mayoral transport strategies and statutory directions or guidance may not always point in the same direction. GBR will seek to identify and address material conflicts through its long-term planning activities, enabling the relevant governments and authorities to contribute to the development of options and the supporting evidence in a structured joint process that establishes the most appropriate strategic outcomes before the stage where capacity allocation decisions are required. Where conflicts arise, a more detailed requirement or goal that has been included in strategies or plans will not be afforded greater weight by GBR solely by virtue of its level of detail. Detailed requirements will be considered alongside any practical delivery options identified by GBR through its long-term planning processes in order to achieve relevant higher level strategic requirements.
- 2.22 Statutory arrangements, including memoranda of understanding recognised in legislation, provide mechanisms through which governments and authorities may seek alignment. The Secretary of State and devolved governments are also required to have regard to the duties set out in Section 18. Where a material conflict remains and must be resolved for the purposes of allocating capacity, GBR will do so in a fair, transparent and non-discriminatory manner, having regard to its statutory duties and the relevant considerations set out in this chapter.
- 2.23 GBR will take decisions on capacity allocation fairly and without discrimination, as required by law. Benefits in the overall public interest can be delivered by public and private operators, and by rail bodies of many different kinds. Persons planning railway services or linked investment, including public funders, should engage with GBR and reach agreement on how to obtain the capacity assurance they require before committing significant expenditure.
- 2.24 The arrangements that GBR has in place to ensure transparency and assurance are set out in Chapter 12. This includes the GBR process for internal complaints resolution, which sits alongside the provision of contractual dispute mechanisms and ORR appeal under the Act to provide a strong framework of scrutiny.
- 2.25 In all relevant decisions, GBR will consider whether options are deliverable in practice by the operating parties. This will include, for example, whether a prospective operator has a credible plan and funding to mobilise in the relevant timeframe. For options that require infrastructure change or require additional rolling stock, GBR will take into consideration the feasibility of delivering those dependencies and their funding status.
- 2.26 Later chapters explain the procedures applying to particular decisions.

WEIGHING INTENSITY OF USE

- 2.27 In deciding on how best to use its infrastructure for the operation of trains, GBR considers how to

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weigh the value secured by intensive use – through user benefit, economic benefits and revenue – against the value of greater service reliability which may be delivered by a lower service frequency. GBR will be guided by its duties and considerations in determining the best-value balance.

- 2.28 Intensity of use affects the downtime required for maintenance, other things being equal. GBR will consider the balance between the time the railway is open for the operation of trains and closed or restricted for engineering work to deliver the required asset capability and reliability. In doing so, it will consider the merits of different approaches to engineering work.
- 2.29 Where merited, GBR may decide to reject applications by other parties in light of its duties, including in order to protect public funds, even if doing so leaves capacity that would otherwise be available unused.

WEIGHING CONTINUITY FOR EXISTING RAIL USERS

- 2.30 When considering how to make best use of the railway, GBR does not ignore the impacts that are inherent to making change on a live, interconnected system that is in constant use. Continuity matters because passengers, communities and freight customers make choices and investments in reliance on railway services. GBR will consider those interests alongside the case for change and its other statutory duties. Giving due weight to continuity clearly should not require every existing use of capacity to remain unchanged and must leave opportunity for significant change where merited.
- 2.31 For passengers, continuity concerns continuing access to useful journey opportunities. It does not require the continuation of a particular operator or necessarily lock in specific service design features (such as frequency, calling patterns, origins and destinations, or timings). Where a change would significantly reduce or alter established journey opportunities, GBR will seek to understand the effects on the passengers and communities concerned. GBR's consultations when carrying out major updates or revisions to the Capacity Plan are an important way in which GBR does this.
- 2.32 Having considered relevant issues and mitigations, GBR may decide to make such a change to better serve the wider interests of all passengers or having considered the balance of its other statutory duties. When taking such decisions, GBR will consider what reasonable mitigations are available in order to better support continuity for passengers making journeys on rail.
- 2.33 As it considers how best to innovate and meet evolving market needs and passenger interests, GBR will weigh up carefully the risk that frequent service changes may sometimes disrupt passengers' travel patterns or undermine their assumptions about future travel opportunities.
- 2.34 For freight, supporting established traffic is fundamental to making rail an attractive and commercially viable option for customers and to achieving freight growth. GBR will start from a presumption that established rail freight traffic should continue to have access to rail. When taking decisions to update the Capacity Plan or assess applications for commitments, GBR will not decide to remove or materially reduce the capacity available for established freight traffic until it has worked with the freight operator and customer and taken all reasonable steps to sustain the traffic using the flexibility available within the capacity and contractual framework, including by:
- i) identifying suitable alternative routeings where necessary;
 - ii) using reasonable flexibility in timings and other operating characteristics;
 - iii) considering proportionate changes to GBR and other services where these could sustain freight access;
 - iv) considering whether a manageable effect on overall timetable performance should be accepted in order to sustain the traffic; and
 - v) identifying deliverable changes to rolling stock, infrastructure or network capability that could enable the traffic to continue.

- 2.35 Decisions affecting continuing contractual access commitments for established freight traffic will need to be justified as exceptions to this presumption. They are likely to be appropriate only where material changes in the use of the railway, or significant pressures on network capacity or capability, mean that continuing the existing use would no longer represent the best use of the network.
- 2.36 Where GBR decisions materially reduce continuity for railway passengers and rail freight customers as described above, GBR will set out the reasons for these decisions in its rationale. This will include the principal alternatives and mitigations considered in reaching such a decision, how GBR assessed continuity impacts, and why GBR concluded that the final decision best reflected its statutory duties and the considerations in this chapter.

Publishing GBR decisions

- 2.37 Where this policy requires GBR to publish one of GBR's key capacity allocation decisions identified in paragraph 2.5, GBR publishes:
- i) the **decision**;
 - ii) its **rationale**, which explains:
 - why GBR considers the decision appropriate after applying the relevant statutory duties, the considerations in this chapter and any other applicable requirements;
 - the material evidence and analysis that GBR took into account;
 - how GBR took account of material consultation responses or representations, where relevant; and
 - any assumptions material to the decision; and
 - iii) **implementation and next steps**
 - any consequent changes needed to GBR's plans, operational arrangements or timetable rules; and
 - any other matters relevant to implementation, or to GBR's later decisions.
- 2.38 Decisions in paragraph 2.5 that are made using contractual procedures included in access contracts or the GBR Codes are communicated through the applicable contractual arrangements, and GBR does not also publish a decision in the format set out above. This is explained in this policy in respect of each relevant decision.
- 2.39 The content and level of detail in GBR's rationale will be proportionate to the nature, scale and effects of the decision. GBR may publish connected decisions and their rationales together where this explains their relationship more clearly.
- 2.40 Where GBR decides another party's application or formal request, it will issue a decision letter setting out the decision, the reasons for it and any available next steps. It may describe the evidence, analysis or development required to support a future application or request.

Publication is subject to the arrangements in Chapter 12 for confidential, commercially sensitive and legally privileged information.

Part B: The framework for capacity allocation

Chapter 3 Building blocks of railway use

This chapter explains the enduring elements of capacity management that form the baseline for use of the network. It describes the distinct roles of GBR's Capacity Plan, access contracts, contractual capacity commitments, capacity commitments for GBR-operated services, and the contractual processes governing timetable production and railway operations and explains how they work together. The processes for change are dealt with in later chapters.

Overview of the capacity allocation framework

- 3.1 GBR manages access to, and use of, the railway through an integrated framework of distinct components, each with a defined role in planning, allocating and operating railway capacity.
- i) **GBR's Capacity Plan:** GBR's Capacity Plan sets out GBR's view of how to make best use of railway capacity over specified periods and provides a baseline which future changes will be assessed against. It does this by classifying capacity on the railway to intended uses, including passenger or freight and GBR, other public or private operations. Classifications define capacity by reference to routeing, timing and relevant operating characteristics. The Capacity Plan also contains Capacity Priorities.
 - ii) **Access contracts:** permission for non-GBR parties to use the network is given through access contracts. An access contract establishes the legal relationship between GBR and an access beneficiary and includes the terms and conditions under which the network may be used, including the provisions in the incorporated GBR Codes.
 - iii) **Capacity commitments:** capacity commitments are recorded in a Commitments Register linked to GBR's Capacity Plan. Commitments are of two types:
 - Contractual capacity commitments form part of the permission to use GBR's infrastructure under an access contract. They allocate defined capacity to a specific legal party for a defined period, in some cases by reference to one or more classifications in the Capacity Plan. Commitments may be held by private or public train operators, freight customers and statutory rail bodies that fund rail services.
 - GBR also records capacity commitments for its own services in the Commitments Register. These commitments are structured on a comparable basis to those held by other parties, ensuring that capacity used by GBR-operated services is managed transparently and consistently.
 - iv) **Contractual processes for operating the railway:** the day-to-day exercise of rights and parties' obligations, including timetable production and variation, timetable change and the management of disruption, are governed through contractual processes set out in the GBR Codes. GBR gives effect to a capacity commitment through timetable paths in the working timetable, applying the specified priority for each commitment in accordance with the timetable procedures in the GBR Code.
- 3.2 These elements are designed to work together. The Capacity Plan establishes strategic intent, access contracts establish legal permission, capacity commitments create priority, and the contractual Codes govern timetable production and wider operational delivery.

GBR's Capacity Plan

Box 9: Duty to issue an Infrastructure Capacity Plan

GBR must issue one or more documents setting out how, in its view, the best use can be made of GBR infrastructure for the operation of trains.

Railways Act, Section 60(1)

- 3.3 GBR will discharge its duty under Section 60 of the Act by publishing a single Capacity Plan that covers the GBR railway. The Capacity Plan provides GBR's view of how best use can be made of GBR infrastructure for the operation of trains in light of its duties and the considerations in Chapter 2. How changes are made to the Capacity Plan is covered in Chapter 7.
- 3.4 The establishment of the Capacity Plan is a precursor to making commitments in access contracts or to GBR itself. It is intended to increase transparency and consistency of decisions across time, across different processes and across geographies, so that funders and operators do not have to infer the rationale for capacity choices. It plays a critical role in providing future visibility and assurance for parties operating rail services and their funders and therefore provides a significant part of the reasonable assurance that GBR seeks to provide under its duty in Section 18(2)(d).
- 3.5 GBR's Capacity Plan is made up of two elements: capacity classifications and capacity priorities.

CAPACITY CLASSIFICATIONS

- 3.6 GBR uses the following categories as classifications in the Capacity Plan. This draws on the provisions in Section 60 of the Act that require GBR to have regard to the need to accommodate different needs when producing or changing the Capacity Plan. No priority or hierarchy is created by Section 60 or implied in the list below.
- i) **GBR passenger services** – capacity for passenger rail services to be operated by GBR;
 - ii) **other public passenger services** – capacity to be used by or on behalf of a public authority with devolved powers to specify, procure and/or operate passenger rail services;
 - iii) **private passenger services** – capacity for any other passenger rail services, including scheduled commercial, heritage or tourist services;
 - iv) **international freight services** – capacity required to comply with the obligations in Clause 3.2 of the Channel Tunnel usage contract dated 29 July 1987 and which were passed to British Railways Board successor bodies by subsequent agreements; and
 - v) **freight services** – capacity for any other rail freight services, including capacity required to deliver the freight growth target referred to in Section 17(4) of the Act.
- 3.7 For non-GBR public operators, the appropriate operating and funding body qualified to use the capacity will be clear by reference to the statutory rail competence of each authority that contracts with operators or operates trains directly – for instance London, Wales, Scotland and the Mersey region.
- 3.8 Classifications define capacity by railway geography, by days and times, and with relevant operating requirements. With the exception of start and end dates, classifications in the Capacity Plan are defined using the same parameters as the capacity commitments they are linked to. The common information on parameters is set out below in the section on capacity commitments. As noted in that section, GBR publishes technical information on the format and data structure of the Capacity Plan and the Commitments Register.

CAPACITY PRIORITIES

- 3.9 Capacity Priorities establish principles in order to provide ongoing strategic direction relevant for future GBR decisions to apply and revise the Capacity Plan. The establishment of Capacity Priorities is frequently informed by GBR's long-term planning work but may be informed by other evidence,

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analysis or processes where appropriate. The Capacity Priorities seek to preserve the strategic intent established by the linked decisions taken during a major update to the Capacity Plan. They help to ensure the rationale for the selected option remains material in later decisions, and that GBR takes ongoing account of the benefits the Capacity Plan is intended to secure. They safeguard against subsequent changes and implementation decisions undermining the integrity of major updates that GBR has made to the Capacity Plan.

- 3.10 Capacity Priorities steer GBR’s assessment of subsequent applications by other parties for capacity commitments, as explained in Chapter 6, and guide the development of GBR’s own options for minor revisions. They apply within the relevant geography for the duration of the plan, unless time limited, and may only be created or changed through the major update process set out in Chapter 7.

DURATION OF THE CAPACITY PLAN

- 3.11 The Capacity Plan issued by GBR is intended to endure, with no expiry date for the plan as a whole. This means that the contents of the plan (the classifications and the Capacity Priorities) are typically intended to endure until amended through the minor revision and major update processes as relevant. This is described in Chapters 6 and 7. It is also open to GBR to give classifications and priorities in GBR’s Capacity Plan specific start or end dates – for instance where a future service change is planned to go live in several years, with an associated change in the Capacity Plan or the Capacity Priorities that are part of that plan.
- 3.12 When a major update to the plan is proposed by GBR and published for consultation, any classifications in the affected geographical area that have not already been committed to an individual party in the Commitments Register will be given an end date that is the same as the intended implementation date of the change. Capacity Priorities are also reconsidered during updates, which means that any Capacity Priorities that would otherwise apply to the areas in scope are not taken into account during a major update project.

Access contracts

- 3.13 Access to track, stations and light maintenance depots (“depots”) is established through access contracts to provide a clear, enforceable and stable contractual framework. These access contracts establish the legal rights and obligations between GBR and an access beneficiary, including terms and conditions set out in the incorporated GBR Codes.
- 3.14 Eligible parties include passenger and freight train operators, and relevant funding bodies who intend to procure the provision of rail services. The criteria for eligibility are discussed further in Chapter 8, which covers the processes of application and agreement.
- 3.15 GBR will ensure, as far as reasonably practicable, that access contracts across its track, station and depot facilities are aligned and consistent, so that affected parties experience a coherent and predictable framework for accessing different parts of the railway.

STATION AND DEPOT ACCESS

- 3.16 GBR is a service provider for those stations and depots where it is the facility owner. Access to and charges for these facilities are governed by the relevant parts of the *Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (AMR)*. Provisions in Regulation 6 (Access to Services) and Regulation 32 (Appeals to the regulatory body) apply to GBR where it is acting as a service provider. Similarly, the principles for access charging for the supply of services as set out in Schedule 3 of the AMR apply to GBR’s decisions on these matters.
- 3.17 Station and depot access contracts give the holder permission to use the services and amenities at GBR operated stations and depots. A track access contract is a condition precedent for station or depot access, and contract end dates will be aligned. The list below shows the different types of station and depot access contracts GBR makes available for track access contract holders.

- i) **Passenger Station Access Agreement** (single or multiple stations)
- ii) **Freight Station Access Agreement**
- iii) **Charter Station Access Agreement**
- iv) **Diversions Station Access Agreement**
- v) **Depot Access Agreement**: access to a passenger service operator's depot
- vi) **Depot Access Agreement – Non-Train Beneficiary**: access to a passenger service operator's depot by a non-train operating beneficiary using the services of a third-party train operator

TRACK ACCESS

- 3.18 A track access contract gives the holder permission to use GBR infrastructure. For the operation of trains, that permission takes one of the following forms:
- i) a capacity commitment, available for most contracts as set out below, which specifies the capacity the holder may use and the priority given to it in timetable production;
 - ii) uncommitted freight services in the freight and freight customer contracts, to accommodate freight services that may need to run at short notice;
 - iii) rights in the passenger charter and supply chain contracts, because these train operators do not hold capacity commitments.
- 3.19 The list below shows the different types of track access contract GBR makes available for aspirant contract holders, highlighting some key differences between the permissions in each model.
- i) **Publicly specified passenger services**: passenger services funded or specified by public bodies
 - may hold capacity commitments;
 - may apply in the timetable preparation process and for variations; and
 - may apply for relief services without a specific capacity commitment.
 - ii) **Public passenger specifiers**: public bodies that fund or specify passenger services
 - may hold capacity commitments;
 - may apply in the timetable preparation process and for variations; and
 - may apply for relief services without a specific capacity commitment.
 - iii) **Open access passenger services**: private sector scheduled passenger services
 - may hold capacity commitments;
 - may apply in the timetable preparation process and for variations; and
 - may apply for relief services without a specific capacity commitment.
 - iv) **Freight services**
 - may hold capacity commitments;
 - may apply in the timetable preparation process and for variations; and
 - may apply for commercial services without a specific capacity commitment.
 - v) **Freight customers**
 - may hold capacity commitments;
 - may apply in the timetable preparation process and for variations; and
 - may apply for commercial services without a specific capacity commitment.
 - vi) **Heritage and tourist services**
 - may hold capacity commitments; and
 - may apply in the timetable preparation process and for variations.
 - vii) **Charter passenger services**
 - do not hold capacity commitments; and
 - may only apply as a variation to the timetable.

viii) **Supply chain services:** trains facilitating GBR engineering work

- do not hold capacity commitments; and
- may only apply as a variation to the timetable.

3.20 GBR is also party to a small number of track access contracts which do not match one of these models, such as Track Access Options. These exist to maintain legacy rights and obligations.

Contractual capacity commitments

- 3.21 Each GBR track access contract grants the holder permission to use GBR’s infrastructure. Contractual capacity commitments are an integral part of this permission in most of the contracts, as explained in the previous section. Requests for new or amended commitments that are made by contracted parties are handled through the applications process set out in Chapter 6.
- 3.22 Where a public body or freight customer is granted a capacity commitment, it may delegate delivery of the relevant services to a train operator.
- 3.23 Commitments may be specific, setting out rights in respect of defined capacity for a defined period – these commitments are identified as firm or contingent, reflecting the priority they are to be given in timetable production.
- 3.24 Commitments may be generic, for example for “relief” passenger services required to meet unusual demands like a large public event – these commitments are contingent.
- 3.25 The contractual definition of each type of capacity commitment includes any ancillary (empty) train movements necessary to provide the service, so that these receive the same level of priority for inclusion in the working timetable as the service in the commitment.
- 3.26 A firm commitment guarantees the holder a slot in the timetable as long as the slot is requested in accordance with the contractual process and used, subject only to compliance with the relevant operational requirements. A commitment identified as contingent holds a lesser priority in timetabling, so will only guarantee inclusion if all compliant requests for firm commitments have been accommodated. The process for this, including the process for resolving conflicts, is set out in the GBR Code which forms a part of each track access contract.
- 3.27 GBR records all specific capacity commitments in a single network-wide Commitments Register. This will permit industry parties to more easily understand all the capacity commitments held by other parties, including GBR, on any part of GBR’s infrastructure for any timeframe.
- 3.28 Firm capacity commitments align with the classifications in the Capacity Plan, including in respect of use, such as private passenger or freight. A commitment may relate to one classification or connect several classifications to provide usable capacity for the service. GBR gives effect to the commitment through timetable production under the GBR Code. A commitment for international freight traffic may connect an international freight classification with one or more freight classifications to provide usable capacity between the Channel Tunnel and another location.
- 3.29 Classifications, and the commitments linked to them, use the same operating parameters to define the characteristics of the capacity. In setting these parameters, GBR seeks to provide a clear understanding to the holder of the capacity they are permitted to use. GBR also seeks to support efficient timetable production, in particular making it clear whether a timetable request by a holder, or a timetable path offered by GBR, are consistent with the commitment.
- 3.30 GBR publishes technical information on the format and data structure used for capacity classifications and capacity commitments, set out respectively in the Capacity Plan and the Commitments Register. That information may be updated from time to time, following a technical consultation with impacted parties. GBR’s policy is that the format and data structure, including the parameters used to define classifications and commitments will include specific details on:

- i) duration (start and end dates);
- ii) geography (origin and destination, route);
- iii) days of operation and time window;
- iv) intermediate stops; and
- v) relevant rolling stock characteristics (speed, timing load, route availability, etc.).

- 3.31 Commitments necessarily allow a wider range of outcomes than a timetable path, over a longer period. GBR may provide particular flexibilities, ranges and alternatives in parameters, and this is described further in the technical information. For example:
- i) the start date could be subject to conditions precedent and a longstop date to annul the commitment if those conditions are not met;
 - ii) more than one route could be permitted, e.g. diversionary routeings;
 - iii) partial use of the geography could be permitted (normally the origin and destination will be the terminating points of the intended train, although some passenger commitments may permit through operation with another commitment);
 - iv) time windows could be as much as 24 hours or much more limited, such as 1-hour windows at origin and destination; and
 - v) rolling stock speed could be a required minimum.
- 3.32 As contractual arrangements that grant defined access to an individual operator or funder, specific capacity commitments are given end dates. They are not intended to endure for the full period of the Capacity Plan and therefore a firm capacity commitment will often have a shorter duration than the classification to which it is linked. GBR's decisions on the duration of capacity commitments are addressed in Chapter 6.
- 3.33 The terms of access contracts only permit GBR to change the end date of a contractual capacity commitment with the commitment holder's consent or in the specific circumstances defined in the contracts and contract conditions. A mechanism is included in contracts to require a change to be made, with appropriate compensation, in order to facilitate better use of the railway in accordance with GBR's statutory duties. In considering any potential use of this mechanism, GBR will give particular weight to continuity for passengers and freight customers as set out in Chapter 2.

Capacity commitments for GBR-operated services

- 3.34 GBR will adopt capacity commitments for its passenger services, with appropriate start and end dates. These will be linked to classifications in the same way as contractual commitments, and will use appropriate parameters following the same policies as far as practicable. GBR will publish these commitments in the Commitments Register so that they are visible alongside the contractual commitments held by other parties.
- 3.35 In principle, GBR treats these commitments in a similar way to the contractual commitments of other parties, noting the effects of the Capacity Duty in situations where commitments cannot all be timetabled alongside necessary access for maintenance and improvement – as set out in Chapter 9. GBR will regularly review unused GBR commitments and classifications and will not retain them where this would not be permitted for other parties under the GBR Code.
- 3.36 Capacity commitments will not be adopted for GBR network services, meaning trains required in connection with the provision or operation of GBR infrastructure, or for line closures or restrictions required for engineering work. The capacity required for these purposes will instead be secured in each timetable through the relevant processes set out in the GBR Code.

Timetable production and other contractual procedures: the GBR Codes

- 3.37 For timetable production and variation, including the relevant matters set out in Section 59(2) of the Act, GBR defines and controls procedures and criteria through the GBR Code and subordinate documents, which are an incorporated part of track access contracts. Equivalent common contractual provisions for stations and depots are maintained in the GBR Station Code and GBR Depot Code respectively.
- 3.38 The purpose of this contract-led approach is to recognise established contractual practice in the railway sector and provide contractual protections for these matters that can be enforced through contract law. It ensures that powers and obligations are binding as relevant on all contractual parties, for instance the GBR Code incorporated in track access contracts sets out:
- i) obligations that train operators are required to follow during disruption recovery;
 - ii) arrangements for contingency planning, including for extreme weather conditions;
 - iii) obligations to record delay information;
 - iv) compensation arrangements, including for changes to vehicles and infrastructure;
 - v) obligations to surrender unused timetable paths and capacity commitments; or
 - vi) procedures for disputes about the application of contractual terms and conditions, including decisions on the timetable.
- 3.39 Each contractual dispute mechanism provides for referral to an independent dispute resolution body without limiting the statutory right of appeal for any decisions taken under the access framework.
- 3.40 To be effective, the procedures, powers and obligations in these areas need to be common across all parties to track access contracts. Notably, there can only be one timetable for the network, and all parties have obligations which have to be met in order for it to be successfully produced in a timely way.
- 3.41 These provisions of contract cannot be changed by updating this policy, as changes are subject to specific change procedures set out in the GBR Codes. Chapter 9 sets out GBR's approach to the contract terms relating to timetable production and variation.

Part C: Changing the allocation of capacity

Chapter 4 Engagement in train service change

This chapter explains how parties can engage with GBR about proposed service changes, investment or use of railway capacity. It sets out how GBR helps parties navigate the relevant processes, access information and engage at the right stage to meet their needs and aspirations.

- 4.1 GBR welcomes engagement from parties seeking to change train services, invest in the railway or use railway capacity. GBR seeks to understand what parties are trying to achieve and help them find the right way through the system. Early engagement allows ideas to be developed and constructively challenged before significant time, cost or expectations are committed. It also helps GBR identify emerging needs and opportunities, shape its plans and support changes and investment that deliver benefits from the railway.
- 4.2 Parties have different roles and levels of experience. Some know railway planning and capacity allocation processes well; others may be developing a railway proposition for the first time. GBR helps parties navigate the system by providing guidance, contacts, templates and published information. Parties should use GBR information and assistance to help them understand:
 - i) which route or process applies;
 - ii) what information and evidence are needed;
 - iii) the relevant stages, expected timescales and how progress will be communicated; and
 - iv) how GBR takes and explains its decisions.
- 4.3 GBR's engagement is intended to move matters towards decisions swiftly and proportionately, with parties kept informed about the process and progress. To support this goal, parties can approach GBR directly at any time to discuss a proposition and receive help navigating the system.
- 4.4 However, GBR's long-term planning programme is the principal and most important route for early engagement on future train services and investment. As described in the following chapter, it enables GBR, as the railway's directing mind, to consider propositions alongside other needs and opportunities and bring together objectives, evidence, funding, railway capability and effects across the system before capacity allocation decisions are taken. It allows GBR to work with others in its role as the directing mind for the railway, laying the groundwork to inform and support later decisions by all parties, including the capacity allocation decisions that GBR takes under this policy and in line with wider law.
- 4.5 GBR publishes information about its long-term planning programme, as described in Chapter 5. It also publishes a Planning Schedule for updates to the Capacity Plan. These mechanisms ensure parties can see when that work is taking place and consider how best to contribute, including carrying out preparatory work if relevant. Parties will get the greatest benefit where they participate in the relevant long-term planning work, at the time the issues are being considered, and GBR will support parties to help them take part effectively. Doing so makes it most likely that their objectives, evidence and ideas can inform GBR's overall direction for the railway as it develops. However, we recognise that not all commercial, funder or customer needs arise on neat or predictable timescales, and structured planning should not become a barrier when the railway needs to respond quickly to new opportunities. When a party has a proposition that is not aligned with GBR's programmed planning work, or requires a more immediate response, GBR will engage and provide advice on how best to take matters forward.

- 4.6 GBR also engages with other infrastructure managers and connected facilities to align relevant planning information and assumptions, particularly where services, infrastructure or investment cross network boundaries. This engagement is intended to support the aspirations and plans of all such parties and to cooperate in the interests of users and the overall public interest. GBR cooperates with such bodies as far as reasonably practicable, including by taking account of the relevant functions and strategies of the relevant public bodies as required under the Act. As set out for the relevant decisions, GBR has due regard to its duties and the considerations in Chapter 2 when taking capacity allocation decisions that have impacts on such parties, or on users that cross networks.

Publishing information about GBR’s railway

- 4.7 GBR maintains a part of its website as a single repository of information about the railway system, its planning and operation. This provides similar information to the Network Statements that other infrastructure managers publish for their respective networks. It includes information for customers, suppliers and other stakeholders, including details about:
- i) GBR’s approach to its functions and duties;
 - ii) the capability and characteristics of GBR’s infrastructure and other assets;
 - iii) the planning of the railway system;
 - iv) the contractual framework for access to GBR infrastructure and facilities; and
 - v) GBR’s organisation and points of contact.

Chapter 5 Strategic direction and enabling investment

This chapter explains how GBR uses long-term planning to develop future railway use and set strategic direction before taking formal capacity allocation decisions. It focuses on how GBR brings together strategies, demand, railway capability, funding and wider passenger and freight needs, and how this work supports investment and informs later decisions.

How GBR provides strategic direction

PRODUCTION, PUBLICATION AND UTILISATION OF LONG-TERM PLANS

- 5.1 GBR sets strategic direction through its long-term planning programme in order to align the stages of train service change development through progressive stages of maturity. GBR seeks to establish a strategic, evidence-based view of how the railway should be used over time. This approach offers a way to engage with future change for all parties with an interest in rail, including private passenger operators and funders, freight customers and public authorities and rail bodies, as set out in Chapter 4. Bringing together information on future demand, the capability of the railway, funding and wider policy objectives supports coherent, system-wide planning.
- 5.2 The outputs produced by the long-term planning programme provide direction and planning assumptions that GBR will draw on to make the capacity allocation decisions set out in Chapter 2. The undertaking of these planning activities in the early stages of train service maturity does not in itself directly allocate capacity or confer rights of access and is not a capacity allocation decision. Instead, planning activities enable GBR to establish the strategic context within which access decisions are subsequently taken. This ensures that GBR decisions are informed by a consistent understanding of future needs, trade-offs, opportunities and risks across the rail system.
- 5.3 Long-term planning can materially improve the maturity, strategic alignment and evidential basis of a proposition, but GBR cannot promise or dedicate the capacity required to deliver it until it takes the applicable decisions under the AUP.

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- 5.4 GBR undertakes a rolling programme of long-term planning aligned to GBR's Funding Periods, including publishing and maintaining a long-term planning programme setting out the scope, sequencing and timing of this activity. GBR will also publish guidance explaining the purpose, approach and characteristics of its long-term planning, including the planning outputs that are produced using this process.
- 5.5 The long-term planning process may act as a point where GBR can identify the need or opportunity to propose a change to the Capacity Plan. In addition to acting as a catalyst for a new entry in the Capacity Plan schedule, the production of outputs from these workstreams can lead to GBR amending contextualisation of existing entries on the schedule to update the relevant strategic direction and intent.
- 5.6 Developing the railway to meet funder objectives will require trade-offs between competing ambitions for capacity, and balance different objectives. GBR will identify and articulate proposed options in the context of market analysis and a base line reference case; these will inform the production of long-term plans that take into consideration the needs of places and geographies based on a structured decision-making framework. This approach allows trade-offs to be considered in a structured and coordinated way, and resolved by GBR's advice to funders where possible, prior to GBR taking relevant capacity allocation decisions.
- 5.7 GBR will engage and collaborate with public and private stakeholders in developing long-term planning outputs. Organisations will be able to put forward proposals for service changes that meet objectives as part of the long-term planning process. GBR will have consistent, standardised processes and a programme of engagement to enable this.

TAKING ACCOUNT OF NATIONAL AND LOCAL STRATEGIES

- 5.8 For GBR to be a success, it has to have a keen awareness of place that can only be achieved by understanding what matters for those areas. To achieve this, GBR works alongside governmental and public rail bodies that set the strategies and plans for their own rail services and infrastructure, and public railway bodies that serve their own passengers and carry freight across rail networks.
- 5.9 By statute, GBR must have regard to the objectives set out in the strategies of the Secretary of State, devolved national governments, mayoral combined authorities, mayoral combined county authorities, and the Mayor of London when exercising its functions under the Act. One of the important ways that GBR discharges its statutory duty is by taking these statutory strategies and plans into account when developing its long-term plans, in order to ensure the needs of the places that the railway serves are properly considered with due deference to the goals and plans of other public transport bodies.
- 5.10 GBR also has regard to the financial impacts of options on the public purse, a duty that applies to impacts on all public funders.

STRATEGIC DIRECTION ON FREIGHT GROWTH AND INVESTMENT

- 5.11 Long-term planning will play a central role in translating funders' rail freight growth targets and statutory strategies or plans for rail freight into deliverable options that make explicit the opportunities and trade-offs for consideration ahead of specific capacity allocation decisions. GBR's published long-term plans for passenger and freight services, including its published freight growth plans, will directly address freight growth targets, drawing on analysis and strategies specific to the freight sector and its markets. GBR updates these plans regularly to reflect changes in the freight sector and its markets, and the impacts of wider decisions, ensuring these plans continue to support informed and relevant decisions.
- 5.12 These published long-term plans provide a consistent and common understanding of how freight growth on rail can be enabled over the long-term. These plans are important to meeting GBR's duties on the rail freight growth target and recognise the distinct nature of planning freight services.

When making major updates or minor revisions to the Capacity Plan, GBR takes these plans into account as a direct input and takes account of them in the decisions that it makes as described in the relevant sections of this policy. This approach seeks to combine network-wide and local insights, creating the balance necessary to support coherent and credible freight growth plans for customers alongside GBR's wider plans for rail.

- 5.13 As set out later in this chapter, fostering new investment in the railway as part of the end-to-end train service change approach is a key consideration for GBR. The long-term plans that GBR produces are intended to offer all parties, including the freight sector, clear strategic direction that supports forward-planning of investment, providing a strong foundation for the realisation of freight growth on rail. Crucially, the same strategic direction informs GBR's statutory view on how to make best use of the railway for the operation of train services, which it is required to formalise when it updates or revises the Capacity Plan. This aligns the stages of end-to-end train service change to promote greater confidence for investors and funders.
- 5.14 However, GBR's long-term plans, including its plans for freight growth do not only support plans for new investment. They also provide GBR capital expenditure programmes and projects with consistent freight assumptions. Having programmes and projects make choices based on a common set of train service inputs for both passenger and freight flows makes capital outputs more robust and preserves the integrated cross-network view that is essential for rail freight and other longer-distance operations. This approach helps GBR ensure its decision to update or revise the Capacity Plan and assess applications for commitments are informed by well assured, consistent assumptions for delivering the freight growth target.

PLANNING CONSISTENTLY ACROSS GBR'S RAILWAY AND NETWORK BOUNDARIES

- 5.15 Consistent planning matters because a proposed service or investment may depend on capacity, capability or decisions beyond the area in which the immediate change is proposed, and changes have to stay aligned. GBR will utilise long-term planning to ensure that decisions about future train services and capacity are developed consistently across the GBR railway and across network boundaries, particularly where services, markets or investments span multiple geographies or authorities.
- 5.16 This approach supports GBR's wider decision-making framework by helping to surface cross-network and cross-boundary trade-offs and dependencies early, so that material strategic choices can be addressed in a coordinated way rather than emerging late in individual capacity allocation or timetable decisions.
- 5.17 GBR intends to undertake planning of train service change in a consistent and integrated manner. The long-term planning process and its associated outputs will form the basis for integrating and consolidating strategic information on future train services. Through this process, GBR will develop and maintain one or more core products that bring together train service intentions, aspirations and options identified across long-term planning activities.
- 5.18 These products provide a shared and assured set of options and assumptions that can be used consistently across planning, investment and train service change. They give an early, forward view of expectations for longer distance flows, helping to confirm network integrity before proposed or committed train service outputs are brought together in the integrated output portfolio. This approach supports alignment across sectors, GBR business areas, adjacent infrastructure managers, funders, and national and local strategies.
- 5.19 These products will be used to support structured optioneering and decision making within Capacity Plan projects, enabling choices that properly reflect different planning horizons. They will also provide a consistent framework for coordinating and integrating strategic train service development across nations, regions and markets. These planning products provide a common basis for developing and assessing later capacity choices. They inform, but do not predetermine, the

decisions GBR must take under this policy.

- 5.20 Where differing strategic priorities arise across geographic or organisational boundaries, GBR will work with the relevant bodies to agree a package of work in order to develop and test a coherent planning position for the network. The agreed work will look across the relevant sectors, markets, and infrastructure managers to establish clear and consistent view of train service change.
- 5.21 In progressing Capacity Plan activity, GBR will draw on the evidence and analysis generated through the long-term planning process to inform and contextualise decisions. The strategic direction established through long-term planning for the relevant geography or market will normally be the starting point for Capacity Plans, subject to review where material circumstances have changed.

How GBR utilises capacity allocation to enable investment

- 5.22 This section explains how GBR helps promoters identify and obtain the capacity assurance needed to support investment.
- 5.23 Capacity allocation enables GBR to translate strategic direction into deliverable change and support well-founded investment in the railway. GBR supports investment by all parties, where it improves the railway and the anticipated changes represent an appropriate use of capacity in light of GBR's statutory duties. GBR works with public and private promoters and funders to understand the railway outputs their investment requires and provide an appropriate level of confidence about whether and how those outputs can be delivered through the capacity allocation framework. In doing so, GBR seeks to manage risks and issues jointly with the promoter while preserving the integrity of the railway as a system and securing improvements for railway users, the public interest and public funds in line with its duties.

WORKING WITH PROMOTERS AND FUNDERS

- 5.24 Promoters and funders should contact GBR at an early stage to explore and develop potential investments. GBR works with them to understand the railway outputs required to support the investment, their objectives, the conditions and timescales of the funding, and what further development is needed to build confidence in delivery. GBR takes account of how the investment will deliver better outcomes in light of GBR's duties. Where a proposition spans more than one infrastructure manager, GBR works with the promoter and the relevant infrastructure managers to understand it from a whole-network perspective.
- 5.25 GBR works with the promoter or funder to identify what assurance is needed, when it is needed and which decisions can provide it. This helps promoters secure funding for well-founded propositions and reduces abortive time and cost where proposals are not deliverable or appropriate uses of capacity in light of GBR's wider plans and duties. GBR identifies relevant constraints, dependencies and areas requiring further evidence or development as early as reasonably practicable.
- 5.26 Long-term planning is the principal route for aligning investment propositions with the wider railway system. GBR's long-term planning programme provides a structured route for testing propositions against the strategic direction, railway capability and wider passenger, freight and infrastructure needs of the relevant geographies and markets before specific capacity allocation decisions are taken. Promoters are therefore expected, wherever practicable, to engage in relevant long-term planning activity.

PROVIDING CLARITY AND ASSURANCE

- 5.27 GBR will work with the promoter or funder on a plan that provides progressively greater confidence as the proposition matures, the evidence develops and the relevant decisions are taken. GBR has regard to when the promoter needs to commit significant capital and when to provide useful clarity earlier where the circumstances and available evidence justify it. For a public body, this is likely to align with the business case stages used to develop the project and secure funding approvals.

- 5.28 Increasing assurance through the progressive maturity of output development is critical to underpinning investment decisions. GBR expects persons planning railway services or investment, including public funders, to form their own view – in partnership with GBR – as to the degree of assurance that is currently available about future available capacity before committing significant expenditure. Expenditure incurred prior to GBR making the relevant capacity allocation decision does not create an entitlement to capacity. This approach preserves GBR’s ability to consider the proposition equitably alongside other railway needs and to take the relevant capacity decision in accordance with its statutory duties and this policy.
- 5.29 GBR and the promoter or funder may record their developing position in Heads of Terms or another development-stage agreement. An agreement of this kind will explain how the parties will work together, the further work required, funding conditions and timescales, and any conditions or dependencies needed to support delivery from a whole-network perspective. It supports development of the proposition but does not allocate capacity or confer a right of access.

USING THE APPROPRIATE CAPACITY ALLOCATION ROUTE

- 5.30 GBR’s work with a promoter is intended to identify which capacity changes are needed. The required changes must proceed through the applicable process in Chapter 6 or Chapter 7, including the assessment, consultation and decision required by that process. The capacity allocation route depends on the railway change needed to support the investment. Where the investment requires a major change to planned capacity use, the proposition may lead GBR to propose a new major Capacity Plan update under Chapter 7. GBR applies the requirements in paragraph 7.26 when deciding whether to propose the critical railway outputs needed to support the investment.
- 5.31 GBR considers the complete package needed for the railway, not only the outputs sought by the promoter. It may therefore propose additional critical railway outputs where these are needed to reflect its wider network-level plans for passenger and freight services or its infrastructure requirements.
- 5.32 Where the required outputs can be supported without a major update, the promoter, either directly or through an operator, may apply for the necessary capacity commitment by making an application through the process set out in Chapter 6.

SECURING CAPACITY TO REALISE THE INVESTMENT BENEFITS

- 5.33 A Capacity Plan major update can establish that capacity is planned for a particular use but does not grant that capacity to an individual promoter or operator. The relevant capacity commitment must be obtained through Chapter 6. The promoter, or an appropriate operator, typically needs to secure the capacity in order to realise the benefits associated with its investment. GBR works with the promoter to help it understand and navigate these stages.

Chapter 6 Making and amending capacity commitments

This chapter explains how GBR handles applications for new or amended contractual capacity commitments, including how it validates, consults on, assesses and decides applications. It covers interacting applications and GBR Proposals, and how GBR determines the start date, duration and conditions of commitments. It also explains how GBR makes and amends capacity commitments for GBR-operated services.

Applications relating to international services

- 6.1 The procedure and criteria for applications for new or amended capacity commitments relating to services that will cross the border between the United Kingdom and France are the same as for domestic services within Great Britain. They are set out below. Such an application will be processed independently of any applications the applicant may have, or require, for access to railway

infrastructure in other countries.

Procedure for applying for capacity commitments

- 6.2 This policy is required by Section 59(2)(a) to “set out the procedure for applications to GBR for access to and use of GBR infrastructure for the operation of trains other than GBR passenger services”. This section of the policy is focused on applications for contractual capacity commitments made by non-GBR parties. It does not cover the similar arrangements that GBR applies in parallel to make capacity commitments in respect of GBR-operated services. These are covered in paragraphs 6.72 and 6.73.
- 6.3 An application for a new capacity commitment, or an amendment to an existing capacity commitment, may be made at any time. The parties eligible to apply are specified in paragraph 3.19. An applicant for a new capacity commitment will need to hold the relevant track access contract or apply for one in parallel as described in Chapter 8.
- 6.4 Applications will be treated as one of two types, depending on whether a matching classification already exists:

Type 1: Applications matching an existing Capacity Plan classification. The application matches an existing classification, including its description. Approval of a contractual commitment does not require GBR to change the Capacity Plan; or

Type 2: Applications requiring a minor revision to the Capacity Plan. The application does not match an existing classification. Approval therefore requires GBR to amend an existing classification or add a new classification in the Capacity Plan, as well as amending or offering a new contractual commitment.

Box 10: Summary of procedure for applications for capacity commitments

SUMMARY OF PROCEDURE FOR APPLICATIONS FOR CAPACITY COMMITMENTS

- **Application submission** – The applicant makes an application containing the information required by GBR, including evidence of eligibility, deliverability, requested term, and any additional information relevant to the application type.
- **Application processing and validation** – GBR reviews the application to confirm required information has been provided and the provisions on validity have been met. It either accepts it for consideration or requests further information or revisions.
- **Publication and consultation** – GBR publishes the application subject to confidentiality arrangements, opens a consultation period, and notifies the relevant consultees.
- **Consultation period** – Consultees and other interested parties provide comments and representations during the consultation period.
- **Publication of responses** – GBR publishes consultation responses, subject to any applicable confidentiality restrictions.
- **Assessment** – GBR assesses the application by weighing its duties and the considerations in Chapter 2, taking account of the application, consultation responses, supporting evidence and any further information requested.
- **Decision** – GBR decides whether to approve or reject the application, in whole or in part, and determines duration and conditions. GBR notifies the applicant and publishes its decision.

- 6.5 Before applying, parties may approach GBR at any time to discuss a potential application. GBR and the party will agree how to handle such conversations to ensure appropriate confidentiality and handling of information within GBR.

APPLICATION SUBMISSION

- 6.6 Parties are advised to apply at least 18 months before the timetable change date when they wish

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the commitment to come into effect. This applies to all applications for new or amended commitments, including those being made to replace expiring commitments. Whilst applicants may apply for commitments later, they should note that applications for a passenger train in the timetable cannot be made under the contractual process described in paragraph 9.11 unless the applicant holds or has applied for a relevant capacity commitment, and later applications for commitments may not be processed in time.

- 6.7 Applicants need to submit an application that includes the information required by GBR. Application forms and guidance are published on GBR's website. All applications have to be supported with the following information:
- i. the applicant's eligibility to make an application, including whether they hold the relevant track access contract or have submitted an application for that contract as described in Chapter 8;
 - ii. that the application is compatible with the published capability of the network and, if not, an explanation of how incompatibility will be addressed, as set out in the risk assessment for Type 2 applications below.
 - iii. the requested start dates and the proposed term of the commitment; and
 - iv. where relevant, appropriate information to support a request for a commitment that is made earlier than 24 months in advance of the effective date, exceeds the standard duration of seven years or would extend beyond the expected effective date of a major update entered on the Planning Schedule.
- 6.8 In addition, Type 1 applications are required to identify:
- v. the specific classifications the applicant is requesting to secure as a commitment, by reference to the identifiers in the Capacity Plan.
- 6.9 Type 2 applications will provide the following information, as relevant:
- vi. where an applicant is seeking to amend a capacity commitment or commitments they already hold, they have to identify the relevant commitments and the requested changes to the parameters – such as origin, destination, route or timings;
 - vii. where an applicant is requesting a commitment that corresponds to an existing classification in the Capacity Plan and also requests revisions to that classification, the applicant needs to identify the relevant classifications and the requested revisions to parameters;
 - viii. where an applicant is seeking a commitment where there is no corresponding classification in the Capacity Plan, the applicant should provide the details of the new service that is proposed and the specific features of the commitment being requested in respect of that service;
 - ix. Self-assessment against the capacity and capability information for applicants published on GBR's website, outlined in Box 12 below; and
 - x. Specified information, as set out in GBR's comparative assessment guidance, that is reasonably required to enable applications and alternative options to be compared on a consistent basis, outlined in Box 13 below.
- 6.10 Applicants seeking to secure a commitment more than two years before the proposed start date should engage with GBR in order to establish an agreed way to proceed before submitting an application. GBR recognises that such commitments may be appropriate ways to support applicants that need early assurance to enable a time-sensitive public or private investment decision or to respond to market demand. GBR will work with such parties on timescales and the case for change.
- 6.11 Having considered its duties and consideration in Chapter 2, GBR may decline to accept an early application. This includes considering if the change is likely to represent best use of the railway, whether the early assurance is reasonably needed, and whether the resulting restrictions on future capacity choices are justified in light of the benefits. In reaching its view, GBR considers whether the application is sufficiently mature for meaningful assessment, its relationship with GBR's published

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long-term plans, and whether any required Capacity Plan change is suitable for consideration as a minor revision. It may also be relevant if the application interacts with a major update on the Planning Schedule.

PROCESSING THE APPLICATION AND DECIDING VALIDITY

6.12 GBR will process the application to confirm the required information has been provided and that the application should be accepted as valid. Within four weeks of receipt, GBR will notify the applicant whether the application has been accepted for consideration. In cases where it has not been accepted, GBR will explain what needs to be revised or supplied before it can be accepted. This stage is intended to ensure that applications meet the requirements set out, and that it is proportionate and worthwhile to progress to consultation.

6.13 Applications will not be accepted as valid if, for any relevant period:

- i. The applicant does not hold the relevant track access contract, unless a parallel application for that contract has been made as described in Chapter 8.
- ii. The linked Capacity Plan change needed to give effect to the application is not suitable for the minor revision process for the Capacity Plan as described in Chapter 7.
- iii. The applicant is seeking capacity that is not reasonably available because:
 - It has been committed to GBR, or if GBR considers that granting that application is reasonably likely to prevent a commitment held by GBR being given effect in the timetable. This is the way in which GBR gives effect to its duty in Section 63 to retain capacity for GBR passenger services as defined in the Act.
 - The capacity has been committed to another party in contract, or GBR considers that granting the application is reasonably likely to prevent a contractual commitment being given effect in the timetable.

In making this judgement, GBR decides what is an appropriate level of detail to make the assessment in a reasonable way. GBR will not produce a sample timetable if doing so is not, in GBR's view, proportionate.

- iv. The application is not compatible with Capacity Priorities set out in the Capacity Plan.
- v. GBR considers the application is for a service is unlikely to be deliverable by the applicant in the proposed timeframe.
- vi. a materially similar application has been considered and rejected, with no material change in circumstances having occurred that is likely to change GBR's decision.

6.14 Where GBR refuses to accept such applications for the reasons above it will treat this as a decision to reject the application, publishing the decision and rationale as set out in paragraphs 6.25 and 6.26.

6.15 If an application is accepted as valid, GBR will notify the applicant and publish expected timescales for the key stages of the application process, including consultation, assessment and decision. If GBR extends, pauses or restarts any part of the process, including to consider interacting applications together as described below, it will explain why and publish revised timescales.

PUBLISHING AND CONSULTING ON THE APPLICATION

6.16 GBR will publish and consult on applications to gather information relevant to its decisions, and to give parties visibility.

6.17 GBR will publish all information supplied as part of the application except where otherwise stated on the application form. GBR's approach to handling confidential information supplied in support of an application is set out in GBR's Code of Practice for Confidential Information and Chapter 12.

6.18 When GBR publishes an application, it will publish the consultation period and its expected decision date at the same time. GBR will notify the consultees specified below for the relevant type of

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application. GBR will usually allow 21 days for consultation responses to be submitted from the date of the application being published on GBR’s website.

- 6.19 For Type 1 applications, the persons GBR considers it appropriate to consult on such an application under Section 66(2)(a) of the Act are listed below. This list reflects the fact that relevant classifications will have been consulted on when they were made.
- i. Parties who may be affected and hold track access contracts of the type relevant to the classifications.
 - ii. Parties that have expressed an interest in holding such a contract.
- 6.20 For Type 2 applications, a decision to approve the application is also the decision to make the associated revision to the Capacity Plan. Because of this, GBR treats this as a consultation on a minor revision to the Capacity Plan and consults the persons listed as consultees for updates and revisions to the Capacity Plan in paragraph 7.9.
- 6.21 In addition to those consultees, GBR may also consult any person known to GBR with a material interest in the application and any other stakeholder that GBR considers relevant in weighing its duties.
- 6.22 GBR will publish consultation responses made by the consultees. If other interested parties have raised issues with GBR, GBR will also publish such representations. Responses are handled in accordance with GBR’s Code of Practice for Confidential Information and Chapter 12.

ASSESSMENT STAGE

- 6.23 GBR will assess the application using the approach and relevant criteria set out in the following section on how GBR assesses and decides on applications for commitments, starting at paragraph 6.31. GBR may request further relevant information where this is reasonably required to support its assessment.

DECIDING ON THE APPLICATION

- 6.24 GBR will decide the application. GBR will decide whether to approve, modify or reject the application, in whole or in part. As part of that decision, GBR determines the start date, duration and any conditions as set out later in the chapter.
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- 6.25 This is the decision in paragraph 2.5(vii) to approve, modify or reject an application for a new or amended capacity commitment, including determining its duration and conditions. Where GBR approves a Type 2 application, this is also the decision in paragraph 2.5(iv) to make a minor revision to the Capacity Plan. As described in Chapter 7, no further process or decision is required to make that revision.
-
- 6.26 GBR sends the applicant a decision letter and publishes its decision and rationale in accordance with paragraph 2.37. The Capacity Duty in Section 63 applies because this decision gives another party permission to use GBR infrastructure. GBR must therefore retain the capacity required by that duty. In deciding how to do so, and how to exercise any discretion, GBR applies its relevant statutory duties and the considerations in Chapter 2

IMPLEMENTATION

- 6.27 Where GBR approves the application, the commitment is implemented through the agreement or amendment of the relevant track access contract. GBR records the commitment in the Commitments Register and, for a Type 2 application, makes the corresponding revision to the Capacity Plan. GBR will coordinate these steps with any linked changes to station or depot access arrangements needed for the service, as set out in Chapter 8.

APPLYING THIS PROCEDURE TO APPLICATIONS OR GBR PROPOSALS THAT INTERACT

- 6.28 Different applications represent competing demands on GBR infrastructure where they interact, either by seeking to directly use the same classification or same capacity or by having a material impact on the use of the same capacity. GBR Proposals may also interact with applications. GBR Proposals are equivalent to applications in respect of GBR-operated services and are explained later in this chapter.
- 6.29 GBR will consult on and assess interacting applications and proposals together, allowing for consideration through a single decision process. Applications and GBR Proposals may be submitted or published in response to a consultation, but this should be done before consultation closes in order to be included in that process. This procedure allows GBR to consider the need to accommodate different services and uses which is required when making a revision to the Capacity Plan in Section 60(4), noting that approving a Type 2 application necessitates a revision to the Capacity Plan.

APPLYING THIS PROCEDURE FOLLOWING AN UPDATE TO THE CAPACITY PLAN

- 6.30 Following a major update to the Capacity Plan, GBR will generally need to run an initial coordinated process to assess a high volume of applications for capacity commitments. The general application procedure in this section will apply, but GBR will specify a window for applications. GBR may set bespoke timescales for consultation or decisions in this case, in order to allow sensible administration. Applicants should notify GBR where commercial decisions, investment plans or other key actions for mobilisation depend on a capacity commitment being in place quickly, and GBR will seek to prioritise such decisions.

How GBR assesses applications for commitments

- 6.31 This section of the policy meets the requirement to “set out the criteria that GBR intends to apply when making decisions on [...] applications [...] for access to and use of GBR infrastructure for the operation of trains other than GBR passenger services” in Section 59(2)(b).

Box 11: Applications for capacity commitments: Summary of GBR’s assessments and criteria

APPLICATIONS FOR CAPACITY COMMITMENTS: SUMMARY OF GBR’S ASSESSMENTS AND CRITERIA

Type 1 and Type 2 applications

- **Deliverability:** whether the service is reasonably likely to operate within the timescale expected

Type 1 applications where there is more than one applicant:

- **Type 1 applicant decisions:** whether the applicant is serving an existing freight flow, with choices then decided first by reference to Capacity Priorities and secondly a wider consideration of GBR's duties and considerations in Chapter 2.

Type 2 applications

- **Risk assessment:** whether the application poses reasonable and manageable risks to the reliable, punctual and safe operation of the railway.
- **Comparative assessment of best use:** whether the application represents a better use of the GBR infrastructure than the existing Capacity Plan, other applications or GBR Proposals. GBR forms its view by weighing relevant duties and considerations in Chapter 2.

DELIVERABILITY BY THE APPLICANT

- 6.32 For all applications, GBR assesses deliverability by considering if the service is reasonably likely to operate within the timescale indicated by the applicant. GBR will take account of the resources available to the applicant, evidence of the applicant’s ability to make use of the capacity they are requesting and dependency on infrastructure changes or approvals required such as by regulation or from adjacent infrastructure managers. GBR may take it into account if the applicant has previously not used capacity it has been allocated in a timely way.

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- 6.33 For Type 1 applications, GBR does not undertake further assessments. It will approve applications that are not rejected on the grounds of deliverability set out above, unless there are exceptional circumstances that mean the capacity cannot in practice be made available for trains to operate, such as asset or system issues, and the Capacity Plan has to be revised in the round.

TYPE 1 APPLICANT DECISION

- 6.34 In cases where more than one Type 1 application has been made for the same classification and GBR considers both or all meet the deliverability test:
- i. GBR will apply a presumption in favour of continuing access to rail for existing freight customers, and operators that hold the delivery contract for such existing freight traffic;
 - ii. if that does not resolve the choice, GBR will consider if any applicant is more likely to support relevant Capacity Priorities set out in GBR's Capacity Plan;
 - iii. if this does not resolve the choice, GBR will base its decision on weighing its statutory duties, in light of the considerations in Chapter 2. GBR may apply a proportionate version of the comparative assessment described below for Type 2 applications.
 - iv. GBR will not give preference to the party that made the first application.

RISK ASSESSMENT FOR TYPE 2 APPLICATIONS

- 6.35 For Type 2 applications, GBR considers if the change poses risk to the reliable, punctual and safe operation of the railway. GBR's view of best use is represented in its Capacity Plan. GBR ensures that changes continue to represent best use by forecasting the impact of the change on the performance of the rail system, the sustainability of assets and safety risk to passengers, staff and the public.
- 6.36 Applications include a self-assessment against the capacity and capability information for applicants that is published on GBR's website. This is described in Box 12. GBR will review the information provided to verify the applicant's assessment.
- 6.37 An application that conflicts with a fully constrained category will be rejected. Where the application interacts with a category at risk of being constrained, GBR will assess the relevant issue in more detail and will state how long is required to do that. Because determining the level of constraint in areas indicated as at risk requires lengthier analytical techniques (such as performance modelling) than areas not at risk, these applications may take longer for GBR to determine than those that do not include any areas at risk.
- 6.38 Where GBR assesses the issues in more detail, GBR may request additional information from the applicant to support this assessment and may undertake further, more detailed analysis if it is necessary and proportionate to do so. GBR will reject an application if it concludes the change is likely to pose unacceptable risk to the reliable, punctual and safe operation of the railway.
- 6.39 This risk assessment will take into account available mitigations and whether strategic objectives and duties may make it appropriate to accept different levels of risk. The appropriate degree of risk may need to evolve over time, for instance greater risk in relation to train service performance may be merited by consideration of GBR's wider duties. The availability of mitigations will be determined by whether applicants or GBR can identify and fund appropriate and deliverable mitigations to the risks that are identified. If GBR rejects an application, it will set out its view of any such mitigations where relevant.
- 6.40 GBR will reject applications when it concludes the risk of approving an application in light of relevant operating and railway constraints is material, and the additional risk is not appropriate to making best use of the railway as set out in Section 60. GBR will also reject an application where required to meet GBR's legal duties on safety.

*Box 12: Capacity and capability constraints - GBR's information for applicants***CAPACITY AND CAPABILITY CONSTRAINTS: GBR'S INFORMATION FOR APPLICANTS**

GBR publishes and maintains information about constraints on the capacity and capability of the railway. GBR will use this information when carrying out its risk assessment of Type 2 applications. GBR requires potential applicants to carry out a self-assessment before application.

GBR will identify parts of the network as:

- **subject to minimal constraints;**
- **at risk of being constrained; or**
- **fully constrained.**

These constraints may apply for all or part of the day and will cover:

- **capacity for additional services**, including how likely it is that additional services can be accommodated by flexing existing services within the limits of their commitments;
- **performance risk due to reactionary delay**, including areas where the network is already subject to high-performance risk; and
- **infrastructure and system capability**, including known constraints such as electric power supply, pedestrian capacity at stations, level-crossing risk, impacts on command/control and other safety systems and impacts on maintainability.

GBR may update the information from time to time and will publish changes a reasonable period before they take effect to ensure prospective applicants are informed. The guidance on completing the application form explains how applicants should use this information to self-assess.

Assessment will have three possible outcomes, depending on the level of constraint the application interacts with:

- **minimal constraint only:** the application does not require more detailed analysis in respect of constraints;
- **at risk of constraint:** GBR may require more information and will undertake more detailed analysis of the relevant constraint, or
- **conflict with a published constraint:** the application will be rejected.

COMPARATIVE ASSESSMENT FOR TYPE 2 APPLICATIONS

- 6.41 Using an appropriate base case as a comparator that represents GBR's existing view of how to make best use of the railway, as reflected in the existing Capacity Plan, GBR assesses:
- i. the application; and
 - ii. any alternative application or GBR Proposal that uses the same capacity or would be materially affected by a decision.
- 6.42 GBR's comparative assessment provides a structured approach to comparing options on an equal basis, supporting GBR in weighing its duties. To carry out this assessment, GBR brings together evidence on economic value, social and financial impacts, and affordability on the same basis for all options. This supports GBR in transparently and properly weighing its duties. The elements of the assessment are described in Box 13. This evidence and analysis informs GBR in deciding if any application represents a better use of the railway than the existing Capacity Plan, or other competing alternative uses. In particular, this assessment ensures the benefits an application may deliver in the public interest for the economy, society and the environment are given due weight alongside costs in a transparent and consistent way.
- 6.43 GBR will not determine the outcome of an application solely by reference to a single metric, including a benefit-cost ratio, but will consider the wider evidence and apply its statutory duties and the considerations set out in Chapter 2.

- 6.44 GBR may decide to reject all applications and GBR Proposals where appropriate. It will also take account of any relevant Capacity Priorities, consultation evidence and comments provided by other interested parties.
- 6.45 GBR will ensure that its assessment of options is proportionate to the nature, scale and likely impacts of the application. GBR will avoid requiring complex analysis or information where the expected benefits, costs, financial consequences or operational impacts are limited. GBR may rely on existing analysis where it provides a robust basis for the decision. Complex or high-impact decisions will usually require bespoke analysis.
- 6.46 In any unusual cases where GBR has been unable to establish the Capacity Plan or implement in-track updates to it, GBR will use an appropriate baseline comparator that best represents the continuing current and expected use of the railway.
- 6.47 Timing of the comparative assessment: normally, GBR does not carry out this comparative assessment unless the risk assessment has been concluded. However, where appropriate to facilitate a timely decision or test interactions, GBR may take forward applications or GBR Proposals when the risk assessment has not yet concluded.

Box 13: Comparative assessment of options: Type II applications

COMPARATIVE ASSESSMENT OF OPTIONS: TYPE II APPLICATIONS

GBR will publish guidance describing the methodology and analysis used to compare options on a consistent basis. The methodology will be informed by HM Treasury's Green Book, the Department for Transport's Transport Analysis Guidance and Value for Money Framework, and any relevant guidance issued by devolved rail authorities.

The scope and depth of analysis will be proportionate to the nature and expected impacts of the proposal. GBR will apply a proportionate approach to evidence gathering, focusing analysis on those impacts that are likely to be material to the decision.

The matters considered may include, where relevant and proportionate:

- **Monetisable costs and benefits**, passenger and freight user benefits, vehicle mileage, environmental outcomes, wider economic impacts and access to places and opportunities;
- **Public sector financial impacts and affordability**, operating and maintenance costs, including impacts on revenues and abstraction from other services, taking account of access charges;
- **Un-monetisable costs and benefits**, including impacts that cannot reasonably be expressed in monetary terms but are considered material to the decision;
- **Distributional and place-based impacts**; including the distribution of costs and benefits between places, sectors, users and communities where relevant to the proposal; and
- **Risk, uncertainty and the robustness** of the underlying evidence.

GBR may require applicants to provide information reasonably necessary to support assessment of an application. GBR will seek to avoid imposing unnecessary analytical or evidential burdens on applicants.

Determining duration and other conditions for capacity commitments

- 6.48 Where GBR approves an application for a new or amended capacity commitment, it determines the start date, duration and any other appropriate conditions as part of its decision on the application.
- 6.49 GBR may set reasonable conditions when determining the parameters for the capacity commitments it agrees under this Chapter.

START DATES

- 6.50 Applicants may request a start date for a commitment. This would normally be no more than 24

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months in advance, but GBR may agree to consider applications further in advance as discussed in the section on making applications.

- 6.51 GBR will set the requested start date where it considers that the service is reasonably likely to begin operating on that date. GBR may set a later date where appropriate. It may also make the start of the commitment subject to conditions, such as the completion of infrastructure works, improvements to station or depot facilities, or procurement of rolling stock, and set a longstop date after which the commitment will lapse if those conditions have not been met.

STANDARD DURATION AND ALIGNMENT WITH OTHER RELATED COMMITMENTS

- 6.52 Related commitments are groups of commitments that together support the same freight flow or customer operation, or which are all related to the same contractual passenger service group. This includes an equivalent group of commitments for a GBR-operated passenger service group.
- 6.53 Where an application adds to or amends some, but not all, related commitments that form part of a group, the new or amended commitments will normally be given the same end date as the existing related commitments. They will not be given a later end date. A shorter duration may apply under the provisions below.
- 6.54 A party may apply for one or several connected commitments that form a new related group. They also may apply to replace a group of related commitments with a new group having a common end date.
- 6.55 For such new or renewed groups of related commitments, the standard duration that GBR applies will be seven years, and longer or shorter durations will be decided using the policy below.

AGREEING LONGER DURATIONS

- 6.56 As permitted by the section above, GBR may offer a duration longer than seven years where it considers that the additional assurance is reasonably necessary to support delivery of the service and the benefits associated with it. The maximum duration of commitments is 15 years.
- 6.57 Where GBR is minded to approve an application having applied the assessments in this chapter, GBR will also consider any request for a duration longer than seven years. GBR will consider:
- i. **Whether the additional assurance is needed:** whether the additional term is reasonably needed to support investment or deliver material benefits that will not reasonably be realised without it, or cannot otherwise be delivered at reasonably efficient cost; and
 - ii. **Whether the additional restriction on options for future use of the railway is justified:** whether the benefits arising from the longer term justify the resulting restriction on GBR's ability to allocate the capacity differently in future.
- 6.58 Longer commitments may be requested by all eligible applicants and may also be appropriate for commitments for GBR-operated services. Relevant investment may include rolling stock, terminals, rail connections, stations and other assets needed to deliver the service.
- 6.59 For the part of a commitment extending beyond seven years, GBR may use less specific or more flexible parameters, as described in paragraph 6.71.

SETTING SHORTER DURATIONS

- 6.60 GBR will give commitments that are shorter than the standard seven-year terms where the service or customer requirement is temporary, for example freight campaign traffic.
- 6.61 GBR may propose a commitment shorter than the term applied for, where it would otherwise reject the application. Specific considerations are applied when an application interacts with a major update project that has been entered on the planning schedule as set out below. The application of these provisions means that GBR may, in some circumstances, set an earlier termination for a new or amended commitment than is set for other related commitments in an existing group.

DURATION OF COMMITMENTS THAT INTERACT WITH MAJOR UPDATES

- 6.62 The major update process may interact with applications that are made for commitments. For some proposed services, the major update is the most appropriate way of developing service aspirations, building confidence and assurance about future capacity. However, an applicant may apply for a contractual capacity commitment extending beyond the expected effective date of a major update and GBR will consider this application in line with the provisions in this policy.
- 6.63 Where an application significantly interacts with a major update that has had its first entry on the Planning Schedule, and GBR would otherwise approve the application under this chapter, it applies the provisions below to determine its duration. These provisions mean that GBR may, in some circumstances, set a duration for a new or amended commitment that is shorter than the duration offered for other related commitments in an existing group. The provisions differ for passenger and freight applications, reflecting the Chapter 2 considerations and the particular characteristics of freight services which routinely run in response to customer demand rather than in anticipation of it.
- 6.64 **For a passenger application or GBR Proposal**, GBR's default policy is to end the commitment when the update is expected to take effect. GBR may offer a later end date where this is merited under the considerations for extended durations set out above, including whether the additional assurance is reasonably needed and whether the resulting restriction on future choices is justified.
- 6.65 **For a freight application**, GBR's default policy is to offer the standard seven-year duration where the application renews a commitment for an established freight flow, or where the commitment is time-sensitive and reasonably needed for new traffic to run by rail.
- 6.66 For the part of any passenger or freight commitment that would extend beyond the expected effective date of the update, GBR will not grant that part if doing so is reasonably likely to:
- i. constrain the capacity needed to deliver GBR's published long-term plans for passenger or freight services, including GBR's published freight growth plans; or
 - ii. conflict with delivering a critical railway output formally proposed for consultation under Chapter 7 or subsequently confirmed.
- 6.67 In deciding these issues, GBR will engage with the applicant and consider the options for flexibility set out in the sub-section below, if this will reduce such constraints and conflicts and allow GBR to approve the full term requested.
- 6.68 If GBR does not grant the full term sought, the applicant may pursue the affected part of the proposed service through the relevant major update, including by proposing it for consideration as a critical railway output or contingent output.
- 6.69 Where an application also seeks more than seven years, GBR also applies the provisions above governing longer commitments.

PRESERVING FLEXIBILITY THROUGH COMMITMENT PARAMETERS

- 6.70 Where GBR grants a commitment extending beyond seven years or beyond the date when a major update is expected to take effect, it will usually seek to preserve future operational or planning flexibility through setting less-specific parameters than are usually offered, in respect of timing, routeing or other relevant matters. Greater flexibility would usually apply only to the relevant later part of the commitment.
- 6.71 In doing so, GBR balances the need to preserve flexibility against the reasonable assurance required by the person providing the service, recognising that expected benefits cannot be delivered without appropriate specificity. GBR therefore considers operational needs such as freight terminal constraints and the efficient use of depots and rolling stock, as well as the applicant's commercial

needs. In doing so, GBR will have regard to its duty under Section 18(2)(d).

Making or amending capacity commitments for GBR-operated services

- 6.72 Like other operators, GBR may create or amend capacity commitments for GBR-operated services where it considers this appropriate under this policy.
- 6.73 Where GBR proposes to make or amend a capacity commitment for a GBR-operated service, it will publish the equivalent of an application for a commitment, referred to in this policy as a GBR Proposal. GBR will apply the procedures in this chapter as follows:
- i. **GBR Proposals:** GBR will usually seek to make a GBR Proposal 18 to 24 months before the relevant timetable change date. GBR will publish a GBR Proposal only if it considers that the proposal meets the conditions for accepting an application in paragraphs 6.12 and 6.13.
 - ii. **Publication and consultation:** GBR will publish information about a GBR Proposal and consult in the same way as for an application, as described in paragraphs 6.16 to 6.22. Other parties may make interacting applications and GBR may make interacting GBR Proposals. GBR considers both when deciding the timings and other procedural arrangements for handling those interactions.
 - iii. **Assessment:** GBR will assess a GBR Proposal under the applicable provisions of this chapter on the same basis as an equivalent application, including in relation to deliverability (where relevant) and risks to the safe, reliable and punctual operation of the railway. Where a GBR Proposal interacts with an application or another GBR Proposal, GBR will assess the options through the comparative assessment on the same basis.
 - iv. **Start date, duration and conditions:** GBR will determine the start date, duration and conditions of a capacity commitment for a GBR-operated service in accordance with this chapter.
 - v. Where GBR may instead propose the required output as a critical railway output or contingent output through a scheduled Capacity Plan update, it will not make a GBR Proposal for a commitment extending beyond the date on which that update takes effect in the relevant geography.
 - vi. **Decision:** GBR decides whether to make the proposed capacity commitment for a GBR-operated service, including its start date, duration and conditions. It may make the commitment as proposed or with modifications or decide not to proceed.
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- vii. This decision to make or amend a capacity commitment for a GBR-operated service is in paragraph 2.5(viii). GBR publishes its decision and rationale in accordance with paragraph 2.37.
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- viii. This decision does not give another party permission to use GBR infrastructure and is therefore not subject to the Capacity Duty in Section 63. GBR applies the duties and considerations in Chapter 2 to this decision. Because this decision includes a decision to revise the Capacity Plan, GBR must consider whether the change adequately represents its view of the best use of the railway, even where no competing options have been assessed.
- ix. **Implementation:** Where GBR decides to make or amend the commitment, it will record the commitment in the Commitments Register and make the corresponding revision to the Capacity Plan.

Chapter 7 Updating GBR's Capacity Plan

This chapter explains how GBR changes the Capacity Plan through minor revisions and major updates. Minor revisions deal with contained changes, while major updates allow connected capacity choices to be considered together. The chapter sets out how GBR consults before settling the critical railway outputs and scope of a major update, then develops and assesses service options before consulting on and finalising the updated Capacity Plan. It also explains the process for minor revisions and how GBR publishes and explains its decisions.

Major updates and minor revisions

- 7.1 The Capacity Plan sets out GBR's current view of how railway capacity should be used. It remains in place unless and until GBR decides to change it and completes the required process. Changes are made through:
 - a major update, where connected capacity choices need to be considered together; or
 - a minor revision, for a reasonably contained change.
- 7.2 GBR uses a major update process where connected capacity choices are best considered together. This allows GBR to form a view of the best use of the railway overall and reflect that view in its Capacity Plan, as set out in Section 60 of the Act. GBR uses the process where this is merited by the scale, complexity or strategic impact of the expected change to the Capacity Plan. Complexity may include the degree of interaction with other services or uses of capacity, or the need to consider assumptions and risks about capability and operations in the round. These complexities should be resolved through GBR's long-term planning programme wherever possible, as that programme is explicitly intended to work through the issues in a structured way with all impacted railway parties and authorities.
- 7.3 GBR considers that a proposed change is suitable for a minor revision where it is reasonably contained and can be assessed reliably without reconsidering wider, interconnected capacity choices, assumptions or risks. In particular it should impact only a small number of classifications, allowing the remainder of the plan to remain unchanged. A proposed change is not suitable as a minor revision to the Capacity Plan where its scale or complexity means that wider, interconnected capacity choices, assumptions or risks merit consideration together through long-term planning and a resulting major update. It is also not suitable if it conflicts with the Capacity Priorities set out in the existing plan, which can only be changed through a major update.
- 7.4 Where a change that would otherwise be suitable for a minor revision overlaps in scope and timing with a major update entered on the Planning Schedule, GBR will use the minor revision process and accept any related application for consideration, unless it is sufficiently clear that all or part of the corresponding commitment could not be granted under the Chapter 6 provisions on commitments extending beyond the update's expected effective date.
- 7.5 The need for a major update may arise from proposed service changes, or from changes in railway capability, capacity or delivery assumptions. In a major update, GBR removes all previous classifications from the Plan to allow maximum scope to consider the use of the railway and secure better outcomes. In any cases where GBR is updating or revising the plan, existing commitments for other parties or GBR are assumed to continue, with the associated classification, to their expiry date as a matter of normal process.¹
- 7.6 When the need for a minor revision arises in order to make train service changes, the minor revision

¹ This general policy does not prevent GBR from exercising the provisions in contracts and the GBR Code that permit changes to capacity commitments to be made when they are not being used, or in other defined specific circumstances with compensation.

process is carried out by using the application processes for other parties or by using the GBR Proposal processes set out in Chapter 6. The need for a minor revision may also arise from changes in railway capability, capacity or delivery assumptions, and this is dealt with later in this chapter. Work on a minor revision (or the linked applications and GBR Proposals in Chapter 6) may show that the capacity choices involved are significantly wider or more complex than first thought. If so, GBR will end the relevant processes, and notify affected parties. GBR will consider whether to take the change forward as part of a major update.

- 7.7 This chapter assumes that GBR has adopted its first Capacity Plan. During a period of implementation when GBR assumes its initial powers and duties under the Act, the provisions set out here are not relevant to the development or adoption of that first GBR Capacity Plan.
- 7.8 GBR will explain why the selected route is appropriate when it decides whether to accept an application for a capacity commitment, publishes a GBR Proposal under Chapter 6, publishes a proposed minor revision for consultation, or proposes a major update to the Capacity Plan.

Consultees for updates and revisions to the Capacity Plan

- 7.9 When undertaking a major update or a minor revision to the Capacity Plan, GBR considers the appropriate persons to consult under Section 66(2)(a) of the Act include the persons below:
- i. parties who hold track access contracts that may be affected;
 - ii. parties that have registered with GBR as prospective applicants for such contracts that may be affected;
 - iii. Transport Scotland, on behalf of Scottish Ministers;
 - iv. Transport for Wales, on behalf of Welsh Ministers;
 - v. Transport for London;
 - vi. the Department for Transport;
 - vii. mayoral combined authorities or mayoral combined county authorities which fund or operate services or infrastructure that may be affected;
 - viii. Transport Focus; and
 - ix. adjacent infrastructure managers who may be affected.
- 7.10 In addition to the consultees listed above, GBR may also consult any person known to GBR with a material interest in the application and any other stakeholder that GBR considers relevant in weighing its duties.
- 7.11 This consultation is also how GBR takes account of its statutory duty to consult Scottish Ministers on cross-border services, noting that Scottish Ministers will also be engaged appropriately in GBR's long-term planning programme which will seek to develop strategy and set direction on cross-border services.
- 7.12 GBR may choose not to consult these parties when adopting the first version of its Capacity Plan, as that is intended to create the baseline for future changes.

Major updates to the Capacity Plan

SCHEDULING, PROPOSING AND CONSULTING ON A MAJOR CAPACITY PLAN UPDATE

- 7.13 Potential major changes will usually have been developed through the long-term planning and investment processes described in Chapter 5, or through other work with governments, funders, operators, freight customers, investors and other interested parties. That earlier work develops objectives, evidence and options and sets direction for GBR. It does not allocate capacity or represent a decision that the Capacity Plan will change.

Box 14: Major Capacity Plan update processes

MAJOR CAPACITY PLAN UPDATE PROCESSES

- **Give notice of an expected major update on the Planning Schedule:** GBR first enters a major update on the Planning Schedule to give advance notice of its emerging purpose, likely scope, timing and dependencies. GBR may update the entry as the work develops.
 - How parties contribute: comment on proposals to support development
- **Propose and consult on a major update:** GBR proposes the critical railway outputs, geographic scope and date on which the updated Capacity Plan would take effect. GBR may also propose additional passenger, freight or infrastructure outcomes as contingent outputs.
 - How parties contribute: comment on the proposal, provide evidence and submit additional passenger, freight or infrastructure aspirations.
- **Confirm the critical capacity changes that will be delivered:** Once confirmed, the critical outputs settle what capacity the update must secure and for what purposes.
- **Confirm the additional service aspirations that will be assessed:** GBR decides which additional aspirations supplied by consultees or by GBR should be adopted as contingent outputs that the update will seek to accommodate alongside the confirmed critical railway outputs.
- **Develop and assess service options:** GBR works with a reference group to develop and compare packages that deliver every confirmed critical railway output and seek to accommodate contingent outputs.
 - How parties contribute: relevant parties help develop and test the options.
- **Propose, consult and finalise the Capacity Plan update:** GBR proposes new classifications and Capacity Priorities, consults and then finalises the update to the Capacity Plan. The work may also identify consequential changes needed to support the update, relating to railway capability, performance, network services and engineering access.
 - How parties contribute: affected parties are consulted on the proposed decision. GBR explains how it has taken account of consultation responses when it publishes its final decision.

- 7.14 The process in this chapter begins when GBR draws on that earlier work to give advance notice of a major update in the Planning Schedule, and then to formally propose a major update to the Plan.
- 7.15 The ideas and objectives that lead GBR to make a proposal for an update may originate with any party, and the process will be used to secure capacity for a wide range of passenger and freight services including those funded or operated by devolved public bodies or private companies. GBR is responsible for deciding whether to make a proposal for an update.
- 7.16 Any relevant party who seeks to operate or fund train services may make a formal request to GBR to make a major update to the Capacity Plan.
- 7.17 In such cases, GBR's strong presumption is that aspirations for new services and potential major updates should be raised and explored through engagement before such a request is made. GBR intends that any such proposals should be developed and tested in a structured way through GBR's long-term planning programme. However, the right to request an update to the Capacity Plan is provided for cases where a party has engaged in good faith with GBR and considers that the long-term planning and investment processes described in Chapter 5 cannot provide a suitable or timely outcome.
- 7.18 GBR publishes a request form for such cases on its website, along with guidance on how to complete the form. If GBR accepts the request, it will work with the party to progress the changes through the major update process in this chapter. GBR may also modify or reject the request having weighed the relevant duties and considerations in Chapter 2.

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- 7.19 This decision to reject or modify a request to update the Capacity Plan is identified as a capacity allocation decision in paragraph 2.5(iii). GBR sends the requesting party a decision letter and publishes its decision and rationale in accordance with paragraph 2.37. The Capacity Duty in Section 63 does not apply. GBR may set out what further analysis or development is necessary before GBR would consider a similar request in future.
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- 7.20 GBR makes the **first entry onto the Planning Schedule** when it has sufficient information to give useful advance notice of its emerging purpose, likely scope, timing and dependencies. Where there is a linked investment project underway, for instance for fleet or infrastructure enhancements, this stage is intended to align with the decision to proceed with a single proposed option. In public business cases, this is usually the outline business case stage for a project. GBR may update the entry as the work develops. Whilst most projects will appear as early schedule entries before the proposal stage described below, this is not mandatory.
- 7.21 GBR will **publish and consult on a proposal for a major update**, when the development of a major update to the Capacity Plan is sufficiently advanced. Where there is a linked investment project, this stage is intended to align with funding approval, which is usually the final business case stage for public funders and GBR. GBR's proposal will specify.
- 7.22 GBR's proposal will specify:
- i. the critical changes being proposed to the Capacity Plan to support a new service offer for passengers and/or freight users;
 - ii. any rail service freight or passenger proposals that GBR initially considers should be assessed for delivery alongside the proposed critical changes;
 - iii. the geographic scope and boundary assumptions for the update project; and
 - iv. the timings for the project and decisions, and the date the change will have effect.
- 7.23 The critical changes are proposed as critical railway outputs for the update to the Capacity Plan. In the proposed critical railway outputs, GBR defines the most important change (or changes) it intends to make to the use of the railway for the operation of railway services.
- 7.24 Wherever practical, GBR seeks to identify railway outputs at a level that can result as a reasonably direct consequence of changing the Plan, for example passenger capacity, service frequency, journey opportunities on offer to users or freight volumes. Such outputs are generally more appropriate than setting outcomes, such as switching modal share, which also depend on wider events and actions, such as petrol prices or employment markets in key cities. Such outcomes form a part of the evidence for selecting outputs, and should be considered earlier as part of long-term planning or other upstream pieces of work.
- 7.25 A critical railway output may need to specify the operator or funder where necessary to secure the purpose of the change – for instance to utilise fleet being procured by a government or to secure a return on investment. In other cases, the proposal may be neutral as to operator or funder. Where a change is linked to investment, GBR will explain how the proposed critical railway outputs are expected to secure relevant commercial or public interest benefits that are important to the funder.
- 7.26 GBR will propose a critical railway output for a major update only where it is satisfied that:
- i. the proposed output has been compared with other reasonable and fundable uses of capacity, and there is sufficient evidence for GBR to conclude it reflects how best use can be made of GBR infrastructure under Section 60. GBR will draw on long-term planning publications where appropriate;
 - ii. capacity is left available and unconstrained wherever possible and appropriate, by setting the scale of the output and its level of detail at the minimum reasonably needed to deliver its purpose; and

iii. the capacity is likely to be used to deliver expected benefits within a reasonable period.

7.27 GBR will consider whether additional critical railway outputs are also needed in order to reflect GBR's wider published long-term plans for passenger and freight services, including GBR's published freight growth plans. The published rationale will explain how GBR has done this. Where the proposed critical railway outputs for an update project do not cover all the capacity identified as necessary in GBR's published long-term plans for passenger and freight services, the rationale will identify the shortfall and explain why. This is intended to provide transparency on how GBR has taken account of the freight growth target.

7.28 GBR may also set out aspirations for services in the form of contingent outputs that are not critical for the update, but which it initially considers should be assessed during the update project.

7.29 In its proposal, GBR defines the geographic scope around the railway changes needed to deliver the proposed critical railway outputs, rather than around administrative or organisational boundaries. In defining the scope, GBR will:

- i. capture the core service and capacity changes needed to deliver the critical railway outputs within the scope;
- ii. identify wider service changes likely to be needed to develop a feasible solution; and
- iii. set assumptions for the services, capacity and dependencies crossing each boundary.

7.30 GBR will extend the geographic scope or revise its boundary assumptions where necessary to assess a feasible solution or avoid losing material

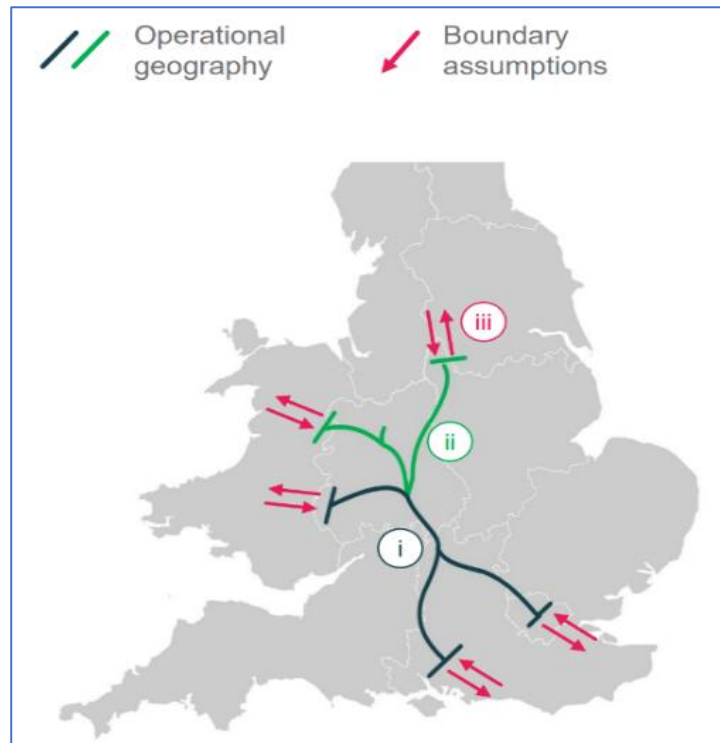
passenger or freight benefits. Decisions will recognise that the value and feasibility of end-to-end services may depend on capacity of infrastructure or facilities outside the boundary – for freight or passenger services. Figure 1 illustrates how geography and boundary assumptions work together in setting the scope of a major update project.

7.31 GBR will work with other infrastructure and facility managers, public rail bodies and governments to develop and test a coherent solution across boundaries where a proposed update would have material effects. GBR will work with materially impacted parties before making a proposal, and will co-operate with such parties, making best endeavours to agree the relevant planning assumptions, dependencies and operational interfaces. GBR will set out in its rationale any areas where agreement has not been possible. GBR will identify any material cross-boundary issues that remain unresolved when it publishes its proposed Capacity Plan decision.

7.32 GBR will set dates for the project and decision stages and also set a date for the updated Capacity Plan to take effect that is credible in light of the arrangements and timelines needed to deliver the proposed change. GBR will also take account of dependencies and interactions with other planned changes.

7.33 Before making a major update to the Capacity Plan, GBR will consult the parties in paragraph 7.9.

Figure 1: Geographic scope and cross-boundary assumptions



Box 15: Planning Schedule: visibility of future Capacity Plan updates

PLANNING SCHEDULE: VISIBILITY OF FUTURE CAPACITY PLAN UPDATES

What the Planning Schedule is for: GBR publishes the Planning Schedule to give operators, funders, freight customers, infrastructure and facility managers and other interested parties advance visibility of expected and proposed major Capacity Plan updates. This supports investment and service planning and helps the railway coordinate related changes.

What the Planning Schedule shows: GBR first enters an expected major update on the Planning Schedule when it has sufficient information to give useful advance notice. The entry will contain the information available at the time and will be clearly labelled to show the major update's stage of development along with the maturity and uncertainty of that information. GBR will distinguish expected major updates still under development from major updates formally proposed under this Chapter.

The information may include:

- what the expected update is seeking to achieve, including any emerging or proposed critical railway outputs;
- the geography, services and markets likely to be affected;
- the current stage of development;
- the date on which the updated Capacity Plan is expected or proposed to take effect;
- the expected timings for development, consultation and decisions; and
- known dependencies, cross-boundary effects and interactions with other railway changes.

How the Planning Schedule is managed: GBR publishes dates for formal updates to the Planning Schedule and may update individual entries between those dates as information develops. GBR programmes major update work to support delivery of benefits as soon as reasonably practicable, having regard to dependencies, interactions with other changes, industry and GBR workloads and available resources. GBR explains any material change to a published entry or programme.

GBR invites feedback and engagement on the Planning Schedule and encourages affected parties to identify missing information, dependencies, interactions and timing concerns.

- 7.34 The consultation gives parties two distinct opportunities to influence the update. Firstly, parties may support or challenge any elements of GBR's proposal. Parties may provide views or evidence that may lead GBR to confirm, modify or withdraw part of the proposal.
- 7.35 Secondly, parties may supply GBR with information on additional passenger, freight or infrastructure aspirations they are seeking to operate directly, or by contracting with an operating body other than GBR. GBR considers those additional aspirations for inclusion as contingent outputs when it settles the requirements for the update, as explained below.

DECIDING THE CRITICAL CHANGES THAT REPRESENT BEST USE OF GBR'S RAILWAY

- 7.36 GBR considers the consultation responses and settles the critical railway outputs that will be delivered by the update project. It may confirm, amend or withdraw proposals. This is done at the same time as confirming the scope, date and contingent outputs for the update project as described below and is aligned with it, forming a single decision.
- 7.37 Once confirmed, the critical railway outputs represent GBR's view under Section 60 of how best use can be made of its infrastructure for the operation of trains. This decision therefore settles the major capacity changes that the update will deliver. The subsequent work determines how to deliver those critical outputs through service options that are assembled into packages and assessed alongside other services and uses, as described in this chapter. The update project does not reconsider the material decision taken at this stage as to whether the critical outputs should be

delivered.

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- 7.38 This decision to set the critical railway outputs for a major update is part of the decision on critical railway outputs and scope that is identified in paragraph 2.5(i). Further information is provided below in paragraph 7.40.
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- 7.39 This decision does not give another party permission to use GBR infrastructure and is therefore not subject to the Capacity Duty in Section 63. GBR applies the duties and considerations in Chapter 2 to this decision. Because this decision includes a decision to revise the Capacity Plan, GBR must consider whether the change adequately represents its view of the best use of the railway.

DECIDING GEOGRAPHIC SCOPE, DATE AND CONTINGENT OUTPUTS FOR A MAJOR UPDATE PROJECT

- 7.40 GBR also considers the consultation responses and confirms or changes the geographic scope, boundary assumptions and other project assumptions, and the date on which the updated Capacity Plan will take effect. GBR will set out any unresolved assumptions, including boundary assumptions and how it intends to approach these issues during the update project. GBR decides these matters in the round with the critical railway outputs, as components of a single decision under this policy.
- 7.41 GBR also decides which additional passenger, freight and infrastructure aspirations to take forward as contingent outputs. This may include outputs proposed by GBR and outputs submitted by other parties through consultation. GBR applies its relevant statutory duties and the considerations in Chapter 2 and takes an aspiration forward where there is a reasonable prospect of delivering it, in full or in part, alongside the confirmed critical railway outputs and it is proportionate to assess it. Contingent outputs do not alter or qualify the confirmed critical railway outputs.
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- 7.42 Together with the critical railway outputs discussed above, these matters form the single decision to determine the critical railway outputs and scope of a major update identified in paragraph 2.5(i). GBR publishes that decision and its rationale in accordance with paragraph 2.37.
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- 7.43 In particular, the rationale will explain:
- i. why it is necessary to change the Capacity Plan, and why GBR is using the major update process rather than a minor revision;
 - ii. why the proposed critical railway outputs represent, in GBR's view, best use of the GBR infrastructure for the operation of train services;
 - iii. whether the critical railway outputs reflect in full the capacity identified as necessary to deliver GBR's published network-level plans for freight and passenger services, how GBR has considered this policy in cases where they do not, and how GBR will update those plans as a result if it is necessary to do so; and
 - iv. why GBR has not accepted any aspirations proposed by other parties in the consultation if these are not being adopted as contingent outputs for the update project to consider and assess.
 - v. how GBR has cooperated with adjacent infrastructure managers and other relevant facility managers in taking this decision, and any remaining boundary issues at this stage.
- 7.44 GBR applies the duties and considerations in Chapter 2 to these decisions. This decision is a decision to change the Capacity Plan because it establishes new uses in the form of the critical railway outputs, and GBR therefore has regard to the need to accommodate those services, and capacity uses described in Section 60. Because updating the Capacity Plan is not a decision that gives permission to use, GBR does not apply its Capacity Duty in Section 63.
- 7.45 Implementing the decision on the scheduled date and geography: when GBR confirms the geography and the date on which the update will take effect, uncommitted classifications within that geography acquire an end date linked to the date on which the updated Capacity Plan will take effect. This means that future applications for commitments or GBR Proposals will take due account

of this date being formally established. Existing capacity commitments are unaffected by setting this date.

DEVELOPING AND ASSESSING SERVICE OPTIONS DURING THE UPDATE PROJECT

- 7.46 GBR works with a reference group to develop packages of services, infrastructure, rolling stock and operational arrangements that can be assessed and compared. The reference group includes parties whose service or infrastructure aspirations GBR has selected as contingent outputs for the update project, together with other parties whose involvement is needed to develop and test the options. The reference group helps GBR develop the packages, test assumptions and identify impacts, risks, dependencies and possible mitigations.
- 7.47 Every package is required to deliver every confirmed critical railway output. The packages should collectively test the delivery of the contingent outputs proposed as aspirations by other parties or by GBR, in full or in part, wherever this can be reasonably achieved. GBR works with the group to design packages that are reasonably deliverable for operators or funders and meet commercial and operational needs efficiently as far as practicable, whilst being appropriate in line with operational assumptions and constraints.
- 7.48 GBR may work with the group to further develop the published capability and planning assumptions needed to develop and assess the packages. It considers material end-to-end and cross-boundary effects, assesses whether each package is deliverable, considers the risks posed to the safe, reliable and punctual operation of the railway and examines available and deliverable mitigations.
- 7.49 GBR compares the packages in accordance with the policy on comparative assessment in Chapter 6, using the methodology and analysis set out in the guidance referred to in Box 13. As described in that chapter this assessment is an important way for GBR to ensure the benefits that all relevant services may deliver in the public interest for the economy, society and the environment are given due weight in a transparent and consistent way. GBR undertakes the necessary analysis, drawing on evidence and input from the reference group. In this assessment, GBR does not consider the Capacity Duty in Section 63 of the Act, as the decision to update the Capacity Plan is not a decision on permission to use.

DECIDING AND FINALISING THE CAPACITY PLAN

- 7.50 Having developed and assessed the service option packages, GBR prepares a proposed Capacity Plan decision that identifies the classifications and Capacity Priorities that, in GBR's view under Section 60 of the Act, make best use of GBR infrastructure for the operation of trains.
- 7.51 The update work may also identify dependencies on, or consequential requirements for changes to:
 - i. infrastructure and rolling stock capability;
 - ii. performance allowances and restrictions;
 - iii. GBR network services (trains connected with the provision or operation of GBR infrastructure);
 - iv. planning principles for engineering restrictions of use; or
 - v. regular engineering restrictions of use.
- 7.52 These will be recorded as assumptions underpinning the Capacity Plan, so that they are visible to interested parties and can be taken forward as changes to the rule set to be used in later timetable planning. Rule changes are taken forward through the applicable GBR Code processes as outlined in Chapter 9, where GBR will give particularly high importance to changes that arise from a Capacity Plan update.
- 7.53 GBR publishes and consults on its proposed Capacity Plan decision, setting out the classifications and Capacity Priorities that make up the Capacity Plan, delivering each confirmed critical railway output and confirming how GBR considers capacity can be best used for the operation of railway services, having taken account of the assessment of packages of service options described above. In

line with its duties from Section 66(2) of the Act, GBR consults the parties set out in paragraph 7.9 on these proposed Capacity Plan decisions.

- 7.54 GBR may establish Capacity Priorities as part of a major update where this is needed to preserve the strategic intent of the update and guide later decisions. This may be appropriate where an intended outcome depends on the relationship between more than one classification, where future minor revisions may need to interpret or apply classifications in line with the rationale for the update, or where a market, use or outcome was material to the update and should be given weight in future choices.
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- 7.55 After considering the consultation responses, GBR finalises the updated Capacity Plan, by implementing updates to the capacity classifications and Capacity Priorities that make up the plan. This is the decision in paragraph 2.5(ii) to revise the Capacity Plan following a major update project. GBR publishes its decision and rationale in accordance with paragraph 2.37.
-
- 7.56 This decision settles only such matters as were not already decided by GBR when the critical railway outputs, scope, timing and contingent outputs for the project were determined, and those matters will not be reconsidered at this stage. It will include GBR's decisions on implementation and next steps, including matters relating to rules and assumptions. In particular GBR's rationale will explain:
- vi. why, in GBR's view, the update to the Capacity Plan makes best use of GBR infrastructure for the operation of train services;
 - vii. whether the final classifications materially affect GBR's ability to deliver its published long-term plans for freight and passenger services, how GBR has considered the relevant provisions in this policy in taking such a decision, and how GBR will update those plans if it is necessary to do so; and
 - viii. the reasons any service aspirations proposed by other parties and adopted at the scoping stage as contingent outputs were not given effect in the Capacity Plan update.
 - ix. how GBR has cooperated with adjacent infrastructure managers and other relevant facility managers in taking this decision.
- 7.57 This decision does not give another party permission to use GBR infrastructure and is therefore not subject to the Capacity Duty in Section 63. GBR applies the duties and considerations in Chapter 2 to this decision. Because this decision includes a decision to revise the Capacity Plan, GBR must consider whether the change adequately represents its view of the best use of the railway.
- 7.58 Implementation: GBR may use the minor revision process later in this chapter where it concludes that a contained change to classifications outside the principal update geography is needed to give effect to the updated Capacity Plan. This may be appropriate where a passenger or freight service extends beyond the update geography. Following the publication of the Capacity Plan decision, GBR will deal with new applications for commitments or new GBR Proposals for commitment as set out in Chapter 6.

Minor revisions to GBR's Capacity Plan

- 7.59 The description of when GBR will use the minor revision process instead of using the major update process is set out in the first section of this chapter.
- 7.60 Minor revisions needed to support a proposed new or changed train service are dealt with through the processes in Chapter 6 for making or amending capacity commitments. Where GBR approves an application or GBR Proposal that requires a corresponding minor revision, the decision under Chapter 6 includes the decision to make that revision. GBR therefore does not undertake any further consultation or assessment or take a separate decision in respect of the Capacity Plan revision.
- 7.61 The remainder of this section applies where GBR proposes a minor revision that is not made to support a proposed service change that has been assessed as an application for a commitment or as

a GBR Proposal. GBR may need to make a minor revision of this kind where a classification:

- x. has not been, or is no longer expected to be, used for its intended purpose within the period specified in the Capacity Plan;
- xi. was intended to meet passenger or freight demand that has materially declined or ceased; or
- xii. is based on assumptions about railway capacity or capability that are no longer valid.

- 7.62 A minor revision may add a classification for capacity not currently represented in the Capacity Plan or add, change or remove an existing classification.
- 7.63 GBR keeps each capacity commitment and its supporting Capacity Plan classification consistent. A standalone minor revision changes the Capacity Plan but does not change an existing capacity commitment or its associated classification. In general, if a commitment holder does not agree to a change to its commitment, the minor revision will not proceed.²
- 7.64 Only the classifications identified in GBR's proposal and the capacity materially affected by the proposed revision are within scope when GBR considers a minor revision. GBR publishes the reason for the proposed change and identifies the classifications and capacity within scope.
- 7.65 GBR consults the parties listed in paragraph 7.9 on the proposed revision and takes account of responses. In assessing the proposed revision and any alternatives, GBR applies its relevant statutory duties and the considerations in Chapter 2 and takes account of any relevant Capacity Priorities. GBR also considers the impact on its wider plans for passenger and freight services developed through the long-term planning programme.
- 7.66 Following consultation and assessment, GBR decides whether and how to make the proposed minor revision.
-
- 7.67 This is the decision to make a minor revision to the Capacity Plan identified in paragraph 2.5(iv). GBR publishes the revised Capacity Plan and its decision and rationale in accordance with paragraph 2.37.
-
- 7.68 In particular, GBR's rationale will set out whether the revision materially affects GBR's delivery of its published long-term plans for freight and passenger services, how GBR has considered the relevant provisions in this policy in taking such a decision, and how GBR will update those plans if it is necessary to do so.
- 7.69 GBR updates its plans for delivering the rail freight growth target where the revision makes this necessary. Where changes may be required to contracts or arrangements made under Section 31 or Section 4 of the Act, GBR advises the Secretary of State or the relevant devolved Ministers.

Chapter 8 Agreeing and revising access contracts

This chapter explains how GBR enters into new access contracts and manages changes to individual contracts, Model Access Contracts and the GBR Codes. It covers applications for access contracts and the processes for changing individual and standard contractual terms. Chapter 6 deals separately with decisions on capacity commitments.

Contracts for international services

- 8.1 The procedure and criteria for contract applications for services that will cross the border between the United Kingdom and France are the same as for domestic services within Great Britain. They are

² This general policy does not prevent GBR from exercising the provisions in contracts and the GBR Code that permit changes to capacity commitments to be made when they are not being used, or in other specific defined circumstances with compensation.

set out below. Such an application will be processed independently of any applications the applicant may have, or require, for access to railway infrastructure in other countries.

Applications for a new access contract

- 8.2 Entering into a track access contract does not itself allocate specific railway capacity or guarantee permission to operate in specific timetable paths. Where a party requires a capacity commitment, an application should be made as set out in Chapter 6. Where a party requires access to stations or depots to support a proposed train service, applications should be made at the same time as the application for a track access contract and any capacity commitment application. GBR will usually consider all related applications at the same time.

GBR PROCEDURE FOR APPLICATIONS

Box 16: Summary of procedure for a contract application

SUMMARY OF PROCEDURE FOR A CONTRACT APPLICATION

- **Application submission** – The applicant makes an application containing the information required by GBR as specified in its application form.
- **GBR response** – GBR discusses with the applicant whether the application is sufficiently developed, whether a linked application is required for access to other facilities or for a capacity commitment, and what further information is required.
- **GBR decision** – GBR advises the applicant whether their application is accepted or rejected, and publishes the decision with a rationale.

- 8.3 Prior to application: Prospective applicants should engage with GBR before a formal application is submitted to help identify the relevant contract type, linked decisions and information requirements.
- 8.4 Applicants are required to submit an application through the process published by GBR for the relevant contract type. GBR will specify the information needed to support the application, including information needed to assess whether the applicant is capable of becoming a contract holder and complying with the relevant contractual framework. GBR will also publish the process of application and timescales for information.
- 8.5 GBR will discuss the application with the applicant, and may give tailored guidance or points of contact for different types of access where this supports efficient contracting, recognising there are distinct issues for different parties such as scheduled passenger, charter or freight operators across station, depot and track access.
- 8.6 GBR will decide the application. GBR will advise applicants of whether their application is accepted or rejected. GBR will publish its decision and explain the reasons for rejecting any application for a contract, or any conditions or linked decisions that need to be satisfied before the contract is completed.

GBR DECISIONS ON APPLICATIONS

- 8.7 GBR will use the appropriate Model Access Contracts when agreeing a new access contract and will consider bespoke arrangements only where this is consistent with the criteria set out in Chapter 2.
- 8.8 In deciding whether to enter into an access contract, GBR will consider whether the applicant is an appropriate party to hold the relevant type of access contract; and if they have, or have a credible route to obtaining, the financial, organisational and operational capability needed to hold the contract and use GBR infrastructure or facilities. This includes the licences, safety authorisations, insurance and operational arrangements needed to use GBR infrastructure or facilities.

- 8.9 GBR will also consider if the application is sufficiently complete to allow meaningful assessment and will consider any dependencies between the application for a contract and related applications, e.g. for a capacity commitment, or for access to stations or depots.
- 8.10 GBR may decide to reject an application for an access contract where it concludes the applicant is not likely to be an appropriate party on such grounds, and this would mean that any linked application for a capacity commitment is also rejected at that point.
-
- 8.11 This decision to enter into an access contract is part of the decision on access contracts that is identified in paragraph 2.5(v). The related decision to amend is covered in the following section of this policy.
-
- 8.12 Where GBR decides whether or not to enter into a track access contract, the Capacity Duty in Section 63 applies because that decision gives another party permission to use GBR infrastructure. GBR must therefore retain the capacity required by that duty. In deciding how to do so, and how to exercise any discretion remaining, GBR applies its relevant statutory duties and the considerations in Chapter 2.

Changes to individual access contracts

- 8.13 Changes to individual access contracts will be made through the variation provisions in those contracts and any applicable provisions of the relevant GBR Code.
- 8.14 Contract-specific changes may be needed for reasons including but not limited to:
- i. the grant, amendment, expiry or removal of capacity commitments – policy on changing capacity commitments is set out in Chapter 6;
 - ii. changes to station or depot access arrangements;
 - iii. bespoke arrangements justified by the circumstances of the access beneficiary or facility;
 - iv. changes required to implement updated model contract terms;
 - v. changes required to effect a change under the GBR Code or as a consequence of a change to the GBR Code;
 - vi. changes required to effect, or as a consequence of, a Charges Scheme Statement or Performance Scheme Statement; and
 - vii. other changes agreed between GBR and the access beneficiary.
- 8.15 GBR will ensure that changes to access contracts are coordinated, where appropriate, with station access agreements, depot access agreements and other related contractual frameworks. This is intended to ensure that the overall system of contracts remains coherent, consistent and aligned with GBR's system-wide approach.
- 8.16 GBR will manage contract-specific changes consistently and proportionately. It will explain the basis for proposed changes where this is necessary. Where agreement cannot be reached, GBR will use the applicable contractual and statutory processes and will identify any relevant contractual dispute process or statutory appeal route.
- 8.17 The terms of access contracts only permit GBR to terminate the contract in the specific circumstances defined in the contracts and contract conditions, some of which include contractual obligations to pay compensation.
-
- 8.18 This decision to amend an access contract is part of the decision on access contracts that is identified in paragraph 2.5(v).
-

Updating Model Access Contracts

- 8.19 GBR will maintain Model Access Contracts for access to GBR infrastructure, stations and depots, as

described in Chapter 3.

- 8.20 GBR will update each of the Model Access Contracts where it considers it necessary to do so in furtherance of GBR's functions, duties or obligations under the Act or GBR's Licence, in order to comply with a mandatory direction, or as a result of a change in law. Other reasons for changes may include changes to Government policy about the railway, changes to the GBR Codes, operational learning, the development of new contract types or market arrangements; or the need to improve consistency, clarity or efficiency across comparable contracts.
- 8.21 In reaching a decision to change any of its Model Access Contracts, GBR will have regard to its duties and the criteria set out in Chapter 2 and will seek to make the contractual arrangements for access simpler and more effective. It will proceed only where impacts on access beneficiaries are reasonable and have been properly considered. This recognises the importance of stability for operators, funders and investors, while allowing Model Access Contracts and standard terms to evolve where this will better support GBR's statutory duties, effective railway operation or efficient management of access to GBR infrastructure and facilities.
- 8.22 Where GBR proposes changes to Model Access Contracts or other standard terms, it will carry out an industry consultation with affected parties. These are any parties that hold the relevant type of access contracts, or parties who have expressed an interest in holding such a contract. Where relevant GBR will also consult adjacent infrastructure managers or facility operators.
-
- 8.23 This is the decision in paragraph 2.5(vi) to update the Model Access Contracts. GBR publishes its decision and rationale in accordance with paragraph 2.37.
-
- 8.24 This decision does not give another party permission to use GBR infrastructure and is therefore not subject to the Capacity Duty in Section 63. GBR applies the duties and considerations in Chapter 2 to this decision.
- 8.25 Once a model contract is updated in this way, GBR will propose to implement the model terms as a change to individual existing contracts of that type using the change process in each contract. This is one of the changes described in the previous section on changes to individual access contracts.

Updating the GBR Codes

- 8.26 Each GBR Code forms part of the related access contracts and sets out common contractual procedures, powers and obligations for relevant parties, as described in paragraphs 3.37 to 3.41.
- 8.27 GBR will update each of the GBR Codes where it considers it necessary to do so in furtherance of GBR's functions, duties or obligations under the Act or GBR's Licence, in order to comply with a mandatory direction, or as a result of a change in law. In reaching a decision to change any of its Codes, GBR will have regard to its duties and the criteria set out in Chapter 2 and will seek to support more effective operation of the railway and ensure common procedures remain fit for purpose.
- 8.28 Changes to the GBR Codes have to be made using the applicable change procedures in the relevant Code, which include consultation and consideration of impacts on access beneficiaries. GBR will consult on, decide on and publish amendments in accordance with those contractual provisions.
-
- 8.29 This is the decision in paragraph 2.5(vi) to update the GBR Codes. GBR publishes its decision and rationale in accordance with paragraph 2.37.
-
- 8.30 GBR applies the duties and considerations in Chapter 2 to this decision. This decision is not directly subject to the Capacity Duty in Section 63, as the decision does not in itself give permission to use the railway to any party. However, GBR must ensure that the provisions in the Code relating to timetable preparation and revision permit it to comply with the Capacity Duty.

Chapter 9 Timetable production and variation

This chapter explains how GBR prepares and varies the working timetable under Sections 61 and 62 of the Act. It sets out the role of access contracts and the GBR Code, the treatment of applications for timetable paths and variations, and the arrangements for timetable disputes and managing disruption.

Policy principles

TIMETABLE PRODUCTION IS TACTICAL NOT STRATEGIC

- 9.1 Timetable production, timetable variation and disruption management are governed through contractual procedures because they are central to the practical operation of the railway.
- 9.2 GBR must apply the relevant considerations set out in contract to govern its decisions in timetable production. GBR's wider policy is that timetable production, which occurs in the last year before timetable change, often includes a high number of changes to services but is not an appropriate stage for reopening major strategic choices about the planned use of capacity. GBR considers these strategic issues at all earlier stages of capacity allocation by reference to this policy and GBR's duties, including by taking account of issues such as economic value, costs and the strategies and statutory plans of public authorities. These upstream considerations shape the later scope for change, and will be reflected in the capacity commitments that, under the terms of the contract, decide priorities in timetable production. This allows the latter process to focus on fine-tuning and resource planning in order to deliver robustly for railway users and operators seeking to plan and deliver effectively and efficiently.
- 9.3 The structured decision-making set out in this policy is designed so that choices requiring strategic assessment are identified and made when there is sufficient time to assess the alternatives with suitable rigour.

CAPACITY FOR STATUTORY GBR PASSENGER SERVICES AND ENGINEERING FUNCTIONS

- 9.4 GBR is required by Section 63 of the Act to retain capacity to operate GBR passenger services, as defined in Section 73 of the Act. It is also required to maintain and improve its infrastructure. Where it has discretion about how to achieve these purposes, it must act in accordance with its duties. The GBR Code contains provisions to enable this in the timescales, and recognising the considerations, that are relevant to timetable decisions.
- 9.5 GBR identifies and reserves capacity to maintain and improve its infrastructure in the form of capacity for engineering works and capacity for trains operated in connection with these works. The timetable rules include protection for both of these, as described in the section on preparation of the working timetable, below. Later changes may be made through a restriction of use variation and a train slot variation, respectively, as described in the section on variations to the working timetable, below.

ROLE OF ACCESS CONTRACTS AND CONDITIONS

- 9.6 GBR's procedures for producing and varying the working timetable are set out in access contracts and the GBR Code. This includes the procedures for applications for timetable paths, and the specific contractual criteria GBR uses in taking decisions on such applications and dealing with competing demands. Any changes to the process or to the criteria referred to in contract will be governed by contract, and changes may only be made through properly constituted changes to the relevant part of GBR's Code, using the change process set out in that Code.
- 9.7 The terms under which the contract holder may apply for a timetable path are dependent on the model contract type as described in Chapter 3. In summary:
 - i. passenger train (except charter train) operators may apply at any time, provided that they

- hold, or have applied for, a capacity commitment related to the path applied for;
- ii. charter train operators may apply at any time, but only through the timetable variation process;
- iii. freight train operators may apply at any time; and
- iv. any path obtained in the timetable that does not have the relevant contractual permission to use in place will be removed before the day of operation.

International train paths

- 9.8 The GBR Code contains provisions to include in the timetable trains that cross the border between the United Kingdom and France.
- 9.9 GBR is a member of RailNetEurope, whose members operate a “one-stop shop” for processing applications for international train paths. An application may be made through the timetable preparation process, where special arrangements in the Code recognise that international train paths are initially planned 11 months before the timetable change date applicable to the Channel Tunnel and France.
- 9.10 The same one-stop shop facility also applies to an application for a timetable variation relating to an international path, which may be made at any time.

Preparation of the working timetable

- 9.11 GBR applies the procedure set out in the GBR Code, in light of the relevant provisions in access contracts. The procedure is summarised below and does not include formal consultation with any parties. Nothing set out in this policy replaces any contractual obligation on GBR.
 - i. Set out timetable process dates
 - This is the notice required by Section 62(3)(a) of the Act. (The requirements of Section 62(3)(b) are maintained in GBR’s Code).
 - ii. Set the timetable rules
 - The rules are the information necessary to compile the timetable including asset capability, operational, performance and engineering work requirements. Each revision to the rules will be consulted and established through processes set out in the Code.
 - GBR’s decisions relating to these rules apply the contractual procedure and criteria set out in the GBR Code, which include compliance with the Capacity Duty under Section 63 of the Act.

 - This is the decision to define the timetable rules identified in paragraph 2.5(ix). These decisions are excluded from the contractual dispute resolution arrangements.

 - In taking this decision under the terms of the GBR Code, GBR gives particular weight to any proposed changes that arise from an update project to the Capacity Plan as described in Chapter 7.
 - iii. Deadline for applications (“priority date”)
 - An applicant may make an application containing the information required by GBR as specified in the GBR Code. Applications may also be made after the deadline, but GBR will treat these with a lower priority.
 - Where the applicant does not wish to vary or remove a train path contained in a preparatory timetable developed by GBR under the terms in the Code, the Code requires GBR to treat the presence of that path in the preparatory timetable as an application submitted by the deadline.
 - iv. Timetable preparation period

- GBR processes the applications, giving priority to firm capacity commitments and uncommitted capacity classifications (such as classifications intended to contribute to delivering the freight growth targets). This is to protect the decisions about best use of the railway system that are made in preparing the Capacity Plan and enshrined in capacity commitments.
 - In doing so, GBR applies the criteria set out in the GBR Code, which consist of an objective and considerations which reflect the capacity allocation criteria set out in Chapter 2 at a level that is relevant to timetable decisions: focussed on tangible train service characteristics or impacts that can be assessed within the timeframe for timetable decisions. These criteria include compliance with the requirements of GBR's Section 63 Capacity Duty.
- v. Publication of new working timetable
- This is the draft working timetable required by Section 62 of the Act. GBR advises applicants of whether their application is accepted, varied or rejected.
-
- This is the decision to accept, vary or reject an application for a timetable path identified in paragraph 2.5(x).
-
- vi. Period for representations
- This is the period required by Section 62 of the Act.

Variations to the working timetable

9.12 GBR applies the procedure set out in the GBR Code, in light of the relevant provisions in access contracts. The procedure is summarised below and does not include formal consultation with any parties. Nothing set out in this policy replaces contractual obligations on GBR.

9.13 Timetable variations may be one of two types:

- i. Restriction of use variation
- This is a notification by GBR that it wishes to alter the timetable to facilitate a restriction of use, whether this is to allow for the carrying out of work to maintain or improve GBR infrastructure (Section 61(3)(c) of the Act) or to deal with disruption affecting GBR infrastructure or the operation of trains (Section 61(3)(d)).
 - The procedure followed depends on the period of notice which GBR is able to give. The Code sets out these notice thresholds, the procedures, and the decision criteria which include compliance with the requirements of GBR's Section 63 Capacity Duty.
- ii. Train slot variation
- This may be an application from an access contract holder, or a publication of a proposal by GBR for one of its own services, in either case as envisaged in Sections 61(3)(a) or (b).
 - In the former case, the applicant needs to submit an application that includes the information required by GBR as set out in its Code.
-
- GBR will decide the application, advising the applicant of whether their application is accepted, varied or rejected. This is the decision to accept, vary or reject an application for a variation of the timetable identified in paragraph 2.5(x). GBR response deadlines are set out in its Code, varying according to the amount of notice the applicant is able to give.
-
- GBR's Code requires it to apply decision criteria comprising an objective and considerations in a way that is compliant with its Section 63 Capacity Duty. For train slot variation applications, the Code also affords priority in most instances to trains already planned in the working timetable.
 - Where compliance with these requirements results in a conflict between applications, GBR prioritises these applications in the order in which they were submitted.

Disputes relating to the working timetable

- 9.14 The Act requires GBR to set out a procedure for resolving disputes relating to the working timetable in this policy.
- 9.15 Decisions about the timetable, excluding decisions about the timetable rules, are subject to the contractual dispute resolution mechanism. This provides for referral to an independent dispute resolution body without limiting the statutory right of appeal for any decisions taken under the access framework.

Management of disruption

- 9.16 The Act requires GBR to include provision in this policy about how disruption affecting GBR infrastructure or the operation of trains that use GBR infrastructure is to be dealt with.
- 9.17 GBR applies the procedures set out in the GBR Code and its subsidiary Railway Operational Code, in light of the relevant provisions in access contracts.

Part D:Charges and performance frameworks

Chapter 10 GBR’s charges scheme

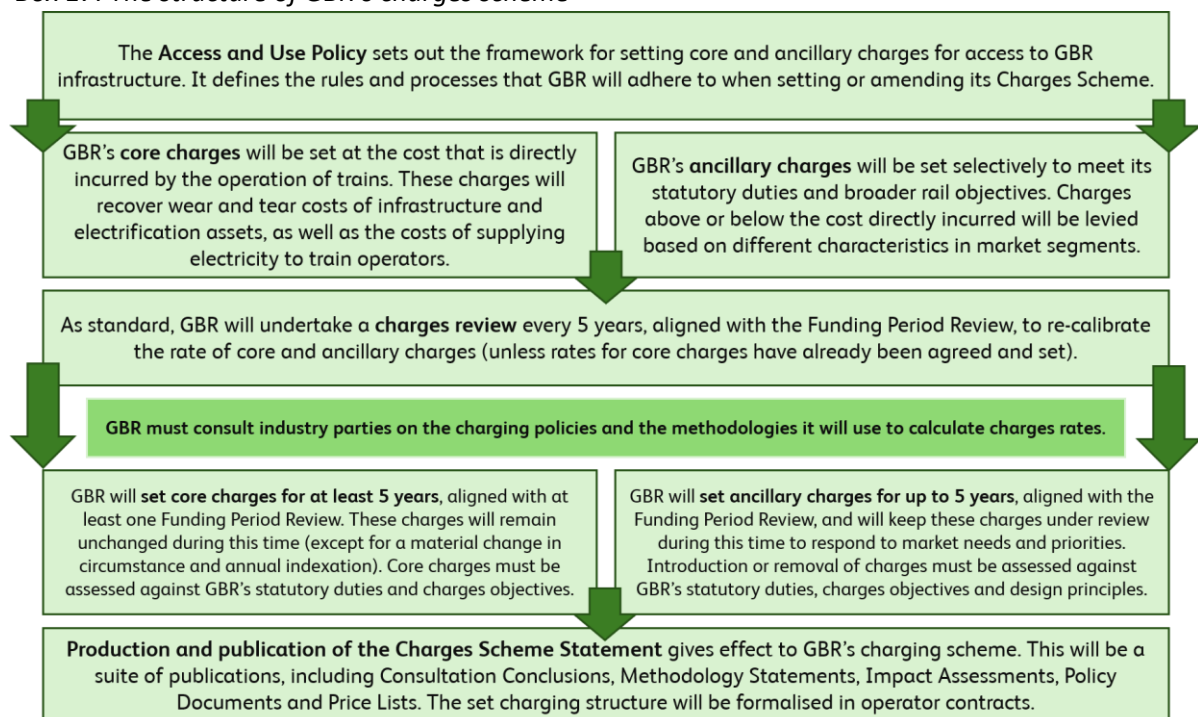
This chapter explains the overarching structure of access charges that GBR will levy on non-GBR operators which access its infrastructure (collectively defined as GBR’s charges scheme). It will clearly define the objectives that GBR will seek to achieve through its charges scheme.

Detailed charging approaches, methods and payment rates will be developed, consulted upon and published separately. The principles and commitments set out in this chapter will guide how and when GBR develops, consults on, sets and amends its charges scheme.

The structure of GBR’s charges schemes

- 10.1 This chapter describes how GBR will define Costs Directly Incurred (CDI), including the detailed framework supporting the identification and treatment of such costs. It also sets out controls over how and when charges above or below this level will be levied by GBR on non-GBR operators. GBR will develop core charges to recover CDI, alongside ancillary charges, to cover all charges or discounts above or below this.

Box 17: The structure of GBR’s charges scheme



THE CORE TRACK ACCESS CHARGES FOR PARTIES OUTSIDE OF GBR

- 10.2 GBR’s core charges will represent the costs directly incurred for access to and use of GBR infrastructure by train operators. GBR will levy core charges on non-GBR operators to cover the wear and tear impacts of infrastructure and electrification assets, as well as the cost of supplying electricity for running electric vehicles on the network.

Box 18: Duty on charging scheme

Great British Railways is required to maintain a charging scheme setting out the charges payable for access to and use of GBR infrastructure. The starting point for infrastructure charges is the cost directly incurred from operating the relevant service, except where the legislation provides otherwise.

Railways Act, Section 64(1)(a) and (2)

- 10.3 The calculation of these charges by GBR will be underpinned by the principle of recovering the cost that is directly incurred as a result of the operation of the train. GBR will apply a consistent method across all train operations and will publish documentation setting out the cost causation of its own passenger services in respect of core charges. This is to ensure transparency and mitigate the risk of cross-subsidy.
- 10.4 The standard approach is for GBR to set core charges to recover variable costs during a Funding Periodic Review (FPR) for at least the full duration of that Funding Period. Only where there has been a material change in circumstances can GBR revise core charges during a Funding Period.
- 10.5 A material change in circumstances is one which: was not reasonably foreseeable at the time of the relevant Funding Periodic Review; could not reasonably have been avoided or mitigated by GBR; and materially undermines the assumptions, funding arrangements, market conditions or operational requirements on which the relevant core charges were based.
- 10.6 The threshold for revising core charges during a Funding Period is intended to be high. Such circumstances are expected to be outside GBR's reasonable control and limited to exceptional cases. Any revision to core charges under this provision must be undertaken in accordance with the requirements and controls set out in this Policy and GBR's statutory duties.

*Box 19: Costs Directly Incurred***COSTS DIRECTLY INCURRED**

The calculation of core charges by GBR is governed by the framework set out in this chapter. It identifies the cost components that may be included in determining costs directly incurred as a result of operating train services, and specifies those cost components that must be excluded from this calculation. Setting core charges in this way should not set out to cause GBR to experience either a net financial loss or a net financial gain, as a result of operator's use of GBR infrastructure.

Overarching principles

Costs directly incurred (CDI) are those that arise from, and vary with, the operation of train services, and which would not be incurred to the same extent in the absence of that operation (based on "costs within scope", as defined below). The short-run marginal components of these total costs will be identified, measured, and attributed in a manner that is appropriate and proportionate to their relationship with train operations.

CDI shall be calculated on a network-wide basis, using either historic, current, or forecast asset values. In estimating asset values, GBR may take a short-term or long-term view of these efficient costs.

CDI shall be based on the best available and reasonable view of efficient costs, as established during and alongside the Funding Periodic Review process.

Average direct unit costs derived from CDI shall be calculated for the entire network by dividing total CDI on a network-wide basis by a traffic integer determined by GBR. This traffic integer could be based on actual trains operated or a forecast over a specified time horizon. The metric could include vehicle kilometres, train kilometres, or gross tonne kilometres, or any other metric that GBR considers appropriate.

GBR may modulate average direct unit costs derived from CDI so long as it does not increase the total CDI on a network-wide basis (based on "factors informing charge design").

Box 19 Continued: Costs Directly Incurred

The identification and quantification of CDI may rely on reasonable estimation techniques where direct measurement is impracticable, provided that the resulting estimate is a reasonable representation of the costs directly incurred as a result of operating the train service.

Charges may be expressed using unit-based measures where this supports clarity, proportionality, and effective implementation. The use of such measures does not imply that costs vary with absolute precision at the level of individual train movements.

In recognition of the need for stable and predictable charging arrangements, and to allow operators reasonable time to adapt to material changes, GBR may provide a phasing-in plan where a review of the existing CDI framework results in a significant increase in an operator's core charges. In determining whether a phasing-in plan is appropriate, GBR should place high importance on the continuation of existing rail freight flows, and government freight targets.

Costs within scope

When calculating CDI, the cost components within scope are those reasonably attributable to the operation of train services and demonstrably influenced by traffic on the network. These may include, but are not limited to:

- **Traffic-related infrastructure wear and maintenance.** This may include wear and tear, fatigue, and degradation of infrastructure assets (including switches and crossings) caused by train movements, and the associated inspection, maintenance, and renewal activities driven wholly or partly by usage.
- **Electrification and traction power infrastructure.** This may only include the portion of the costs of maintaining and renewing overhead line equipment, third rail, and associated systems that are directly incurred by operating train services.
- **Service-specific staff costs.** This may include staff and operational activities directly required to accommodate specific train movement requests outside the regular opening hours of a line, and the preparation of train path allocations or timetable amendments, where these costs are directly incurred as a result of operating the train service.

The identification of CDI by GBR may involve the use of modelling techniques, engineering evidence, statistical analysis, professional judgement, or other analytical approaches where appropriate. This should draw on international good practice and well-suited economic theory.

In determining whether costs vary with train operations, GBR may have regard to the extent to which such costs are influenced by traffic over an appropriate planning horizon, recognising that infrastructure assets are typically managed over long lifecycles. GBR will determine an appropriate forecasting horizon for asset condition, asset management, and efficient costs, which will be consulted on as part of the charges review.

Costs outside scope

The calculation of CDI must focus on costs reasonably attributable to the operation of train services, based on current analytical understanding. This means excluding costs where train movements do not materially contribute to wear and tear on assets, or where costs are primarily driven by wider network capability, strategic investment, or policy decisions. These may include, but are not limited to:

- **Costs not directly linked to access to infrastructure.** The portion of maintenance and renewal costs of civil infrastructure that is not directly incurred by operation of the train service. This includes for side sensors, signalling equipment, track-side communication equipment, electric supply equipment (such as cables or transformers), information systems, and non-track-side communications or telecommunications equipment.

Box 19 Continued: Costs Directly Incurred

- **Fixed and common infrastructure costs.** Costs relating to the provision of railway infrastructure that must be borne by GBR even in the absence of train movements. This includes network-wide overheads, such as salaries and pensions, and depreciation not determined on the basis of real wear and tear caused by train service operation.
- **Asset, land and capital-related costs.** Costs of acquiring, selling, dismantling, decontaminating, recultivating or renting land and fixed assets. Plus, financing costs, costs related to technological progress or obsolescence, and the costs of intangible assets.
- **Exceptional and non-traffic-related costs.** Costs related to force majeure, accidents and service disruptions (without prejudice to Chapter 11), and the part of the costs of maintenance and renewal of civil infrastructure that is not directly incurred by operation of the train service.

Factors informing charge design

To modulate the average direct unit costs derived from CDI, GBR may consider characteristics of rolling stock, traffic patterns, network usage, operating speeds, train configuration, or other operational drivers where relevant. This is only permissible if the consideration of these characteristics does not increase the total network-wide direct costs. In designing charges based on CDI, GBR may have regard to factors that influence the impact of train services on infrastructure. These may include, but are not limited to:

- **Train and vehicle characteristics.** This may include train mass, axle weight and axle numbers, vehicle type (including unsprung mass) and the number of vehicles in the train consist, and traction power.
- **Operational and dynamic factors affecting track wear.** This may include train speed, longitudinal stiffness of vehicles, horizontal forces impacting the track, and the recorded number of wheel flats or the use of equipment designed to protect against wheel slip.
- **Electric traction interactions with infrastructure.** This may include consumed and measured electric power and the dynamics of pantographs or contact shoes where these affect wear and tear of the asset.
- **Infrastructure and network characteristics.** This may include track parameters such as curve radii, and any other cost-related parameters where the infrastructure manager can demonstrate that the values are objectively measured and recorded.

Attribution of Costs

GBR will attribute costs to train operations using methods that reflect the causal relationship between traffic and cost, applying appropriate and proportionate analysis.

The identification, measurement, or attribution of CDI may require the exercise of professional judgement. GBR will apply that judgement in a manner consistent with its statutory duties and the objectives of the charging scheme. GBR must develop reasonable assumptions reflecting the availability of data and the need for analytical proportionality

Where judgement is likely to be contentious or ambiguous, GBR should follow best practice by providing early visibility of proposals, assumptions and outcomes to stakeholders. It should also draw on relevant expertise (both within and outside of GBR) where this supports robust decision-making.

When calculating core charges, GBR must consult on its intended approach to determining CDI. It must be made clear that the charging principles in this chapter are applied consistently to GBR passenger services and non-GBR operators. Where judgement has been applied and assumptions made, GBR must publish the evidence supporting these decisions and make clear how the work undertaken by, or completed on behalf of, GBR has been quality assured.

Nothing in this chapter is intended to prescribe a single approach or prevent GBR from refining its analytical approach over time.

THE ANCILLARY TRACK ACCESS CHARGES FOR PARTIES OUTSIDE OF GBR

- 10.7 GBR's ancillary charges will operate alongside and in addition to core charges. They will be used by GBR to set charges above the level of CDI as a result of an operator's access to and use of GBR infrastructure, and to provide charges below this level of cost.
- 10.8 Ancillary charges shall not necessarily apply universally. They shall be applied only in defined circumstances, in a manner consistent with statutory requirements, and where this is necessary to support the delivery of rail strategic objectives (including those set out in this Policy).
- 10.9 The standard approach is for GBR to review these charges during a Funding Periodic Review and set them for up to the full duration of that Funding Period. Given their more targeted application, GBR will keep ancillary charges under review during this time.
- 10.10 GBR may revise or replace ancillary charges at any time (including during a Funding Period) where it considers this necessary or appropriate. Circumstances may include material changes in market conditions (as defined above), evidence that an existing charging intervention is not achieving its intended objectives, changes in funding arrangements, or other significant external developments affecting the operation of the railway. When implementing a change, GBR must adhere to the controls set out in this policy and GBR's statutory duties.

DESIGN PRINCIPLES OF ANCILLARY CHARGES

- 10.11 In developing its policy (or policies) on ancillary charges, GBR will consider the following design principles:
- i. Purpose-driven and evidence-based: Ancillary charges should be grounded in clearly defined market failures or policy objectives, and supported by robust evidence;
 - ii. Proportionate and time-limited: Ancillary charges should be proportionate to the outcome sought and cognisant of public and private funding affordability;
 - iii. Non-discriminatory: Application should be on equivalent terms to operators undertaking comparable activities;
 - iv. Transparent and well-governed: Eligibility criteria should be published, and decisions should be based on clear governance arrangements;
 - v. Efficient and incentive compatible: Ancillary charges should seek to deliver lasting behaviour change consistent with the policy objective;
 - vi. Distortion-minimising: Ancillary charges should minimise distortions to competition, investment, and efficient pricing signals;
 - vii. Sustainable revenue recovery: Where ancillary charges raise revenue, they should do so in a manner that is proportionate, supports identified policy objectives and is compatible with the sustainable development of rail markets; and
 - viii. Net benefits and policy alignment: Ancillary charges should be expected to deliver overall benefits that outweigh any adverse effects on operators, users, investment or competition, and should be clearly linked to specific policy objectives.
- 10.12 These design principles are intended to inform GBR's judgement in relation to ancillary charges and provide a structured framework for considering their design, development, and application. They are distinct from the charging objectives set out later in this chapter, which describe the outcomes that the charging framework seeks to achieve.
- 10.13 The Railways Act provides for, or gives rise to, three broad categories of charge that may be levied by GBR on non-GBR operators: mark-ups, reservation (or cancellation) charges, and discounts. The sections that follow consider these categories by reference to the circumstances in which GBR may use ancillary charges to set charges above or below CDI. The charges described below are illustrative only and do not constitute an exhaustive list of ancillary charges.

Charges above CDI

Box 20: Specific controls on charges

Great British Railways may, in specified circumstances, charge an amount above the cost directly incurred from operating the relevant train service. The charging scheme may also provide for charges in relation to train services that are planned to use GBR infrastructure but do not operate, or do not operate in full. Any such charge must not exceed the amount that an efficient operator would be able to pay in those circumstances.

Railways Act, Section 64(1)(b) and (3)

CONTRIBUTIONS TO GBR'S FIXED AND COMMON COSTS THROUGH MARK-UPS

- 10.14 Publicly funded devolved passenger operators are assumed to be able to pay their full allocation of fixed charges, taking account of grant funding where applicable. Accordingly, these operators are not included within the efficient operator test. This assumption reflects their access to public funding and the expectation that such funding will support the payment of fixed charges. On this basis, GBR will implement a lump-sum charge for devolved passenger operators.
- 10.15 For non-GBR operators, GBR will apply an efficient operator assessment to determine whether, and to what extent, mark-ups may be levied to recover an appropriate contribution to the fixed and common costs of running the railway.
- 10.16 Consistent with established approaches used for recovering costs above those directly incurred, this assessment will consider the characteristics of relevant rail markets and the ability of operators to contribute to the recovery of fixed and common costs.
- 10.17 As part of this assessment, GBR will identify and analyse relevant market segments where differences in commercial, operational, competitive or funding circumstances are material to affordability and cost recovery. GBR will define market segments as part of its charges scheme and review these definitions every five years. For the avoidance of doubt, these are not the same as classified uses previously defined in this document. Market segmentation is therefore an input to the assessment of operator affordability and is intended to ensure that charges reflect the circumstances of different markets and services.
- 10.18 GBR will determine the detailed methodology for the efficient operator assessment drawing on relevant regulatory practice, economic evidence and industry consultation. The methodology may incorporate tools such as net revenue analysis, pricing methodologies informed by Ramsey principles, or other appropriate economic approaches. Regardless of the methodology adopted, GBR needs to demonstrate that a notionally efficient operator within the relevant market segment would be able to pay the charge throughout the duration of the charges scheme.

RESERVATION (OR CANCELLATION) CHARGES

- 10.19 GBR has to include within its charging scheme provision for charges in respect of trains that are planned but do not operate, or do not operate in full. GBR will publish a Reservation (or Cancellation) Charges Policy as part of its ancillary package. In this policy, GBR can set a charge at nil or determine that charges of this type will not be active for a Funding Period.

Charges below CDI

Box 21: Duties on charges below CDI

Great British Railways may provide for infrastructure charges below directly incurred costs where it considers this appropriate, including to encourage use of spare network capacity, promote new passenger or freight services, or give effect to statutory directions or guidance.

Railways Act, Section 64(4)

TRACK ACCESS CHARGE DISCOUNTS

- 10.20 GBR may publish a Discount Policy (or Policies) setting out the circumstances in which discounts may be applied. Any discount must comply with the requirements of the Subsidy Control Act and may only be applied to non-GBR operators. In exercising its discretion, GBR shall have regard to the interests of customers and operators, including the retention and growth of freight traffic where relevant.

The objectives of GBR's charges scheme

- 10.21 The charges scheme will be underpinned by a set of objectives that provide a clear framework for balancing the interests of GBR, non-GBR users and railway funders. These objectives help to translate GBR's statutory duties and wider rail objectives into a charges-specific context, providing clarity on how they are to be applied in practice. They also support consistent decision-making where trade-offs arise and guide how the scheme evolves over time.
- 10.22 In exercising its statutory charging functions and duties, GBR will have regard to the following objectives, which are intended to guide its judgement in the development and application of charges.
- i. Enable proportionate and sustainable cost recovery: The charges scheme should provide a mechanism for GBR to recover the efficient costs it incurs in providing infrastructure used by train operators.
 - ii. Incentivise behaviour aligned with infrastructure costs: The charges scheme should send price signals to operators, linked to the costs of operating on the network, incentivising decisions that reflect the impact of services on infrastructure condition and maintenance requirements.
 - iii. Support planning and investment: The charges scheme should provide an appropriate degree of stability and predictability from "price shocks", so that operators and investors can undertake long-term planning with confidence.
 - iv. Incentivise behaviour aligned with market development: Charges should incentivise behaviours by GBR and non-GBR operators that enable use of GBR infrastructure, support market growth, and contribute to wider policy objectives (including environmental sustainability).
- 10.23 These objectives will guide GBR's judgement in the development, application and governance of the charges scheme, including decisions relating to its implementation. In applying the objectives, GBR will assess the relevant trade-offs associated with charging decisions. The objectives are intended to support GBR's application of its statutory duties and provide greater clarity and transparency to non-GBR operators regarding the considerations that inform those decisions.

How GBR will give effect to its charges scheme

Box 22: Duties on publication and information

Great British Railways must publish the charging scheme and any subsequent revisions or replacements. To support transparency, the scheme must include sufficient information to explain how infrastructure charges have been calculated, including information relating to GBR passenger services, even though charges must not be levied on GBR's own services.

Railways Act, Section 64(5) and (7)

- 10.24 GBR will publish its charges scheme at the conclusion of each Funding Periodic Review. The publication of the charging scheme will be within a suite of documents collectively referred to as the Charges Scheme Statement (CSS). These publications are the mechanism through which GBR will give effect to its charges scheme. Amendments to the charges scheme will take effect in the publication of the CSS and, where applicable, will be incorporated into relevant contractual arrangements with non-GBR operators.
- 10.25 The CSS will include:
- i. the duration of the charges scheme and the charges to be levied during this time;
 - ii. the methodologies and calculations used to determine the applicable charges;
 - iii. the Price Lists for all applicable charges;
 - iv. the information necessary for operators and other stakeholders to understand the charges applicable to access and use of GBR infrastructure, including relevant policy statements, impact assessments, consultation materials, and any other related charging documentation;
 - v. a statement of GBR's decisions in relation to the charges scheme, including the reasons explaining those decisions, which will include:
 - why GBR considers the decision appropriate after applying the relevant statutory duties, the considerations in this chapter and any other applicable requirements;
 - the material evidence and analysis relied on;
 - how GBR has taken account of consultation responses and other representations;
 - any assumptions, dependencies or risks material to the decision; and
 - any matters relevant to implementation of the charges scheme.
 - vi. the information on the costs associated with GBR-operated services to demonstrate the calculation of charges is fair and transparent. This recognises that GBR will not levy contractual charges on trains operated by GBR or its subsidiaries.

How GBR will deliver changes to the charges scheme

Box 23: Duties on revision and replacement

Great British Railways may revise or replace the charging scheme at any time. The legislative framework provides a right of appeal to the ORR in relation to the scheme and any revision or replacement.

Railways Act, Section 64(6) and (8)

- 10.26 Changes to the charges scheme will ordinarily be implemented through periodic updates to the Charges Scheme Statement, typically between Funding Periods.
- 10.27 The standard approach is for GBR to undertake a charges review aligned with the Funding Periodic Review framework.
- 10.28 During this review, it will be necessary for GBR to consider changes to the charges scheme. This may include changes to the core package (where it has not already been set for the subsequent Funding

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Period). It will also include a review of ancillary charges.

- 10.29 The activity led by GBR should follow a standard development cycle, enabling stakeholders to maintain appropriate visibility of emerging proposals prior to their implementation.
- 10.30 At the start of each charges scheme review GBR will publish the timetable for the review process. While the precise timing may vary, the standard development cycle of the review is expected to include the following key activities:
- a proportionate programme of early-stage development and industry engagement, to enable stakeholders to share proposals for change and to provide early visibility of emerging issues and options;
 - consultation on proposed policy changes to provide stakeholders with the opportunity to consider and respond to proposals, followed by publication of GBR’s final policy position;
 - consultation on the methodology and supporting evidence used to calibrate the charges scheme, followed by publication of GBR’s final methodological approach;
 - publication of the draft and final Price Lists, ahead of the scheme being finalised and implemented; and
 - the route for aggrieved persons to appeal GBR’s scheme provisions and decisions will be defined in ORR’s appeals role policy.

GBR’S COMMITMENTS TO THIRD PARTIES WHEN SETTING OR AMENDING THE CHARGES SCHEME

- 10.31 GBR will develop and maintain the charges scheme in a manner that is transparent, proportionate, and consistent with its statutory duties. In doing so, GBR will adopt an approach intended to support constructive engagement with affected parties while enabling timely and effective decision-making. To help govern the process of changing the charges scheme within and between Funding Periods, GBR will adhere to the following policy commitments.

CONSULTATION AND ENGAGEMENT

- 10.32 When undertaking a major update to the charges scheme (e.g., in relation to the setting or recalibration of the scheme), GBR considers the appropriate persons to consult under Section 66(2)(a) of the Act are:
- parties who hold track access contracts that may be affected;
 - parties that have registered with GBR as prospective applicants for such contracts that may be affected;
 - Scottish Ministers;
 - Welsh Ministers;
 - Transport for London;
 - The Department for Transport;
 - relevant mayoral combined authorities or mayoral combined county authorities which fund or operate services or infrastructure affected by the making of or revision to the charges scheme; and
 - adjacent infrastructure managers and facility owners who may be affected.
- 10.33 In addition to the consultees listed above, GBR may also consult any person known to GBR with a material interest in the application and any other stakeholder that GBR considers relevant in weighing its duties.

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- 10.34 Before finalising a charges scheme, GBR will consult on its proposals and supporting rationale. Following consultation, GBR will consider representations received and publish its final decision, together with an explanation of any material changes made in response to consultation.
- 10.35 GBR will maintain regular engagement with the aforementioned list of persons to review the effectiveness of the charges scheme and identify areas for improvement. This will involve meaningful and deliberate engagement in advance of formal consultation.
- 10.36 At the start of each Charges Review, GBR will publish the review timetable and highlight the key activities, milestones and decision points, including any applicable opportunities for appeals to the ORR.
- 10.37 GBR will seek to minimise the burden on non-GBR operators, ensuring consultation is proportionate to the scale of change and adopting a ‘change only with reason’ approach to promote stability.

DETERMINATION OF THE CHARGES SCHEME

- 10.38 GBR will publish a Charges Scheme Statement prior to the commencement of the Funding Period, following consultation with industry as defined above. This will include method statements to ensure transparency in how calculations and assumptions have been derived, subject to commercial confidentiality.
- 10.39 GBR will provide commentary on how GBR’s policy is intended to support delivery of objectives, and where trade-offs have been made evidence and explanation will be provided. It will also publish impact assessments in relation to scheme decisions which materially affect non-GBR users of the network, setting out overall expected impacts and next steps.
- 10.40 GBR will work collaboratively with other rail infrastructure managers to understand the interactions with and alignment of cross-border scheme policy, taking active steps to mitigate risks for affected operators.

IMPLEMENTATION OF THE CHARGES SCHEME

- 10.41 GBR will establish and maintain a single charging scheme, applied consistently across its infrastructure, setting out the charges applicable to non-GBR operators for access to and use of that infrastructure.
- 10.42 GBR will consistently apply the schemes for all non-GBR operators and within market segments (i.e., following a consistent technical scope). GBR may vary charges between market segments where there are justifiable reasons to do so.
- 10.43 GBR will provide advance notice before implementing changes to the charges scheme.
- 10.44 At its discretion, GBR may implement a phasing-in plan for operators that may see their charges significantly increase, where this is in line with its statutory duties and objectives.
- 10.45 GBR will publish the governance processes supporting scheme decisions, including quality assurance and approvals. Where appropriate, GBR will make relevant cost data available to support scrutiny and sector-wide understanding.

Chapter 11 GBR’s performance scheme

This chapter explains the overarching structure of the performance scheme that GBR will set for non-GBR operators using the GBR network. It will clearly define the objectives that GBR will seek to deliver through the scheme. The objectives and policy commitments set out in this chapter will guide how and when GBR develops, consults on, sets and amends its performance scheme.

The structure of GBR's performance scheme

- 11.1 Section 65 of the Railways Act requires GBR to make and publish a performance scheme designed to encourage GBR and other providers of qualifying railway services using GBR infrastructure to minimise disruption. The performance scheme gives practical effect to that duty by creating financial and operational incentives linked to the causes and consequences of disruption. Compensation payable to affected operators is one mechanism through which those incentives operate: it helps ensure that the financial consequences of disruption are borne, where appropriate, by the party best placed to prevent, manage or mitigate it.
- 11.2 This chapter describes the structure and key features of GBR's performance scheme. GBR will provide two frameworks within the performance scheme: one for planned disruption and one for unplanned disruption.
- 11.3 GBR will set and administer the performance scheme between itself and non-GBR operators in respect of its own network. Consistent with Section 65 of the Act, the scheme will use compensation and, where appropriate, other financial mechanisms to encourage parties to minimise disruption. The Scheme will provide compensation to non-GBR operators for unreasonable levels of disruption that they experience, according to the circumstances described below.
- 11.4 Where compensation payments are made, these will be fair and reasonable. The broad compensation types available through the scheme are set out in the chapters defining the framework for planned and unplanned disruption. At a high level, disruption will fall into four categories of responsibility, and compensatory arrangements will differ between each category. The following categories of responsibility support the purpose of the Act by aligning compensation and payment flows with the party best placed to influence the disruption or delay:
- i. Disruption caused by GBR (infrastructure or train operations): GBR shall make compensatory payments to affected non-GBR train operators.
 - ii. Disruption caused by a train operator to itself: no compensatory payments shall be made to a train operator which has caused disruption to its own operation of trains. No payments shall be made by the train operator causing disruption to itself, provided that no other train operators are impacted by the disruption.
 - iii. Disruption caused by non-GBR train operators to other train operators (including GBR operations): GBR shall manage and administer compensatory payments. The train operator which is deemed to have caused that disruption shall make appropriate payments to GBR directly.
 - iv. Other disruption: no compensatory payments shall be made for disruption which is outside of the control of GBR, aligned with Section 65(3)(b) of the Railways Act.
- 11.5 Disruption which is outside of the control of GBR shall be reviewed as part of the overall performance scheme review, according to the length of applicability of the scheme, and in line with the objectives and commitments set out in this AUP and GBR's wider statutory and legislative duties. In defining disruption outside of the control of GBR, GBR will have regard to its own ability to prevent, manage or mitigate the disruption, and its influence over how quickly services can be restored. Disruption will only be deemed to be outside GBR's control in exceptional circumstances, where GBR can demonstrate that the relevant cause was beyond its reasonable control and that it could not reasonably have avoided or materially mitigated the resulting impact on operators. These circumstances will be narrowly defined in the Performance Scheme Statement (PScS), which GBR will formally consult on as part of the funding period review process.
- 11.6 The performance scheme structure will be consistent across the GBR network, i.e. the scheme will not change across boundaries within the GBR network, such as between GBR business units. The performance scheme may vary between operators with materially different characteristics – for example, passenger versus freight services, or more ad hoc charter operations that serve different

customer needs. Where non-GBR operators are deemed to be operating within similar market conditions, the same standard performance scheme structure shall apply. The performance scheme will be allowed to differ between train operators which operate in different market conditions recognising the nature and circumstances of those markets.

- 11.7 GBR will set out two distinct frameworks within the performance scheme for planned and unplanned disruption, reflecting fundamental differences between each type of disruption. The chapters that follow set out the definitions of planned and unplanned disruption, the broad categories of compensation which are provided through each framework, and the high-level structure of the frameworks.

PLANNED DISRUPTION FRAMEWORK

- 11.8 Through its performance scheme, GBR will offer a framework to users of its network for planned disruption. Planned disruption is any disruption which is scheduled in advance, for example due to maintenance, engineering works, or other activities that are made known to train operators ahead of time.
- 11.9 The planned disruption framework will take account of reasonable levels of network availability, recognising the essential need for GBR to maintain and renew a safe and reliable network. The Performance Scheme Statement will define the reasonable levels of network availability, relevant to this framework.
- 11.10 Where compensation is made available, the planned disruption framework will compensate users for the short-term costs and short-term revenue losses resulting from unreasonable levels of planned disruption. This approach ensures that users are compensated for the immediate financial cost pressures resulting from disruption caused to them by others on GBR's network.
- 11.11 Compensation provided through the planned disruption framework will normally be paid on an automated liquidated damages basis: compensation will be calculated using pre-determined formulae set out in the Performance Scheme Statement, rather than by assessing actual losses case by case. This reduces administrative burden and avoids bespoke negotiation. Actual loss-based compensation may still be available where specified criteria are met, such as for prolonged or repeated incidents of planned disruption.

UNPLANNED DISRUPTION FRAMEWORK

- 11.12 GBR will set out a framework to users of its network for unplanned disruption. Unplanned disruption is disruption which occurs unexpectedly, for example due to infrastructure failures, accidents, or other incidents which were not scheduled or foreseen.
- 11.13 The unplanned disruption framework will take account of reasonable levels of performance and network availability. The PSCS will define reasonable levels of performance and network availability, relevant to this framework.
- 11.14 Compensation provided through the unplanned disruption framework will compensate users for the short-term costs and short-term revenue losses resulting from unreasonable levels of unplanned disruption. This approach ensures that users are adequately compensated for the immediate financial cost pressures resulting from disruptions caused to them by others on GBR's network.
- 11.15 Compensation provided through the unplanned disruption framework will be paid on an automated liquidated damages basis. This means payments will be calculated using pre-determined formulae set out in the Performance Scheme Statement. These calculated payments will be full and final, with no scope for additional compensation claims. This ensures that the framework does not lead to unnecessary administrative burden and lengthy claims processes.

Objectives of GBR's performance scheme

- 11.16 The performance scheme will be underpinned by a set of objectives that provide a clear framework for balancing the interests of GBR, non-GBR users and railway funders. These objectives help to translate GBR's statutory duties and wider rail objectives into a performance scheme-specific context, providing clarity on how the scheme is to be applied in practice. They also support consistent decision-making where trade-offs arise and guide how the scheme evolves over time.
- 11.17 These objectives will support future decisions taken by GBR for both provisions contained within the performance scheme, and decisions made under it. Recognising that the framework for unplanned and planned disruption is different, the objectives are explored independently in the chapters that follow. GBR will have regard to the accordant trade-offs associated with these decisions, and these objectives, and GBR's wider legislative duties will be considered holistically. GBR will publish evidence and provide detail about how trade-offs have been reached, and how the objectives have been assessed to reach a decision.
- 11.18 Objectives for the planned disruption framework
- i. support optimal outcomes for passengers and rail freight customers. The framework should recognise the needs of passengers and rail freight customers and encourage GBR to take account of those needs when making decisions with regards to planned disruption;
 - ii. provide fair and reasonable compensation to parties where they are impacted by planned disruption. Non-GBR operators using GBR's network will be offered fair and reasonable compensation for the impacts of planned disruption on GBR's network, whilst recognising that GBR will need reasonable access to the network to carry out planned works or other planned activities; and
 - iii. support the maintenance and renewals of a safe and efficient railway, in a financially sustainable way. The Scheme should provide a structured framework for compensation, which supports GBR in securing access to the railway in a cost-efficient way, without the need for bespoke agreements to gain access to the network to carry out planned works.
- 11.19 Objectives for the unplanned disruption framework
- i. support optimal outcomes for passengers and rail freight customers. The framework should recognise the needs of passengers and rail freight customers and encourage GBR to take account of those needs when making decisions with regards to unplanned disruption;
 - ii. encourage parties to minimise disruption. The unplanned disruption framework will encourage all network users and GBR to minimise the disruption that they cause to other users of the network;
 - iii. provide fair and reasonable compensation to parties where they are impacted by unplanned disruption. Non-GBR operators using GBR's network will be offered fair and reasonable compensation for the impacts of unplanned disruption on GBR's network; and
 - iv. support delay causation analysis. The unplanned disruption framework should support and not frustrate delay causation analysis.
- 11.20 The planned and unplanned disruption objectives support GBR's wider duties by translating them into a performance scheme framework which focuses on service reliability, user outcomes and efficient use of resources. In line with Section 65 of the Railways Act, the performance scheme is designed to encourage GBR and relevant operators to minimise disruption, with compensation and other financial mechanisms acting as tools to align behaviour with that purpose.
- 11.21 For planned disruption, the objectives support GBR's duties by balancing access for maintenance and renewals against the interests of passengers, freight customers and operators' need for reasonable planning certainty, while ensuring public funds are used efficiently. For unplanned disruption, the objectives support high standards of railway performance by creating incentives for

GBR and operators to prevent incidents, reduce the impact of disruption when it occurs, and restore services effectively.

- 11.22 Together, the planned and unplanned frameworks help GBR balance passenger, freight, performance, business-planning, public-interest and funding duties in a way that is consistent with the intent of the legislation.

Bespoke performance schemes

- 11.23 A bespoke performance scheme will only be available where an operator provides services that are specified, funded or financially supported by a devolved government and GBR considers that the standard performance scheme would not adequately reflect the nature or effects of that funding arrangement. The bespoke scheme will need to be confined to addressing that funding arrangement and cannot affect the availability, structure or parameters of the standard performance scheme for other operators.
- 11.24 Any bespoke performance scheme has to be developed in alignment with the overarching legislation and the performance scheme objectives, as stated in this AUP, for either the planned or unplanned disruption framework, as applicable to the bespoke performance scheme.
- 11.25 In addition, to ensure that a bespoke performance scheme delivers fair outcomes and maintains market integrity, the following principles have been designed to which each bespoke performance scheme is required to adhere. Each principle is accompanied by an explanation to clarify its intent and application.
- 11.26 Key principles of bespoke performance schemes:
- i. No impact on the standard scheme – A bespoke scheme cannot impact on the structure nor the parameters of the standard performance scheme.
 - ii. No cross subsidy – A bespoke scheme cannot be used to provide any cross subsidy to users of the GBR network.
 - iii. Non-discrimination – Where GBR agrees a bespoke performance scheme, it will offer the same approach to other operators whose services are specified, funded or financially supported by a devolved government and whose funding arrangements give rise to materially equivalent considerations. GBR will ensure that bespoke schemes are limited to reflecting those arrangements and do not unfairly disadvantage other users of the GBR network.
 - iv. Duration and review – A bespoke scheme should be entered into for the duration set out for the performance scheme (both standard and bespoke) in the PScS and kept under review at regular intervals. GBR has the right to amend bespoke performance schemes in line with this AUP Policy.
 - v. Termination rights – Either party has the right to terminate their bespoke scheme at the end of the duration set out in the PScS. Users will revert to the standard performance scheme thereafter.
 - vi. Improved outcomes – A bespoke scheme needs to be supported by clear evidence that it is expected to deliver superior outcomes to the standard performance scheme, including, where relevant, improved outcomes for passengers and rail freight customers or more targeted performance interventions.
- 11.27 For each bespoke performance scheme, GBR makes the following commitments:
- i. Transparency – GBR will publish, to the fullest extent possible (subject to confidentiality constraints), comprehensive details of, and the method underpinning, each bespoke performance scheme in its PScS, as well as any subsequent changes or replacements made.
 - ii. Compliance – GBR will set out why it believes that each bespoke scheme is consistent with the bespoke scheme principles set out above, the performance Scheme objectives set out in this

AUP and relevant legislation.

- iii. Consistency – GBR will ensure that bespoke performance schemes are applied consistently across the GBR network, except where differences are justified by the relevant devolved funding arrangement.
- iv. Review and discussion – GBR will review requests for bespoke schemes in a timely manner and discuss all requests with the relevant operator before taking a decision on whether to proceed with the bespoke scheme.
- v. Outcomes – GBR will only enter into a bespoke performance scheme where this is justified by the relevant devolved funding arrangement and where the bespoke scheme is expected to better reflect that arrangement than the standard performance scheme.

11.28 The principles and commitments outlined here are designed to promote transparency, consistency, non-discrimination, and alignment with legislative duties and AUP objectives. In doing so, they provide a structured basis upon which a bespoke scheme can be developed without creating perverse incentives, competitive distortions, or undue complexity.

How GBR will give effect to its performance scheme

11.29 Aligned with Section 65(6) of the Railways Act, GBR will publish the details of its performance scheme within a suite of documents collectively referred to as the Performance Scheme Statement (PScS). The PScS constitutes the primary publication through which GBR gives effect to its performance scheme. Amendments to the performance scheme will take effect in the publication of the PScS and, where applicable, will be incorporated into relevant contractual arrangements with non-GBR operators.

11.30 The PScS will:

- i. establish the detailed structure of the performance scheme, including a description of the features of the performance scheme, the mechanics (how the scheme works) and any other information necessary for operators and other stakeholders to understand the performance scheme;
- ii. set out clearly the categories of compensation which will be provided for through the scheme, and those which will be excluded;
- iii. provide the calculations underpinning the performance scheme (with the exception of any data or calculations which are commercially sensitive);
- iv. include performance scheme consultations, policy statements and any other related performance scheme documentation that GBR deems to be relevant;
- v. determine the length of applicability of the performance scheme;
- vi. provide a statement of GBR's decisions in relation to the performance scheme, including the reasons explaining those decisions, which will include:
 - why GBR considers the decision appropriate after applying the relevant statutory duties, the considerations in this chapter and any other applicable requirements;
 - the material evidence and analysis relied on;
 - how GBR has taken account of consultation responses and other representations;
 - any assumptions, dependencies or risks material to the decision;
 - any matters relevant to implementation of the performance scheme; and
- vii. be published in full by GBR prior to the commencement of the Funding Period.

11.31 Once published, the performance scheme will remain unchanged for the specified length of time in the PScS, except for in the event of a material change in circumstances or to ensure the scheme continues to reflect operational realities (such as to reflect berthing offset changes, major timetable changes, transfer of services between operators etc.). Where there has been a material change in

circumstances, GBR may revise or replace the scheme (or bespoke scheme), in accordance with Section 65(5) of the Railways Act, where it considers this necessary or appropriate. A material change in circumstances will be determined by GBR, and examples could include (but are not in any way limited to):

- i. changes to GBR's funding arrangements;
- ii. changes to GBR's stated outputs;
- iii. misalignment to statutory requirements;
- iv. significant external events changing market conditions for train operation; and
- v. significant external events that impact on the sustainable operation of the railway.

How GBR will deliver changes to the performance scheme

- 11.32 This AUP is not intended to contain the full detailed design of the performance scheme. Detailed policy, methodology, calibration and implementation arrangements will be developed through the PScS and associated supporting documents. GBR will develop those arrangements consultatively and transparently, in line with its statutory duties and the commitments in this chapter, so stakeholders should expect further engagement before detailed scheme provisions are finalised.
- 11.33 Performance scheme reviews are typically anticipated to follow a standard development cycle aligned with the Funding Period framework, enabling stakeholders to maintain appropriate visibility of emerging proposals prior to their implementation.
- 11.34 This means GBR will formally review and make changes to its performance scheme during the industry Funding Periodic Review (FPR). During the FPR, it will be necessary for GBR to consider changes to the structure of the performance scheme.
- 11.35 As already mentioned, the performance scheme will take effect in the publication of the PScS. While the precise timing may vary, the standard development cycle is expected to include early-stage policy development, consultation on and subsequent publication of policy positions and consequent consultation on and publication of supporting method statements.
- 11.36 At the start of each performance scheme review, GBR will publish the timetable for the review process. The key activities within the review will include:
 - i. a proportionate programme of industry engagement, to enable stakeholders to share proposals for change and to provide early visibility of emerging issues and options;
 - ii. consultation on proposed policy changes to the performance scheme, and publication of GBR's policy positions will provide stakeholders with the opportunity to consider and respond to proposals, ahead of calibration;
 - iii. consultation on the method and supporting evidence used to calibrate the performance scheme, and publication of GBR's method;
 - iv. communication of the draft and final performance scheme parameters and publication of the complete PScS; and
 - v. the route for aggrieved persons to appeal GBR's scheme provisions and decisions, as defined in ORR's appeals role policy.
- 11.37 Nothing in this chapter is intended to prevent GBR from revising the performance scheme at other times, as permitted by the Railways Act, where this is necessary or appropriate, having regard to its statutory duties and the effective operation of the railway.

GBR's policy commitments to third parties when setting the performance scheme

- 11.38 GBR is committed to developing and maintaining the performance scheme in a manner that is transparent, proportionate, and consistent with its statutory duties. In doing so, GBR will adopt an

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approach intended to support constructive engagement with affected parties while enabling timely and effective decision-making.

- 11.39 To help govern the process of changing the performance scheme within and between Funding Periods, GBR will adhere to the following policy commitments.

CONSULTATION AND ENGAGEMENT

- 11.40 GBR will actively consult the industry on proposed changes to ensure industry views are considered before decisions are taken on the setting and recalibration of the performance scheme. This is in line with the requirements set out in Section 66 of the Railways Act.
- 11.41 GBR will maintain regular engagement with industry to review the effectiveness of the performance scheme and identify areas for improvement. This will involve meaningful and deliberate engagement in advance of formal consultation.
- 11.42 At the start of each performance scheme review, GBR will publish the review timetable and highlight the key activities and decision points, including any applicable opportunities for appeals to the ORR.
- 11.43 GBR will give due consideration to the resource availability of non-GBR operators, ensuring consultation is proportionate to the scale of change and by adopting an approach of “change only with reason” to promote stability.

DETERMINATION OF THE PERFORMANCE SCHEME

- 11.44 GBR will publish a PScS at the end of each FPR, following consultation with industry as defined above. This will include methodology statements to ensure transparency in how calculations and parameters have been derived, subject to commercial confidentiality.
- 11.45 GBR will provide commentary on how GBR’s policy is intended to support delivery of objectives, and where trade-offs have been made, evidence will be provided. It will also publish impact assessments in relation to scheme decisions which materially affect non-GBR users of the network, setting out overall impacts and next steps.
- 11.46 GBR will work collaboratively with other rail infrastructure managers to understand the interactions with and alignment of cross-border scheme policy, taking active steps to mitigate risks for affected operators.

IMPLEMENTATION OF THE PERFORMANCE SCHEME

- 11.47 GBR will consistently apply the standard performance scheme across GBR’s network and between operators operating within similar market conditions to ensure fairness and to prevent discrimination.
- 11.48 GBR will provide advance notice before implementing changes to the performance scheme, allowing stakeholders to prepare accordingly.
- 11.49 GBR will publish the governance processes supporting scheme decisions, including quality assurance and approvals. Where appropriate, GBR will make relevant data available to support scrutiny and sector-wide understanding.

Part E: Assurance, reporting and complaints

Chapter 12 Assurance, reporting and complaints

This chapter explains the arrangements that support and follow decisions under this policy. It sets out GBR's approach to transparency and the handling of confidential and commercially sensitive information, and the assurance applied before decisions are taken. It also explains how complaints about decisions are handled and how GBR evaluates and reports on the operation of the policy

Transparency and handling information

- 12.1 The GBR code of practice for handling confidential information sets out GBR's approach to the management of its own and third-party confidential and commercially sensitive information.
- 12.2 As both the directing mind for the railway and an operator of passenger services, GBR recognises the importance of demonstrating that decisions are made fairly and transparently.

COMMITMENT TO TRANSPARENCY

- 12.3 Earlier chapters set out the decision points under this policy and the circumstances in which GBR will issue decisions and record the basis for decisions. Transparency surrounding those decisions, and how they were made, is key to GBR giving confidence to the industry about how it makes decisions.
- 12.4 Transparency is embedded throughout this policy, including through GBR's approach to publish the Capacity Plan and Commitments Register, and the Planning Schedule. GBR aims to provide the industry with clear information on the intended and committed use of railway capacity.
- 12.5 GBR will publish decisions and their supporting rationale as set out in paragraph 2.37. This is intended to support accountability and confidence that decisions have been taken in accordance with GBR's statutory duties and published processes. Publication is subject to the arrangements in this chapter for confidential and commercially sensitive information.

CONFIDENTIAL AND COMMERCIALY SENSITIVE INFORMATION

- 12.6 GBR will be transparent about how information provided as part of an application or engagement will be used. The default position is engagement may be done on a confidential basis, as agreed. However, information provided to GBR as part of an application for capacity commitments or other request may be published or otherwise disclosed as part of GBR's decision-making processes, unless GBR has expressly identified particular information or categories of information that will be treated as confidential. Applicants will be informed in advance which information, if any, will be treated differently and may request confidential treatment for specific information where there is a clear justification for doing so.
- 12.7 GBR will only seek information from parties that is confidential or commercially sensitive in nature when it is necessary to do so. Such requests will be proportionate and focused on information that may be material to enabling GBR to form a reasonable opinion when balancing its duties.
- 12.8 How GBR will handle confidential and commercially sensitive information is set out in GBR's Code of Practice for Confidential Information, which is available on GBR's website. This follows the Government Security Classification system and explains how confidential information should be identified, handled, stored and used. Where information is accepted as confidential, GBR will apply clear internal protocols to restrict access to those who require it for the relevant purpose and will take appropriate steps to prevent unnecessary internal or external disclosure.

- 12.9 Where confidential or commercially sensitive information is provided to GBR, GBR will apply appropriate governance and information-handling arrangements to manage any internal conflicts of interest and to safeguard against the inappropriate use or disclosure of such information within GBR. The arrangements put in place are intended to provide confidence that GBR's own operational or business development decisions are not improperly influenced by information that is confidential to other parties. The specific arrangements to be applied may vary depending on the nature of the information and the circumstances of the case and are described further in GBR's supporting guidance and procedures.

Decision-making assurance

- 12.10 Pre-decision assurance is intended to provide confidence to the leadership of GBR that GBR decision makers are exercising GBR's functions fairly, consistently and with due regard to the interests of other parties that use the GBR railway.
- 12.11 GBR will operate internal assurance processes designed to support lawful, transparent, evidence-based decision-making. These will review the evidence, analysis, recommendations and draft rationale supporting decisions and assess compliance with published processes and confidentiality requirements.
- 12.12 These arrangements will be overseen by a decision-maker within GBR who is not involved in the primary decision. This includes:
- i. assessing decisions against GBR's duties, published criteria and processes set out in the policy;
 - ii. supporting appropriate review and challenge of decision recommendations prior to finalisation;
 - iii. supporting consistent treatment of GBR's interests in delivering its business plan for public funders, and the interests of non-GBR parties;
 - iv. maintaining clear records of evidence, analysis and decision rationale to support assurance, audit and any subsequent review of decision-making; and
 - v. assessing whether decisions have been developed with appropriate regard to the needs of the railway as a whole system. This includes considering alignment with GBR's objectives and GBR's published long-term plans for passenger and freight services, including GBR's published freight growth plans.

Managing complaints about decisions

- 12.13 GBR aims to provide a proportionate, fair and transparent route for resolving concerns with operators, private funders, governments and mayoral authorities (or their transport agencies) about decisions that are not already covered by contractual dispute arrangements. This stage would normally take place before formal appeal to ORR, subject to the ORR's own policies on this matter.
- 12.14 GBR's internal complaints process provides a means of reviewing whether a decision has been taken appropriately and in accordance with GBR's duties, published procedures and the requirements of this policy.
- 12.15 GBR will publish guidance setting out the scope, process and timescales for its internal complaints process. The process will be designed to be swift, focused and time-bound, and aligned with ORR's expectations for any pre-appeals process. This process should not delay escalation of formal appeals to ORR.

DECISIONS WITHIN SCOPE OF THE COMPLAINTS PROCESS

- 12.16 Complaints may be raised in relation to decisions taken under this policy, including decisions relating to (see 2.5):

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- i. agreeing and updating access contracts;
- ii. applications for contracted capacity commitments;
- iii. making and changing capacity commitments held by GBR; and
- iv. Capacity Plan updates and revisions.

12.17 This process is not available for resolution of contractual disputes where alternative dispute resolution mechanisms are provided under GBR's contracts, codes or other applicable arrangements, including disputes relating to timetabling, performance and charging.

RAISING A COMPLAINT

- 12.18 To raise a complaint, a party has to demonstrate that it is meaningfully affected by the decision, or that GBR was legally required to take account of its interests, plans or strategies when reaching the decision but did not.
- 12.19 Complaints should be raised promptly following publication or notification of a decision and within any time limits specified in GBR's complaints guidance.
- 12.20 This process is not intended to duplicate or replace statutory consultation processes. Matters that could reasonably have been raised during consultation on revisions to the Capacity Plan, or through other relevant consultation processes, will not normally be considered through the internal complaints process.

HOW GBR WILL REVIEW COMPLAINTS

- 12.21 Complaints will be considered by an independent decision maker within GBR that has had no prior involvement in the relevant application, request or decision. This process will review the complaint objectively, taking into account all relevant information provided by the parties, and will determine whether the original decision was made in accordance with this AUP and the applicable decision-making requirements.
- 12.22 Where the review identifies an issue, GBR may take proportionate action, including:
- i. correcting factual or procedural errors; or
 - ii. setting aside a decision that was not taken in accordance with this policy or GBR's statutory duties, and deciding how GBR will take forward new decisions, or other appropriate consequential actions.
- 12.23 Following review, GBR will provide the complainant with a written outcome explaining its findings, the reasons for them and an explanation of any further actions.

RELATIONSHIP WITH ORR APPEALS

- 12.24 This approach is intended to supplement, not replace ORR's statutory role as the independent appeals body. Where a complaint is not resolved, or the applicant is not satisfied with GBR's clarification or the outcome of the internal complaints process, the complaint will be handed back to the applicant, who retains the right to lodge a formal appeal with ORR.

Evaluation and reporting

- 12.25 GBR will assess and report in each Funding Period on how capacity allocation decisions taken under this policy have impacted use of the railway, supported GBR's duties and, where appropriate, delivered their intended outcomes.
- 12.26 These reports will consider how to improve procedures and practices, and how to drive organisational learning and continuous improvement. GBR will consult on the scope and approach for these periodic reports.
- 12.27 In accordance with its statutory duty to promote rail freight, GBR will also publish and maintain a

model that assesses how financial impacts and risks are impacted cumulatively by capacity allocation decisions, the Charges Scheme Statement and the Performance Scheme Statement. The model is intended to support decision-making, enhance transparency and accountability, and provide freight operators with advance visibility of proposed changes to GBR's access, charging and performance scheme frameworks as relevant to support forward planning.

Annex 1: Glossary of key terms

Access contracts – The legal contract between GBR and a non-GBR party giving permission to use GBR's network. This includes the terms and conditions under which the network may be used, the provisions in the incorporated GBR Code and, for track access contracts, any capacity commitments in the commitments register.

Ancillary charges – Charges above the level of Cost Directly Incurred (CDI) for access to and use of GBR infrastructure.

Best use of GBR's infrastructure – in this policy, GBR's view of how best to use its railway for the operation of train services having taken account of the need to accommodate services and other matters in Section 60 of the Act, reached in light of its duties, the considerations in Chapter 2 and any other relevant legal requirements.

Capacity allocation – the connected decisions that determine which trains are ultimately given timetable paths to use the railway at specific times.

Capacity classifications – The descriptions of capacity made in the Capacity Plan in terms of intended use by reference to type of funder or market, and by defined parameters that include routeing, timing and relevant operating characteristics.

Capacity commitment – An allocation of capacity for a defined period, either as part of an access contract with another party or as a commitment held by GBR for its own services. A capacity commitment gives priority to specified capacity in timetable production, by reference to its parameters such as duration, geography, days and time windows, intermediate stops and relevant rolling stock characteristics. Capacity commitments may be firm or contingent and are given effect through the timetable procedures in the GBR Code.

Capacity Duty / Section 63 Duty – GBR's duty when determining access applications and when preparing, issuing or revising the Working Timetable, to ensure sufficient capacity is retained to allow for the operation of GBR passenger services, railway passenger services that it expects in future will be GBR passenger services, and the carrying out of work necessary to maintain and improve GBR Infrastructure.

Capacity Plan – GBR's view of the best use of railway capacity over specified periods, providing a baseline which future changes will be judged against. This is the Infrastructure Capacity Plan required by Section 60.

Capacity Priorities – Principles recorded in the Capacity Plan that provide ongoing strategic direction relevant for future GBR decisions. They are set and amended through major updates and cannot be amended through minor revisions.

Charges scheme – the statutory scheme of access charges for non-GBR parties that GBR must produce as required in the Railways Act Section 64.

Charges Scheme Statement – The suite of documents encompassing the charging scheme published at the conclusion of each Funding Periodic Review.

Commitments Register – The record of capacity commitments made to GBR and other operators associated with the Capacity Plan. For non-GBR operators, the commitments on the register form part of the relevant holder's track access contract.

Contingent capacity commitment – A commitment which holds a lesser priority in timetabling which will only guarantee inclusion if all compliant requests for firm commitments have been accommodated, subject to the relevant operational requirements.

Core charges – The charges payable for access to, and use of, GBR infrastructure that are included in GBR's published charges scheme and apply as part of the standard charging framework for access contracts. Core charges cover charges set in accordance with the cost directly incurred by operating train services, together with other charges that GBR includes in the scheme to recover or allocate relevant infrastructure, facility or network costs. They do not include bespoke charges agreed for specific circumstances outside the standard charging framework.

Critical railway outputs – Outputs that GBR determines must be delivered when it carries out a major update to its Capacity Plan. The major update project will consider how they are best accommodated on the railway before GBR takes the decision to update the Capacity Plan.

Firm capacity commitment – A commitment which guarantees the holder a slot in the timetable so long as the slot is requested and used, subject only to compliance with the relevant operational requirements.

GBR Codes – Contractual conditions for access to GBR railway infrastructure ("GBR Code"), stations ("GBR Station Code") and depots ("GBR Depot Code").

GBR Proposal – A proposal made by GBR to create or amend a capacity commitment for a GBR-operated service. The proposal is equivalent to an application made by another party, and GBR publishes, consults on and assesses it under the Chapter 6 procedure.

GBR's capacity allocation decisions – Relevant decisions for GBR's statutory function in Section 3(2)(b) of the Act, which specifies that GBR will make decisions on access to and use of the railway.

Long-term planning – GBR's rolling programme of strategic planning activity used to assess future rail needs, options, trade-offs and dependencies across the railway system.

Major updates to the Capacity Plan – The process used for larger scale or more complex changes to the Capacity Plan where connected capacity choices are considered together. This allows GBR to form a view of the best use of the railway overall and reflect that view in its Capacity Plan, as set out in Section 60 of the Act.

Minor revisions to the Capacity Plan – The process for limited changes to the Capacity Plan that can be assessed reliably without reconsidering wider, interconnected capacity choices, assumptions and risks. A minor revision considers a specific set of classifications and capacity, whilst other Capacity Plan classifications in the same geography are not affected.

Model Access Contracts – A standard form of access contract published and maintained by GBR for a particular type of access to GBR infrastructure or facilities.

Performance scheme – the statutory scheme GBR must produce as required in the Railways Act Section 65.

Performance Scheme Statement – The primary publication through which GBR gives effect to its performance scheme.

Planned disruption – Any disruption which is scheduled in advance, for example due to maintenance,

engineering works, or other activities that are made known to train operators ahead of time.

Planning Schedule – A published list of major update projects that will change GBR’s Capacity Plan allocated, including why they are needed, scope and when the projects are expected to take place.

Transport Focus – The independent watchdog for transport users which will grow to fulfil the statutory role of the Passengers' Council as set out in the Railways Act.

Type 1 applications for capacity commitments – An application for new or amended capacity commitments which matches an existing classification, including its description.

Type 2 applications for capacity commitments – An application for new or amended capacity commitments which would require GBR to amend an existing classification or add a new classification in the Capacity Plan, as well as amending or offering a new contractual commitment.

Unplanned disruption – Disruption which occurs unexpectedly, for example due to infrastructure failures, operational incidents, or other incidents which were not scheduled or foreseen.

Working Timetable – The timetable defining all planned train movements which will take place on GBR infrastructure during the period for which it is in force.

Annex 2: Information and publications

GBR publishes the following information on its website.

CAPACITY PLANNING AND COMMITMENTS REGISTER

1. Capacity Plan
2. Commitments Register
3. Planning Schedule

CONTRACTUAL PUBLICATIONS

4. Model Access Contracts
5. GBR Code
6. GBR Station Code
7. GBR Depot Code

STATUTORY SCHEMES

8. Charges Scheme Statement
9. Performance Scheme Statement

SUPPORTING FORMS AND GUIDANCE

10. Applications for new and amended capacity commitments: forms and guidance
11. Request for a major update to the Capacity Plan: forms and guidance
12. Capacity and capability information for applicants
13. Guidance on GBR's comparative assessment of applications
14. Guidance on GBR's mechanism for issues resolution under the Access and Use Policy
15. Technical information on GBR's Capacity Plan and Commitments Register
16. GBR's Code of Practice for Confidential Information

OTHER PUBLICATIONS REFERRED TO IN THIS POLICY

17. Long-term planning programme
18. Long-term plans
19. Information about GBR's railway system