
TIMETABLING PANEL of the ACCESS DISPUTES COMMITTEE

Determination in respect of (elements of) dispute references TTP2861, TTP2862, TTP2864, TTP2865 and TTP2866

(following a hearing held in London, on 02 October 2026)

The Panel:

Clive Fletcher-Wood Hearing Chair

Members appointed from the Timetabling Pool

Andy Roberts elected representative for Franchised Passenger Class, Band 1
Michelle Woolmore appointed representative of Network Rail

The Dispute Parties:

Dispute TTP2861: Freightliner Ltd. ("FLL")

Tom Quayle Track Access Manager

Dispute TTP2862: Heavy Haul Rail Ltd. ("HHR")

Barnaby Nash Timetable Development Manager

Dispute TTP2864: GA Trains Ltd. ("GA")

Shane Young Timetable Development Manager

Dispute TTP2865: GB Railfreight Ltd. ("GBRf")

Daniel Grainger LTP Timetable Manager

Dispute TTP2866: First Rail London Ltd. ("FRL")

Mark Walker Strategic Planning Manager
Jack Alder Network Access Manager

(together "**the Claimants**")

Network Rail Infrastructure Ltd. ("NR")

Matt Allen Head of Timetable Production
Lee Eastwood Timetable Production Manager
Matthew Ashton McCready Timetable Policy Manager

Dispute Parties which withdrew reference before hearing of their claim, the Involved Parties and observers

See Annex A

In attendance:

Tamzin Cloke Committee Secretary ("Secretary")
Nigel Oatway Committee Secretariat

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A Background and Jurisdiction

1. In connection with NRs decisions regarding Version 4 (and Version 4.1 where applicable)(both “V4”) of the 2027 Timetable Planning Rules (the “Disputed TPRs”) (in effect, applying to the timetable for introduction in May 2027), seven Timetable Participants served Notices of Dispute. The Secretary, being conscious of ADR Rule H16(d) and noting that several of the disputes contained references to the same, or similar, subject matter, wrote to the Claimants on 13 August 2026 asking whether a hearing was required.
2. Following extensive correspondence, hearing arrangements were formalised on 20 August 2026. At this stage the hearing involved the Dispute Parties listed on page one of this determination, as well as First Greater Western Ltd., which subsequently withdrew its dispute on 01 September 2026 and instead became an Involved Party.
3. I was appointed as Hearing Chair on 21 August 2026 and I satisfied myself that the matters in dispute included grounds of appeal which may be heard by a TTP convened in accordance with Chapter H of the ADR Rules to hear an appeal under the terms of Network Code Condition D5.
4. In its consideration of the Dispute Parties’ submissions and its hearing of the Disputes, the Panel was mindful that, as provided for in ADR Rule A5, it should ‘reach its determination on the basis of the legal entitlements of the Dispute Parties and upon no other basis’.
5. The abbreviations used in this determination are set out in the list of Dispute Parties above, in this paragraph 5 and as otherwise defined in this determination document:

ADR Rules mean the Access Dispute Resolution Rules and **Rule** is construed accordingly.

Decision Criteria means Network Code Condition D4.6

Committee means Access Disputes Committee

DFTO means DfT Operator Limited

NW&C means North West & Central

Panel means Timetabling Panel

Part D means Part D of the Network Code

PDNS means Priority Date Notification Statement

TCRAG means Timetable Change Risk Assessment Group

Timetable Participants as defined in Part D of the Network Code

TOVR means Train Operator Variation Request

tph means trains per hour

TPRs means Timetable Planning Rules

TTP means Timetabling Panel

WCML means West Coast Main Line

WTT means Working Timetable

B History of this dispute process and documents submitted

6. At my request (and as permitted by ADR Rule H21), the Claimant’s were required to provide a Joint Reference Document, using the Sole Reference Document template. NR was required to provide a Sole Reference Document in response. The proposed Panel hearing was notified generally by means of the website and by email to those identified as potential Involved Parties by the Dispute Parties. Due to the complexity and number of issues in dispute, I used my ADR Rule H16 powers to lengthen the usual submission timescales.
7. On 19 August 2026, the Secretary circulated a note recording my preliminary view, my having read the paperwork to date, that in these Disputes it might be necessary to consider the purpose and function of TPRs, to determine whether the disputed TPRs and Appendix J (of those rules) can properly be regarded as Timetable

Planning Rules (my emphasis) which should be included in TPRs. This view was later reinforced by the Claimants' submission.

8. On 01 September 2026, and with the written consent of the Dispute Parties, the Allocation Chair made an order under ADR Rule B21 that the Disputes should be heard together.
9. On 09 September 2026, the Claimants served their Joint Reference Document, in accordance with the dispute timetable as issued by the Secretary.
10. On 10 September 2026, I issued Directions asking the Claimants to clarify the remedy they were seeking in respect of new Section 1.15 of the National TPRs. I also advised the Dispute Parties that I thought there were two principal issues to determine: whether all the proposed amendments and Appendix J could properly be regarded as TPRs, in other words the question already posed; and to the extent that they could, was the consultation process sufficient to justify the introduction of each proposed amendment at this stage? In relation to any proposed amendments that met the definition of TPRs, and which were satisfactorily consulted, were they accurate? I reminded the Parties of the previous determination of TTP2725 and (elements of) TTP2722 on the question of what amounts to adequate consultation.
11. On 11 September 2026, I issued further Directions, confirming I had understood the Claimants' position to be that they were seeking the removal of Section 1.15 in its entirety. I reminded the Dispute Parties about the onus on them to continue discussions in good faith, with the objective of resolving - or narrowing - the issues prior to the hearing.
12. On 22 September 2026, NR served its Sole Reference Document, a day earlier than required by the dispute timetable as issued by the Secretary. This proved extremely helpful.
13. On 24 September 2026, I issued Third Directions. These contained eleven questions for the Dispute Parties, comprising matters they needed to prepare to address at the hearing, as well as some items the Panel would like answered prior to the hearing. The latter included urgent clarification on the status of TTP2864; NR's Sole Reference Document had implied both that it was resolved, and also still 'live'. Both GA and NR confirmed that TTP2864 was still unresolved. These Directions, and the others, can be found on the Committee's website.
14. On 29 September 2026, following a request from NR and considering that I had reviewed the submissions sufficiently to do so, I issued my H18(c) Legal Issues Note. I advised the Dispute Parties that the Disputes did not raise any relevant issues of law, but would turn on questions of contractual interpretation. I further refined the topics the Panel wished to cover at the hearing, which had already been expressed in previous Directions.
15. On 01 October 2026, NR submitted a lengthy written response to the elements of the Third Directions that it was due to address at the hearing. In it, amongst other matters, NR sought confirmation that I believed exceptional circumstances (Condition D5.3.1(c)) did not apply. It also suggested that I had misdirected myself with regard to my H18(c) Note, and seemed to want clarity that I understood that the powers of a Panel cannot constitute a wider review of industry timetable planning policy, industry governance arrangements, or alternative approaches that might be adopted in future.
16. The same day I issued Fourth Directions, addressing NR's points. These Directions can be found on the Committee's website.
17. A list of the Involved Parties, and which of them attended the hearing, can be found at Annex A.
18. The hearing took place on 02 October 2026. The Panel Members declared the following potential conflicts of interest: Andy Roberts had attended the first hour of a meeting discussing the principles behind the disputed Appendix J (National TPRs), but had left that meeting early due to a diary clash. He had no other involvement

in the Disputed TPRs; Michelle Woolmore had previously worked for NR's NW&C Region and had some knowledge of the background leading to the disputed MD101 restriction (NW&C TPRs). She had had no involvement with the decision-making process concerning inclusion in the TPR's, and had left NW&C some time prior to the dispute (December 2024). The Dispute Parties confirmed they had no issues with the Panel Members continuing; I confirmed I also did not see these as material conflicts of interest.

19. The Dispute Parties provided written opening statements, responded to questions from the Panel concerning various points and engaged in discussions (through the Chair) on a number of points. The Involved Parties were given the opportunity to raise points of concern.

20. I confirm that the Panel had read all of the papers submitted by the Dispute Parties and I confirm that I have taken into account all of the submissions, arguments, evidence and information provided to the Panel over the course of the dispute process, both written and oral, notwithstanding that only certain parts of such materials are specifically referred to or summarised in the course of this determination.

C Outcomes sought by the Dispute Parties

21. In their Joint Reference Document, and responses leading up to the hearing, the Claimants confirmed they sought the removal of all the disputed sections of the TPRs from V4, with NR to be directed to "reopen meaningful consultation" on all points. They also sought a direction that NR had failed to properly consult the changes, and had failed to consider Section 1.3.2 of the National TPRs during the consultation process.

22. NR sought confirmation that I agreed exceptional circumstances did not exist, and asked that I uphold its decisions.

23. Both Parties agreed that exceptional circumstances did not exist.

D Relevant provisions of the Network Code and other documents

24. The versions of Part D and the ADR Rules dated 09 February 2026 were applicable to these dispute proceedings.

E Submissions by the Dispute Parties

25. In making it clear that I wished to deal with the issues of principle before the question of consultation, I had invited the Parties to prepare separate Opening Statements for each section. The Claimants' written Opening Statements can be found at Annex B, although in the event neither Party fully read their Opening Statements (which the Panel had read, and considered, in advance of the hearing starting).

26. NR's written Opening Statements can be found at Annex C.

F Oral evidence at the hearing

27. In my opening remarks I confirmed that we were to proceed as already notified to the Parties: firstly, to decide on the issue of the principle of whether the Disputed TPRs (Section 1.15, Appendix J and the 5.2.2 proposals) were to be properly considered as TPRs. I hoped to be able to announce a decision on these aspects before moving on to the issue of consultation. Although the Disputes had generated a lot of paperwork, I observed that the recent material submitted by NR had helpfully made its position quite clear on a number of issues.

28. As NR had queried the Rule H18(c) Note, I suggested that we perhaps had a slight philosophical difference between us on what the Note should contain. I do not think that this has been raised in any previous Dispute, nor is there any guidance on this Rule, but I thought its purpose was to allow a Hearing Chair to alert Dispute Parties to a point of law which had not been raised earlier in the relevant Dispute, to enable them to be properly

prepared for a hearing. I did not think it necessary to refer to well-understood legal principles (in this case the *Gunning* principles, which had already been drawn to Dispute Parties' attention) which would apply in interpreting the contractual issues. NR's lead representative expressed himself as happy on this point.

29. I also referred to the fact that the Decision Criteria can only be applied to granular decisions, (for example TPR values or specific Train Slots in an offer); they cannot be applied to broad issues of principle. While NR is required to apply the Decision Criteria to 'all decisions', in reality it can only do so where they need to be applied to granular decisions. This was endorsed by the ORR in the appeal against TTP1064. As some of the issues in these Disputes flowed from my decisions in TTP2591, I used that as an example: the Decision Criteria could only apply to a granular decision such as an acceptable Train Slot for 4L73.
30. Another initial point that I queried was that until the morning of the hearing I had understood that the Claimants wanted Section 1.15 of the Disputed TPRs struck down in its entirety, as confirmed in their response to a question from me at an early stage of the Disputes process. But their Opening Statement effectively conceded the principle of such a section, while still opposing the wording. This is referred to below.
31. The Claimants read the first part of their Opening Statement, before advising that there had been some developments with the MD101 element of the Disputed TPRs. I thought it better for the hearing to discuss this issue then, even if opening the question of consultation early, rather than waiting until questions would be posed. The Claimants agreed that the TPR was, properly, a Rule and had requested further information from NR. NR had committed, in the run-up to the hearing, to providing the evidence requested, but had not been able to do so prior to the hearing day. It transpired that discussions the day before the hearing revealed that there was more information that could have been provided to the Claimants, although NR felt that the Claimants had not been as clear in defining what information they were seeking.
32. Having ascertained that the MD101 TPR would have no material impact on the May 2027 WTT, I asked NR whether it would withdraw this element of the Disputed TPRs and re-consult it for the 2028 round and whether, in light of it having committed to provide further evidence, NR might concede that consultation had been inadequate. NR said it could neither make that concession, nor withdraw the MD101 TPR. The Dispute Parties being in agreement that the MD101 TPR was a Rule, I postponed further discussion on this element until we reached the topic of consultation.
33. The Claimants continued their Opening Statement. It quickly became apparent that they had misunderstood my Directions Letters. Their position on Section 1.15 of the Disputed TPRs as clarified at the hearing was that, in principle, the section should be published in the National TPRs. However, they objected to nearly the entirety of the drafting and wished the section withdrawn pending further consultation. I pointed out to them that, in procedural terms, this created a difficulty – both NR and the Panel had come prepared to address the philosophical question of whether there should be a Section 1.15 at all, not to deal with individual points of drafting within Section 1.15.
34. I asked NR whether it would be prepared to withdraw the substance of Section 1.15, leaving the heading in place, pending further discussion. NR said that to do this it would need to better understand the specific drafting issues that the Claimants had, which despite what it said was extensive consultation, it was still unclear on. I made it clear, and NR agreed, that - particularly on the basis of the submissions to date - the Panel could not determine issues of detailed drafting. At my suggestion, the Dispute Parties took a break to see whether further discussion could narrow down proposed drafting, with the aim of any suggestions being reflected in Section G (Observations and Guidance) of this determination.
35. The discussions did not assist the Dispute Parties in reaching any agreement. The hearing reconvened and I suggested that a possible way forward was for NR to withdraw the specific drafting, leaving the heading in place as Section 1.15 had been agreed, in principle, as a suitable entry in the National TPRs. I suggested that my Observations and Guidance could include a view that Section 1.15 should contain high-level guidance, and

not granular detail, which should more properly be in the Route-level TPRs. NR was reluctant to withdraw the drafting; it felt that this would not assist in resolving the dispute in the long-term, and that more Timetable Participants were happy with, than disputed, the drafting. There was some discussion about my powers in this area, and what I would be able to determine if NR did not withdraw the drafting. It was agreed we would need to cover the consultation question if NR was not prepared to withdraw it. There was a short adjournment for NR to consider everything that had been discussed.

36. On reconvening NR confirmed that it was not prepared to withdraw the Section 1.15 drafting, leaving the heading in. This was primarily for two reasons: consultation did not necessarily have to lead to agreement, and NR felt it had conducted appropriate consultation and had the support of the majority of its stakeholders; NR did not feel that withdrawing the drafting would help it get any further forward with reaching agreement with the Claimants on future iterations of the TPRs. NR confirmed that it would commit appropriate resources to discussing the issues with the Claimants going forward, to try and resolve the issues.
37. I asked the Claimants what material impact, if any, leaving the existing drafting would have on the May 2027 WTT. The Claimants were unable to answer this question, stating they could “not possibly determine what that is”, as the May 2027 WTT has not yet been formally offered. I pointed out to them that all guidance is subordinate to the Decision Criteria in D4.6, and that any decision NR makes on an individual Train Slot is appealable, a point I would return to several times over the course of the hearing. NR confirmed that there would be no practical impact on any operator’s timetable bid from leaving the drafting intact, as non-binding guidance, for the May 2027 WTT. Extensive discussion failed to achieve any agreement between the Parties, or clarification from the Claimants as to specific harm arising from leaving the drafting in. I confirmed that there were now two options open to me: directing NR to withdraw the drafting, leaving the heading in, and reconsider its decision on drafting; or upholding NR’s decision on the basis that it would have no practical effect on the construction of the May 2027 WTT, and the Panel lacked the vires to make a decision on matters of detailed drafting in Section 1.15 of the Disputed TPRs, based on the submissions to date.
38. I now asked the Claimants to address Section 5.2.2 in their Route-specific disputes, on an ‘in principle’ basis. They carried on reading from their Opening Statement, which can be found at Annex B, starting with Anglia Route. I paused the submissions, to remind the Dispute Parties of the background to TTP2591. I observed that in an ideal world NR would be able to identify specific restrictions over specific level crossings, to be expressed as a mathematical value (e.g. tph), but that I did not underestimate the sophistication and difficulty of the task, given the mix of traffic on the Network, and real-world variables such as time, day, location and traffic patterns. This comment was made against the general view that a Timetable Planning Rule [my underlining] must be a value which will be clear and unambiguous to all readers, as opposed to guidance. But what I saw as a relevant point was that while the information included in Anglia’s Section 5.2.2 could not be characterised as a Rule, it was nonetheless helpful guidance to Timetable Participants, especially for TOVRs, as to times at which a bid would face more intense scrutiny at the level-crossings concerned.
39. I asked NR for its view on whether Section 5.2.2 as expressed in the Anglia TPRs was a rule, or guidance. NR, having reflected on submissions, felt it had “missed a trick”. Its aim was to identify ‘high-risk’ level crossings, and what it had intended to say was that if there was a future permanent change to the WTT, NR’s level crossing managers would need to undertake risk assessments. It stated that nothing in Anglia Section 5.2.2 was putting a physical constraint on capacity for the May 2027 WTT. NR felt that perhaps the generic wording in each Route-level Section 5.2.2 would be better published in the National TPRs as general guidance, with any specifically granular TPRs being expressed in the Route-level publications once they had gone through the TCRAG process.
40. I advised the Claimants that this revised position from NR, which had been offered in good faith to resolve the dispute, seemed to me to be eminently sensible and met the requirement of a distinction between principles and Rules. I asked if this shift in position from NR resolved this element of the Disputes. The Claimants were unable to commit to a view on this point, so I asked NR whether there was any material impact on timetable

participants if the drafting stayed in the Disputed TPRs. NR advised that there should be no material effect on offers made for the May 2027 WTT. I advised that a potential solution, noting we had not yet covered the consultation question, was for the drafting to stay in on the basis that NR had agreed to move it to the National TPRs for the next publication round. The Claimants remained unhappy, so I shared my provisional view that the drafting in the Route-level Section 5.2.2s was too vague to be considered a 'Rule' and, as all NR's timetabling decisions were subject to the application of the Decision Criteria, any NR timetable planner arguing for the rejection of a Train Slot based solely on the application of Section 5.2.2 as-drafted, rather than application of the Decision Criteria, would have a difficult time justifying that to a TTP. I asked if this view provided any reassurance to the Claimants, enabling the resolution of the matter. They advised it did not and continued to reiterate their point of principle. I pointed out that NR had already conceded this point, and I felt the issue was resolved on the basis NR had agreed to move the drafting as outlined in paragraph 39, above.

41. Further discussion did not change the Claimants' position, so I asked them to continue with their submissions on other Route-based TPRs. It became clear that the remaining issues were all covered by NR's concession to move the drafting to the National TPRs as guidance, rather than Rules in the next publication round. Following some discussion, the Claimants conceded this point, and after a short break, the hearing moved to address the issue of Appendix J in the National TPRs.
42. I started by reminding the Claimants that I would be asking whether *'if I was an operator and I knew that NR internally has developed various principles, do I want to know them or do I not?'*, noting that any guidance and principles are always subordinate to the Decision Criteria, where relevant. The Claimants then read the relevant section of their Opening Statement.
43. It became clear that the Dispute Parties held similar views of Appendix J, namely that they were principles, not Rules, however the Claimants felt that the principles had been contractualised by their publication in the Disputed TPRs, and objected to what they viewed as being legally bound to them by virtue of the TPRs being incorporated into their Track Access Agreements. I explained to the Claimants, at length, that there is no contractual significance in a non-mandatory guidance. Whilst I took a dim view of NR requiring what I described as an 'oath of fealty' in its PDNS template, where it had asked Timetable Participants to confirm that they had followed all of the non-binding principles, that there was no legal, material effect on the Claimants from the inclusion of Appendix J and, indeed, it might be seen as helpful to have the principles correlated in one document.
44. When invited to comment on the PDNS template, NR advised that this was not mandatory and had been included by way of an information-gathering exercise, to see how Appendix J was being used (if at all). In response to a direct question NR confirmed that it would have no right to use that information when assessing bids under Part D. A little later it was stated by NR that in any event this requested declaration only applied to DFTO operators. [AFTERNOTE – A check through the paperwork issued to operators for their D-40 submissions carried out after the hearing could not find anything suggesting that this provision only applied to DFTO operators].
45. There was extensive discussion about where else Appendix J might be published, so that the industry could helpfully refer to it. Ultimately, although NR said it had considered publishing the information elsewhere, it felt the National TPRs were the correct location. I reminded the Claimants that, by NR publishing it in Appendix J of the National TPRs, it had become appealable (as evidenced by these Disputes); if NR had chosen to publish it elsewhere they may not have been able to register an appeal and have the issue tested. In response the Claimants said they felt Appendix J was "unlicensed subjectivity".
46. NR made a further submission that, although the Claimants had asked for Appendix J to be removed from the National TPRs, when the issue was being discussed at TPR Forums they had also stated that they didn't want to keep creating more documentation for timetable planners to have to refer to; NR felt that there was enough

documentation already, that creating more was not desirable, and that most people would agree with that position.

47. There was a brief discussion about who had been able to input to some of the senior industry groups, such as the Network Performance Board, as the composition had narrowed down to just DFTO companies and NR.
48. Some extensive submissions from the Claimants followed on the principle and purpose of TPR documents. It was clear by this stage that there was not going to be a meeting of minds. I asked the Claimants whether they understood that they were making a 'thin edge of the wedge' argument, and whether they thought I had the power to determine such an argument, rather than the previously-listed, specific issues in dispute. The Claimants advised they were not sure, but would defer to my legal judgment.
49. That brought the section on issues of principle to an end. I advised that I would deliver a preliminary outcome after lunch, subject to the examination of the issues of consultation, which I did. I advised NR that this was a Network Code Condition D5.3.1(a) decision, however NR reserved the right - as it was entitled to do - to lodge an appeal. On this basis I confirmed that we would need to consider the consultation question thoroughly, for the reasons outlined in my Directions Letters. At this point the hearing adjourned for lunch.
50. On resuming, we first took submissions on consultation generally, as well as Section 1.15. The Claimants agreed that it was possible to have an appropriate consultation process that did not achieve consensus, with NR able to issue a decision that did not satisfy all parties. NR, following a request, provided some examples of how it felt the disputed TPRs had been validly consulted. It pointed to amendments it had made between V3 and V4 as evidence of changing its position based on feedback from Timetable Participants. I advised the Dispute Parties that, due to the sheer volume of submissions and paperwork received, which the Panel had diligently gone through, our preliminary view was that the consultation for Section 1.15 was adequate, even though there was no agreement.
51. I asked the Dispute Parties whether, in light of the agreement to remove the level crossing drafting from Section 5.2.2 in the Route TPRs, it was worth considering consultation any further in relation to this issue. The Claimants argued that it was, although were unable to answer whether this would make a difference to the outcome. They eventually conceded we could move to considering consultation for the tph restriction published on the NW&C in MD101.
52. Although NR admitted to deficiencies in the consultation process, it stopped short of admitting the consultation process was inadequate, and pointed to what it said was failure to engage by the Claimants, which had hampered its own efforts to source appropriate evidence to provide to the Claimants. I advised the Dispute Parties that, again taking all the considerable background reading into account, the consultation was inadequate.
53. Finally, we moved to Appendix J. Again, in the light of the decision we had reached - that Appendix J could remain as non-binding methodology - I asked whether the Dispute Parties felt it was worth considering the consultation question. The Claimants said it was, and did not agree with the suggestion that their philosophical issues with Appendix J had coloured their approach to this question. They felt that the outcome had been "pre-determined" by NR and senior leaders within the industry who did not have "respect" for the planning community.
54. NR stated that it had made changes between V3 and V4 to Appendix J, and that the inclusion of guidance was helpful - in principle - to the industry.
55. I advised the Dispute Parties that, very narrowly, the Panel considered that the consultation on this point had been adequate. This was primarily on the basis of the comprehensive information included in the exchanges

between the Dispute Parties and the written submissions. No Dispute or Involved Party present having anything else it wished to say, I closed the hearing.

G Analysis and Observations/Guidance

G1 - Analysis

56. Although some of the exchanges during the hearing may have suggested otherwise, I consider that there was a reasonably clear understanding of the issues to be determined in the hearing, which had been explained from the time of the first Directions.
57. There was general agreement that a Timetable Planning Rule [my underlining] should convey a clear and unambiguous value which is immediately apparent to any reader; the headway at any given point or a junction margin are examples. The question therefore arose, as a point of principle, whether Section 1.15 and Appendix J should properly be included within the National TPRs. This also applied to the drafting of the disputed entries in Section 5.2.2; could they be regarded as Rules? In this discussion I include the Section 5.2.2 entries in both the Anglia and LNE TPRs. It is unfortunate that the two crossings referred to in the LNE TPRs were so poorly described, but that does not affect the discussion on the principles involved here. There is clearly a link between Section 1.15 and any consequential entries in Section 5.2.2.
58. A similar question arose in respect of Appendix J; should anything of this kind appear in the National TPRs?
59. Following the question as to whether in principle Section 1.15 and Appendix J should appear in the National TPRs, the next question was whether the consultation prior to the appearance of all the issues in dispute in V4 TPRs was sufficient. The attention of the Dispute Parties had been drawn to the discussion on how to judge the adequacy of consultation in TTP2725 and parts of TTP2722.
60. One only has to read any TPRs, whether National or at a Route level, to appreciate that there are already a number of sections in them setting out guidance; indeed, it is difficult to imagine how TPRs could be explained and contextualised without such guidance sections. In response to a question before the hearing, NR stated that Appendix J was similar to Appendices E and H of the National TPRs. I did not accept that this was the case, as Appendix E for example sets out the opening times for stations managed by NR, in precise values. Although I regarded the suggested link between Appendices E and H and Appendix J as erroneous, this did not alter the Panel's view on the question of guidance sections appearing in TPRs.
61. In contrast, the disputed TPR in relation to MD101 in the NW&C TPRs did not involve a point of principle; it only raised the issue of the adequacy of consultation. In effect, by committing in the hearing run-up to provide additional information to the Claimants that had been available to NR for several years, NR conceded that the consultation on this point had not been adequate, which made the decision on this point easy to reach.
62. During the hearing the wording of a PDNS entry was referred to, requiring certification that bids for the May 2027 WTT complied with the planning principles set out in Appendix J. This was in evidence in the bundle rather than formally being before the Panel for determination. We can therefore only deal with this in Observations and Guidance.
63. Until the opening of the hearing, the Panel had understood that the Claimants were requesting that Section 1.15 should be struck out in entirety. However, the Claimants' opening statement conceded that in principle it should appear in TPRs, although there was still a dispute about the actual wording. (This information had been conveyed to NR before the hearing, but not to the Secretary). Given this, the Panel did not need to reach a decision on the point of principle, but did endorse what had been agreed between the Parties on this point.

64. TTP2591, which I chaired, had considered NR's objections to including 4L73 in the WTT in part on the basis of problems, including safety issues, arising at certain level-crossings. That TTP recommended that NR should share information with operators to alert them to level-crossings at which such concerns were likely to be raised, to avoid the mischief of Timetable Participants seeing what they think to be white space in the WTT, so bidding for paths, not knowing of NR's concerns. The aim was to achieve greater transparency for all Timetable Participants.
65. Section 1.15 and the disputed sections of 5.2.2 represent NR's attempt to comply with the recommendation emerging from TTP2591. Therefore, examining the disputed issues should start from support for what NR is attempting to do, while examining whether the TPRs in dispute achieve that aim within the requirements of Part D. As explained in paragraph 33 above, the principle of Section 1.15 was agreed by the Claimants, which led to the question as to whether Section 1.15 should remain in the TPRs merely as a place-holding heading, with the wording deleted for further discussion, or whether the wording should remain fully as published.
66. In the light of the way that these Disputes had proceeded, the Panel did not feel that any Dispute Party (or the Panel) was in a position to resolve the detailed arguments over the individual sections of Section 1.15 at this hearing, with which the Dispute Parties agreed. On balance, therefore, the Panel felt that the wording should be deleted for further discussion and remitted back to NR, while recommending that industry discussions should start from the V4 wording, rather than starting with a clean sheet. (The Panel felt that a recommendation was necessary, rather than a direction, as any decision on this point might be regarded as a D5.3.1(c) decision).
67. Against this background, the most appropriate way forward was felt to be as described above. It is hoped that the V4 wording can be used as the basis for further good faith discussions between the Dispute Parties, with the aim of there being an agreed position at the conclusion of the imminent 2028 TPR consultation process or, if not, for the Dispute Parties to have narrowed down any points of disagreement between them to matters that a TTP is able to determine.
68. As far as the Section 5.2.2 entries were concerned, it was not difficult to conclude that these entries amounted to useful guidance, but could not be categorised as Rules, so should not appear in a part of the TPRs setting out rules. Given the complexities of assessing the various factors affecting safety at any given level-crossing, the Panel recognised why it was not easy to devise Rules, whether for a given crossing or a Route, but the guidance given in Section 5.2.2 would assist Timetable Participants by indicating that bids involving using a crossing during the times shown would be likely to require more attention in assessing these, while recognising of course the requirement to use the Decision Criteria where this applied.
69. During the hearing NR agreed that the Section 5.2.2 entries relating to level-crossings could not be regarded as Rules, but in the light of their potential usefulness NR would move them to another part of the TPRs in 2028 V1. That decision itself would be appealable.
70. Turning to Appendix J, it was clear that the Claimants remained vehemently opposed to the Appendix in principle, while also objecting to some of the Planning Principles in detail. Questions discussed included whether it was useful for operators to have visibility of planning principles adopted by NR, which the Panel thought to be the case. If so, were they best placed as an Appendix to the TPRs, or should they appear elsewhere, as a free-standing document published on NR's website or included in some other policy document.
71. Concerns strongly influencing the Claimants were that they saw a risk of the NR principles being 'contractualised' if appearing in TPRs. They felt that as NR stated that its intention over time was to make some of these principles mandatory, the current situation represented the thin end of a wedge. In the exchanges before the hearing NR had made it clear that the principles are currently not mandatory, although in the wording of Appendix J this is only implied, rather than made explicit. I felt that the Claimants' concern about 'contractualisation' misunderstood the fact that the principles are not mandatory. During the hearing I made it clear that nothing in TPRs could displace the role of the Decision Criteria (a view which I took to be shared by

NR). I also observed that the Determination had to be reached by the facts applying at the time of the decision, and could not reflect concerns about the thin end of the wedge in future.

72. The Panel felt that the fewer documents that affect timetable planning the better, so to leave the principles as Appendix J was the better solution. A further advantage of this from Timetable Participants' point of view is that by appearing in TPRs the principles and any subsequent amendments could be appealed to a TTP, which may not be the case if published elsewhere.

73. I admit that it came as a surprise to me that references to Congested Infrastructure do not currently appear in TPRs. As they represent a constraint on capacity it seems helpful that they should appear.

G2 – Observations and Guidance

74. In the discussions which are now to take place concerning the wording of Section 1.15, **we recommend** that the starting point should be the current wording in V4 of the 2027 National TPRs. (We considered that to include this as direction in the Determination could be construed as a D5.3.1(c) decision, which is clearly not applicable).

75. **We recommend** that to avoid any confusion in future about the role of TPRs all documents with Timetable Planning Rules as their title should have words such as 'and associated guidance' added to the title.

76. **We recommend** that any declaration of Congested Infrastructure, as is the case currently on parts of the WCML, should appear in the relevant TPRs.

77. **We recommend** that whether or not PDNS entries only apply to DFTO operators, it is not appropriate to seek confirmation that operators have complied with principles that are expressly stated to be non-mandatory.

H Determination

78. Having carefully considered the submissions and evidence and based on my analysis of the legal and contractual issues, my determination is as follows.

79. In relation to Section 1.15, it was agreed by the Parties - and I determine - that this section should properly appear in TPRs, but that the disputed wording should be removed, leaving the heading present as a placeholder and remitting the drafting back to NR. NR will need to review the wording with the industry; our recommendation of the appropriate starting point for Version 1 of the 2028 TPRs appears at paragraph 71 above.

80. While the Section 5.2.2 entries do provide useful information to operators, I determine that they cannot be properly be categorised as Rules. NR is to decide where it is appropriate to include this information elsewhere in TPRs. For the 2027 Subsidiary TPRs the information may remain because of its potential usefulness while the decision is being made as to the appropriate place for it in future versions.

81. I determine that Appendix J is appropriate guidance to be incorporated into National TPRs, not least because in this way future amendments will be susceptible to the appeal process.

82. The consultation relating to MD101 of the NW&C TPRs was not adequate, so I determine that it is to be removed from the Disputed TPRs and NR is directed to reconsider its decision.

83. Exceptional circumstances do not apply.

84. No application was made for costs.

85. I confirm that so far as I am aware, this determination and the process by which it has been reached are compliant in form and content with the requirements of the Access Dispute Resolution Rules.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a horizontal line and a small flourish.

Clive Fletcher-Wood
Hearing Chair
15 October 2026

Annexes

Annex A: Dispute Parties which withdrew reference before hearing of their claim, the Involved Parties and observers

Involved Party (previously a Dispute Party)

First Greater Western Ltd. - *unable to attend*

Involved Parties

Charles Salter	Greater Thameslink Railway (GTR) Ltd.
Richard Henderson	Northern Trains Ltd.
Neil Sutton	ScotRail (<i>attended virtually</i>)
Kishan Ramsamy	Transport for London
Steve Whitley	Transport for Wales Rail Ltd.
Warren Stephens	West Midlands Trains Ltd.
Patrick Lawless	XC Trains Ltd.

DB Cargo (UK) Ltd. and GTS Rail Operations Ltd. - unable to attend

Observers (professional development or interest)

Assia Babar; Richard Parsons (both NR)

Annex B: the Claimants' written opening statements

Statement #1

Good morning, This dispute is brought by Freightliner, Heavy Haul Rail, GA Trains, GB Railfreight, and First Rail London in respect of Network Rail's decisions relating to the Timetable Planning Rules for the Subsidiary 2027 (May 2027) Timetable.

There is a great deal of agreement between the claimants on the substance of the dispute, resulting in an agreement from the Chair and parties to the Hearing that our respective appeals will be heard collectively in this Hearing. Indeed, we have intended at several points in the process that it will be helpful for us to provide collective feedback where possible, to avoid shared opinions being aired in a disparate fashion that could undermine clarity. This is in evidence in both certain parts of our respective responses to elements of the Draft Timetable Planning Rules (Version 3), and in our submission of a Joint Reference Document for this Hearing. At the request of the Secretary, we clarified which elements are in dispute for each of the claimants in an email sent on 30th September.

Given the breadth and scope of subject matter for this Hearing, we are grateful for the Chair's Directions on how it should be structured (particularly in paragraphs 5-9), issued on 10th September. On this basis, the remainder of the first part of our Opening Statement will be dedicated to (what might be termed) the philosophical question of what constitutes a Timetable Planning Rule (Chair's emphasis) and, accordingly, whether Network Rail's proposed amendments are appropriate within this context alone. As a consequence, we reserve our views on the matter of consultation, handling and content of the TPRs for the second part of our Opening Statement, which we understand the Panel wishes to hear after discussion and examination of the first.

In our opening statements for both parts of the Hearing, we will answer the questions in respect of each section of the TPR in dispute. Whilst we acknowledge some similarity across these, we hope there is merit in our proposed approach.

We would ask the Panel - and all - to note that sections relating to North West & Central 5.2.2 in both parts of our opening statement represent the position prior to 1400 yesterday. At 1400 we had a call with Network Rail and others where some scope for potential agreement was identified. We would ask the Panel to allow us time to update on this during the Q&A, so that we can provide the latest position in this regard.

Can the disputed TPRs and Appendix J properly be regarded as Timetable Planning Rules and should they be included in the TPRs?

National TPR, Section 1.15 General Capacity Constraints

We believe that it is both appropriate and desirable for an entry in the National TPR for Section 1.15, articulating methodology and approach for General Capacity Constraints within the route-aligned TPR documents, consistent with Network Code D1.1.11 definitions, point (g) under Timetable Planning Rules. We recognise the points raised by industry colleagues around the previous lack of clarity relating to General Capacity Constraints, and support the inclusion of a section in the National TPR to enable clarity and consistency of approach to these, in the same way that, for example, Section 1.5 of the National TPR governs Section 5.2.1 Headways in the route-aligned documents.

We believe that Network Rail's publication of Section 1.15 does not fulfill the purpose we have stated – and which Network Rail claims it is intended to fulfill. Whilst not every clause is fully objectionable in totality (although some are), our contention is that the section is overly subjective and indeterminate, undermining the very clarity NR suggests it provides. Points we would like to raise in this regard, are as follows:

- There is a lack of an objective standard to understand trigger points for such constraints. Performance risks are identified on a daily basis, but these rarely justify addition of a contractualised capacity constraint. 1.15.2 and 1.15.9, particularly, fail to provide for an appropriate level of rigour and clarity. Supporting evidence for establishment of a constraint – as with any TPR change – must be ‘agreed by Network Rail and affected parties’, as stipulated within 1.3.2c of the National TPR.
- The section should be internally coherent and consistent to avoid contradictory instructions, scope for misapplication or tautology. 1.15.3 and 1.15.5, for example, seem either to be mutually incompatible or to result in an endless assessment loop (or both).
- The National TPR should provide a clear path to understanding and codifying the constraints, as other similar sections in the National TPR provide the relevant methodological approach to arriving at Timetable Planning Rules. Thus, we seek that the section is withdrawn in its entirety and rewritten as a coherent whole to provide that ‘transparency and planning certainty’ that Network Rail asserts to seek in its SRD (NR SRD 4.2.4) and which we certainly wish to support. Removal or amendment of certain phrases will not be sufficient to achieve this; and simple removal of incorrect sections would result in greater incoherence.
- Finally, we note that in 4.3.10 of its SRD Network Rail is proposing to caveat that these constraints do not apply under ‘short-term planning timescales’. This is, in the view of those of us disputing 1.15, the most egregious means of undermining Section 1.15 in governing Timetable Planning Rules as: 1) the phrase ‘short-term planning timescales’ is unclear to us, and 2) we are not aware of a precedent for authorising such a deviation from a process within the Timetable Planning Rules and, given the implications of this within a section on General Capacity Constraints, we have been given insufficient explanation as to why this would be appropriate.

Anglia TPR, Section 5.2.2 General Capacity Constraints

We accept that level crossing restrictions could constitute capacity constraints and that, where a codifiable Rule is established, Section 5.2.2 or 5.3 of the route-aligned TPR would be the correct location for such a Rule, depending on its formulation. However, what Network Rail has published in the TPR does not constitute a planning rule, for example, as stipulated under D1.1.11 definitions; so does not belong in the TPR. We can provide examples for the Panel of numerous occasions where the TPR fora have produced codifiable TPRs relating to level crossing restrictions.

Leaving aside our concerns around adequacy of consultation, and lack of justification for the content of this section, which we return to in the second part of the Hearing; and notwithstanding the ongoing relevance of the need for a revision of 1.15 in the National TPR to provide an appropriate methodology for General Capacity Constraints, the lack of an applicable TPR in Network Rail’s Anglia 5.2.2 proposal is the substance of our response to the Chair’s question on the status of Rules. It is notable that in Network Rail’s revised 1.15 proposals they themselves have stated that capacity constraints must detail any limitations on the quantum of trains at a location; but here we are given a list of crossings and times without any detail of the limitations on quantum. Rather, we are referred to the necessity of a risk assessment – itself unspecified and arguably not consistent with requirements in 1.2 and 1.3 of the National TPR. Put more directly, the Rule refers us to the assessment; but surely the outcome of the assessment would provide the codifiable Rule.

Although we have not yet turned to the concerns of the 5.2.2 restrictions on the West Coast Main Line, we note that the constraint is expressed as a Rule in that instance. Although we are unclear on the process, it is assumed that an *assessment* has been undertaken, based on an identifiable *trigger* (possibly Declaration of Congested Infrastructure), which has resulted in a quantified, applicable Rule. We recognise the graduated nature of such assessments in respect of level crossings and that this is a complex set of considerations – put more succinctly, we are by no means wishing to imply that defining appropriate Rules is in any way simple: we understand that it is quite the opposite.

However, difficulty in defining an appropriate Rule does not provide grounds to publish an inappropriate entry in the TPR. Network Rail has stated to us that the risk assessments provide a range of outcomes rather than binary decisions, which in turn are subject to “management decisions”, and thus introducing a layer of subjectivity which is also governed by a range of changeable criteria. As such, the industry has a long standing practice of this being managed through the TCRA process, a tacit acceptance that some complex timetabling criteria cannot in all cases simply be subject to a rules-based assessment.

In summary, rather than providing clarity on capacity constraints with Rules, Network Rail has encumbered the document with bureaucracy: referring to an assessment process which itself is opaque and subjective. In an email exchange where Operators raised concerns about the propriety of this proposal within the TPR, and suggesting that it be removed from the TPR and noted elsewhere as non-contractual guidance, the Network Rail TPR specialist stated they had suggested the same approach.

One final point, which we respectfully request that the Panel allows us to examine in due course, should they think it helpful within the context of the Hearing, are the proposed revisions from Network Rail to 5.2.2 level crossing entries which, with the exception of GA Trains in the case of one amendment, we believe have further undermined the status of these entries as “Rules”.

North West & Central TPR, Section 5.2.2 General Capacity Constraints

With regard to the statement in 5.2.2 of the North West & Central (NW&C) TPR the restriction at Camden/Willesden West London Junction has been presented in a format to constitute a rule. However, how these figures were arrived at and data supporting them have not been forthcoming. Despite concerns highlighted in responses at V3 & 4 and some meetings prior to September 2026 the focus of Network Rail remained on wording tweaks rather than the underlying lack of data evidence consulted on this matter. We wish to note that we have queried this additional wording and caveating that Network Rail has proposed, as this goes some way to undermine the status of the rule which they are seeking to enforce.

London North Eastern TPR, Section 5.2.2 General Capacity Constraints

Much has already been stated in discussions on 5.2.2 for Anglia (and 1.15) also applies here: what Network Rail has published with regards to level crossings in Section 5.2.2 of the TPR does not constitute a planning rule and therefore also does not belong in the TPR.

The published entries are clearly lacking in supportive data to justify their inclusion, with values such as ‘N/A’ to describe the number of pedestrian/vehicle users, and also for barrier down time despite a statement that the level crossings are high risk ‘due to barrier down time’, for example. Surely the required detailed information was readily made available to Capacity Planning and which should have shared with all parties during a TPR forum, enabling agreement on a codifiable rule prior to its inclusion in the TPR. Indeed, an agreed and long-standing example of a codifiable rule, in relation to fouling a level crossing, already exists within the LNE TPR document at Claypole Loop, Section 5.3, due to trains over 320m fouling Barnby Lane. We can provide numerous other examples of agreed and applicable TPRs related to level crossings across different routes. We therefore continue to seek that the unusable, opaque and highly subjective Section 5.2.2 level crossing entries be withdrawn in full and we look forward to working towards an agreeable, codifiable rule, similar to that which has already been achieved collaboratively in the past.

Other 5.2.2 route entries

In addition, Section 5.2.2 of the other disputed route-aligned TPR in our JRD all contain entries which are not rules as previously discussed. Due to the existence of the sentence 'No level crossings currently recorded as high risk', this entry adds no value. These entries should therefore be fully withdrawn, until such a time when a codifiable rule has been discussed and agreed by all timetable participants via the TPR forums, should the need ever arise.

Appendix J

The Dispute Parties strongly object to the publication of the '17 Planning Principles' as Appendix J of the 2027 Version 4 National TPR document. By Network Rail's own admission these do not constitute rules, and the Dispute Parties believe it inappropriate to publish them in a contractual document.

Throughout the limited consultation process we have agreed with Network Rail that having some principles to plan against is in fact a good idea and we always welcome and encourage sharing industry best practice but firmly believe the National TPR document is the wrong place for this sort of guidance to be published. On several occasions we have raised that Network Rail have many other documents where these could appear and have queried why these planning principles cannot be shared as a planner brief rather than contractualised in National TPR. This has been acknowledged by Network Rail. This is also confirmed by Network Rail in paragraph 4.7.6 of their SRD where they have confirmed that planners already use guidance material. We would also challenge this point Network Rail have made because publishing these principles in a contractual document is by no means an agreeable solution.

We want to challenge paragraph 4.7.8 of Network Rail's SRD, claiming the inclusion of Appendix J is consistent with existing content within the National TPR document. Namely Appendix E & Appendix H. For context Appendix E is a list of Network Rail managed station opening hours and Appendix H is a list of Network Services trains that are protected in the timetable. These entries are purely factual and are not open to any subjectivity. Both entries have a binding impact on construction of the timetable which reflect the established purpose of the National TPR document. Network Services trains have protection equivalent to firm access rights and station opening times govern stopping windows that can be planned, so both are fully appropriate to include. We disagree that the publication of the 17 Planning Principles is consistent with any entry currently within the document for the reason stated above.

We would like to draw the attention of the Panel to paragraph 4.7.5 of Network Rail's SRD which we believe supports our case that these do not constitute Rules and are not suitable for inclusion in the National TPR. To summarise: they do not constitute obligations, they are non-binding, they do not replace any existing methodology, they are not relevant to every timetable change – and, above all, 'the principles are not mandatory'.

Statement #2

We turn now to the Chair's question on the consultation upon, and content of, the Disputed Rules.

Before summarising the position in respect of each disputed TPR section, we would like to refer to paragraph four of the Chair's Third Directions, in which he correctly identifies that a significant part of our dispute is predicated on standard of consultation. As directed, we are prepared to answer questions on this point during the Hearing. For now, we wish to summarise our overall position on consultation and handling of the disputed TPR change as follows:

Consultation and handling of the TPR proposals

- We note that both parties will seek to demonstrate that they have engaged in consultation, which must – as noted by the Chair in the Directions of TTP2725 – be 'two way'. However, our position remains that we have engaged constructively and in good faith in the TPR process, but that Network Rail's approach has sought a

predetermined outcome, one which is more in the interests of what might be termed political expediency, than technical rationale or practical applicability. As such, our view is that Network Rail's engagement is more of a "tick-box" exercise, acknowledging contractual requirement to consult rather than the spirit in which it is intended.

- However this might be, we believe the contractual framework for TPR consultation helps us make our case. D2.2.15 states that Network Rail shall consult with Timetable Participants between D-64 and D-54 on proposed changes to the Rules. It should be noted that this period prescribed for the express purpose of *consultation* has recently been extended by four weeks (PfC 135), with NR gaining industry endorsement on the basis that this approach would provide more stability in the Draft TPR. As both our JRD and Network Rail's SRD have shown, there have been multiple revisions made after the Draft Publication, and admissions by NR, even at this point, that more are still needed. This corroborates our view stated ahead of V3 publication, and which we retain now, that these Rules were not ready for publication and required much further work, but Network Rail dismissed these concerns. Again, despite Network Rail's assertion that these TPRs provide clarity, both our JRD and their SRD demonstrate that there is much that remains unclear. We can provide the Panel with precedents on withholding publication of insufficiently mature TPRs if that is useful.
- Pursuant to D2.2.17, we provided our responses to Network Rail at D-49, seeking in cases of shared concern to provide consistent wording, in the hope that this would be useful to highlight our views to Network Rail. We hope that the Panel agrees with us that our responses to these matters in dispute cannot be read as that of the claimant in TTP2725 which the Chair in that case summarised as effectively stating 'we don't like it'. Indeed, it is Network Rail's reply to our Version 3 responses, which they are contractually obliged to consider when making their decisions, which we believe can be characterised as being summarily dismissive. As a stock response to concerns we raised at V3 relating to Appendix J, National 1.15 and 5.2.2, Network Rail stated:

The stance of Network Rail is as follows:

- *Regionally, Level Crossing restrictions will remain as offered in V3. Work has taken place to ensure only crossings with established risks identified through risk assessments have been included. Network Rail were tasked with improving clarity and documentation of level crossing risk through the ADC process and the ORR, and the TPRs are the chosen way to govern this.*
- *Through discussions with route and region teams, Capacity Planning are reviewing the values of all other general constraints (those documented as trains per hour limits) within V3. Any constraint which cannot be quantified and evidenced will be removed for V4 (a point we would ask the Panel to come back to).*
- *The process outlined in 1.15 has been amended based on the feedback to provide more clarity around the inception of constraints. This will be included, as communicated, in V4.*
- *Appendix J states that the principles are included as guidance and, as such, will not be binding. Wording updates have been made to reduce any possible duplication and direct individuals to relevant parts of the document. Discussions are ongoing around potential alternate options for communicating the rules, including a dedicated part of the NR website (as done with the DCS IM Plan), but this will not be changed before V4.*

End of quotation.

- Additionally, we contend that Network Rail has also failed to dispatch its obligations under the Network Code by failing to – or failing to demonstrate that it has – applied Decision Criteria as it is obliged to do under D4.1. In Section 4.1.13 of its SRD, Network Rail ascribes to us an 'interpretation advanced by the Operators' in respect of Decision Criteria which we don't recognise. As lay people in the contractual field, we advance no

other interpretation other than that which Part D prescribes: 'Network Rail shall make all decisions by application of the Decision Criteria'. In the light of NR's challenge under 4.1.13, and the absence of legal expertise amongst the individuals representing the claimants here today, we have sought advice from previous TTPs from the ADC website, which we believe support our case. We can refer to this in discussion if the Panel wishes.

We turn now to the specifics of each item in dispute.

National TPR, Section 1.15 General Capacity Constraints

For the reasons previously stated, further consultation is required on ensuring that this section provides the clarity for which Network Rail states it is intended. We are committed to continue offering our engagement on this matter and would urge all parties to make full use of the extant consultation period for the 2028 TPR. Much greater clarity is still required on:

- Triggers determining articulation of a constraint in the TPR, linked to National TPR requirements of agreement on sources of information etc.
- How resultant constraints can be – and must be – articulated as Rules to provide clear and valid application.
- Level crossings, in particular, need to focus on how the various assessments which are mentioned can be visible, evidenced-based and translatable into a methodology which provides applicable outputs as Rules.
- Much better justification (if any is possible) for the codification of an STP exemption to constraints whose primary purpose is surely to support the paramount objective of safe railway operation.

Anglia TPR, Section 5.2.2 General Capacity Constraints

Our concerns over the adequacy of the consultation and the lack of articulation of this section as *Rules* have already been covered. The email correspondence between Network Rail and Timetable Participants appended to our JRD demonstrates Network Rail's TPR Specialist's sharing our concerns in this regard (Appendix O of our JRD).

Notwithstanding our concerns around the lack of applicability of what has been published as Rules, we have significant concerns around the rationale and accuracy of what has been published within this section. We also wish to point out that Network Rail chose to discuss technical matters with GA Trains only, despite our JRD making clear that these are joint concerns and GA Trains asking that we be included in the discussion, with Network Rail subsequently declining to do so. This further demonstrates our concerns on Network Rail's approach to consultation.

On 23rd September this meeting was held between Network Rail and GA Trains to discuss high risk level crossing times and method for assessments. In advance of the meeting GA Trains was invited to outline its main points of concern. Network Rail opened by giving a brief overview of how level crossing risk assessment is calculated explaining it is complex

and not binary. GA Trains wished to discuss each published crossing in detail and challenge the times against the claimants' data of TPH over each crossing each hour (our Appendix P) in the hope that Network Rail would be prepared to evidence and further review Section 5.2.2 of the Anglia TPRs. Due to limited time GA Trains focused on 3 level crossing examples which were as follows:

- 1) Windmill Lane – Why have weekends been included when there are 20 tph (Sat), 16 tph (Sun) compared to 24 tph (M-F Peak) ?
- 2) Roydon – Why is Roydon high risk off-peak 1300-1500 (17 tph) yet is not seen as high risk during peak times 1700-1800 (19 tph) ?

3) East Tilbury – The max number of trains is 13 tph which occurs 1400-1500 yet this is not shown as a high-risk time in the TPRs. Why ?

Network Rail stated that the 1400-1500 window for East Tilbury was an omission which should have been included in the TPR and was still under review. Given this recognition of inaccuracy within the published section, and the lack of technical evidence provided to Timetable Participants, this supports our view that this was not ready for publication. Network Rail continued to state that these crossings are high risk, and the times must stand as published, without providing any supporting evidence or data to justify its position. This contradicts the statement made by Network Rail in a National meeting around the Section 5.2.2 entries in the TPRs which was 'Any constraint which cannot be quantified and evidenced will be removed for Version 4'. (NR SRD Appendix D, page 43 of Appendixes B-G).

North West & Central TPR, Section 5.2.2 General Capacity Constraints

Through continued discussion we were presented with documentation for modelling relating to WCML congested infrastructure. The focus from Network Rail has been on 'agreeable wording' of the TPR rather than the key concern of the claimants: this being the lack of technical rationale for the specific values proposed. Up to and including the day before the Hearing, conversations on this have been ongoing.

London North Eastern TPR, Section 5.2.2 General Capacity Constraints

Much of the Claimants' objections to this section echo what we have already stated above with regard to Anglia 5.2.2. As on other routes, within the claimants formal Version 3 responses we had specifically requested evidence from Network Rail for the methodology it had used when arriving at what had been published within the TPRs. Once again, the Claimants remain unsure as to why the two specific crossings named within the LNE TPR document have been deemed as high risk. Also, noting that the table within which these restrictions are included has a header stating that 'A list of level crossings which have been deemed high risk due to barrier down time is recorded below', we would query the value of N/A appearing in the column relating to barrier down time at both locations.

Other 5.2.2 route entries

As covered under 'Question 1' of the hearing, these entries add no value to the document and should be withdrawn, until such a time when a codifiable rule has been discussed and agreed by all timetable participants via the TPR forums, should the need ever arise.

Appendix J

As set out in part one of our opening statement, the Claimants stress that our fundamental objection to Appendix J is its inappropriate publication within a document with contractual significance. We are willing to continue to work with Network Rail on the wording of this guidance, provided that it does not appear in contractual documentation, should Network Rail find that desirable. Given that guidance such as this is likely to be subjective to a certain degree, it may be difficult to find specific wording which all parties are agreeable to.

During the limited consultation that was undertaken on this matter, Network Rail encountered considerable concern and opposition raised within the 'operator community', as they acknowledge in a paper dated 7th July 2026, both on content of the principles and the inclusion within the National TPR. On the specific matter of where the principles are published, Network Rail has not responded to these concerns or stated why the alternatives discussed are unsuitable.

Should it be useful to the Panel, examples of two specific principles contained within Appendix J which we have significant concerns with are:

- TP11, which stated at Version 3 that “cumulative rounding for OTT3 at recording points can add excessive time between nodal points (or overall journey times)”. This critical point, in our view, was removed from Version 4 without justification from Network Rail as to why, and the Claimants do not agree with this revision.
- TP17 is of specific concern and we feel that this is outside of the remit of Network Rail and Timetable Participants. Only the ORR is authorised to determine decisions on granting Access Rights.

We would like to thank the Hearing Panel for your time today and consideration of the points we have raised within this collective dispute. We look forward to providing any further information which the Panel requires.

Annex C: NR's written opening statements

Statement #1

Good Morning,

This dispute concerns the purpose and function of the Timetable Planning Rules.

The Claimants contend that the disputed provisions, including Section 1.15, certain Route Section 5.2.2 entries and Appendix J, do not properly belong within the TPR framework. Network Rail does not agree.

Network Rail's position is that the TPRs are not merely a collection of numerical values and technical planning parameters. They are the framework through which timetable planning is undertaken. As such, they may properly contain planning methodologies, explanatory material, supporting information, route-specific constraints and non-binding guidance which assist timetable participants in understanding how timetable planning requirements are intended to operate in practice.

The disputed provisions do not create new Access Rights, remove existing Access Rights or determine the outcome of Access Proposals. Rather, they improve transparency regarding planning assumptions, capacity constraints, performance considerations and assessment processes that may need to be taken into account during timetable development.

Network Rail notes that only five operators have chosen to bring these appeals despite the proposals being visible to, and potentially affecting, a much wider group of timetable participants. Whilst the absence of a dispute should not automatically be treated as endorsement, the fact that the overwhelming majority of affected parties have not sought to challenge the disputed provisions is at least consistent with Network Rail's view that the provisions represent a reasonable and proportionate means of communicating relevant timetable planning information.

Ultimately, the question before the Panel is not whether alternative drafting approaches could have been adopted, nor whether different policy choices might have been available. The question is whether the disputed provisions are capable of operating within the TPR framework and are appropriate for inclusion within it.

Network Rail submits that they are.

Thank You

Statement #2

The second issue posed in these disputes is whether the consultation process was sufficient to justify their introduction.

The disputed provisions were developed through extensive industry engagement over a prolonged period. They were discussed through National and Route TPR Forums, OPSG, workshops, working groups, formal consultation exercises and direct correspondence. Operators were given repeated opportunities to comment, challenge proposals and suggest amendments.

The evidence demonstrates that comments were not merely received; they were considered. A number of changes were made between Versions 3 and 4 in response to feedback. Additional explanatory material was produced. Certain proposals were amended, refined or clarified as the consultation process progressed.

The fact that disagreement remained following consultation does not establish that consultation was inadequate. Consultation is not a requirement to achieve consensus. It is a requirement to provide consultees with a fair opportunity to understand proposals, respond to them and have those responses considered before a decision is made.

Importantly, Network Rail has seen little evidence demonstrating any material business impact arising from the disputed provisions. They do not themselves remove capacity, reject train services or predetermine future timetable decisions. Any future decision affecting timetable proposals remains subject to Part D and, where applicable, the Decision Criteria.

The Claimants may disagree with the outcome that Network Rail ultimately reached. However, disagreement with an outcome is not evidence of procedural failure.

For those reasons, Network Rail submits that the consultation process was adequate, that the disputed provisions were properly developed and published, and that the appeals should be dismissed.

Thank You