

TTP 2187**Network Rail Infrastructure Limited Sole Reference Document****1 DETAILS OF PARTIES**

1.1 The names and addresses of the parties to the reference are as follows:-

(a) GB Railfreight Limited (Company No. 03118392). Whose Registered Office is at 55 Old Broad Street, London, EC2M 1RX ("GBRF") ("the claimant"); and

(b) Network Rail Infrastructure Limited whose Registered Office is at, 1 Network Rail, Waterloo General Office, London, SE1 8SW ("the Defendant").

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This response to the Claimant's Sole Reference includes:-

(a) Confirmation, or qualification, that the subject matter of the dispute is as set out by the Claimant in its Sole Reference, in the form of a summary schedule cross-referenced to the issues raised by the Claimant in the Sole Reference, identifying which the Defendant agrees with and which it disagrees with.

(b) A detailed explanation of the Defendant's arguments in support of its position on those issues where it disagrees with the Claimant's Sole Reference, including references to documents or contractual provisions not dealt with in the Claimant's Sole Reference.

(c) Any further related issues not raised by the Claimant but which the Defendant considers fall to be determined as part of the dispute;

(d) The decisions of principle sought from the Panel in respect of

(i) legal entitlement, and

(ii) remedies;

(e) Appendices and other supporting material.

3 SUBJECT MATTER OF DISPUTE

Network Rail does not dispute GBRf's right to bring this dispute in accordance with condition 5 of Network Code.

Network Rail confirms that the dispute relates to Network Rail's Decision to publish changes to the following Timetable Planning Rules (TPR):

- 2024 National TPR, Version 2
- 2024 Southern TPR, Version 2

The nature of the dispute, as listed in Section 4 of GBRf's sole reference document (SRD) relates to the inclusion of "BTPF" dates in the National TPR "Calendar of Milestones"; Revised headways along line of route (LOR) SO140, these changes were published in the 2023 V3 document. The dispute regarding Basford Hall was withdrawn by GBRf on 4th April 2023 therefore sections 4.4, 5.9 and 6.2 of their SRD requires no further action.

4 EXPLANATION FROM THE DEFENDANT'S PERSPECTIVE OF EACH ISSUE IN DISPUTE

4.1 Issues where the Defendant Accepts the Claimant's Case

4.1.1 In section 4.5 of the claimants SRD, GBRf say that the subject matter in dispute is revised headways on SO140 published by Network Rail established in V4 2023 TPRs and implemented for the May 23 timetable. Network Rail accept this to be the subject matter in dispute.

4.2 Issues where the Defendant qualifies or refutes the Claimant's Case

4.2.1 Kent TPRs - GBRf state that they have not had adequate demonstration that the revised numbers are accurate or appropriate. NR has provided a number of opportunities for GBRf to be involved in the work and has shared information detailing how the revised values were calculated.

In section 5.10 of the claimants SRD, GBRf say that in V3 2023 TPRs, NR introduced changes to the planning headways on line SO140. Further changes were made in V4 2023 TPRs. NR accepts this statement. The changes in V4 2023 TPRs were clarifying notes as a result of

feedback received from V3 2023 TPRs and further discussions at subsequent TPR forums that GBRf were in attendance. No amendments were made to V1 and 2 of the 2024 TPRs that would affect the December 2023 working timetable.

GBRf also state that they have not been presented with any substantive evidence that NR's alternative proposals are correct and that any review would need to be in parallel with a thorough check of SRTs used by all trains, in particular those for passenger services. NR has undertaken a line of route review of SO140. This has involved looking at the passenger SRTs, dwells and headways. This review was largely undertaken with SET and various parts of NR however all operators were invited to participate in various aspects of it. GTR and FL have taken up this offer in part. No other operators, despite being invited, have taken part. At TPR Forums, the methodology used to calculate SRTs has been shared with all operators including GBRf; this reflects the methodology set out in the National TPRs. Further detail concerning the SRTs for SO140 was forwarded onto GBRf on 31 March 23. This review of headways with passenger SRTs has been done as part of the line of route review. Appendix A "Timeline of events – SO140" contains a timeline of events relating to the revised values.

In section 5.11 of the claimants SRD, GBRf say that extended planning headways, in certain circumstances, are likely to be needed as there are stations only one or two signalling sections apart. NR agrees with the assertion that extended planning headways are needed for stopping trains due to stations only one or two signalling sections apart. The revised headways for this route reflect that, as the stopping headway has been extended for certain sections of the route. GBRf say that without a thorough check on the accuracy of passenger SRTs it is impossible to determine what a correct planning headway should be. NR, with SET, have undertaken a thorough investigation of passenger SRTs using multiple data sources, this included South Eastern OTMR data, observations and signal berth data, containing information from thousands of trains.

GBRf also state that if intermediate dwell times are not stipulated (as a maximum) then the prevailing headway will increase should additional time be incorporated into a schedule. The headways as published, both the previous and new values, assume that stopping trains have dwells in line with the minimum values. If a train were to have an extended dwell, then the actual headway on the day (vice planning headway) would increase. This is regardless of

whether the previous or new values applied. Reverting to the previous values would not stop this situation from happening. This situation could happen anywhere on the entire GB network. GBRf states that this makes specifying numeric headway values difficult if not impossible and that the previous headway values should remain until the exercise is undertaken correctly. NR believes it has undertaken the line of route review correctly. The previous headway values were also numeric so reverting to them would not appear to make any difference to GBRf's assertion that specifying numeric values are difficult. Furthermore, large parts of the entire GB network have numeric headway values.

4.2.2 National TPRs - Better Timetables for Passengers and Freight Users (BTPF) is an ambitious Industry-wide change programme that is transforming the way the timetable is produced, executed, and managed for everyone involved. The timetable is fundamental to the delivery of a safe and efficient railway and the daily experience of passengers, freight operators and their customers.

Implementing changes to Network Code Part D (Part D) is now a critical step in this journey. Network Rail (NR) proposed a set of changes to Part D to the industry in late 2022 via PfC 120. The changes include a move away from the May and December timetable change dates to two timetable change dates to take place in June and October, with an optional intervention point in February with changes by consent. Working Timetable (WTT) development would take place between D-32 and D-18. The timetable development dates before Priority Date have also been amended to reflect the improved way of working.

The planned changes are designed to bring the necessary formal structure back into the industry as is required by the timetabling process and highlighted as critical in the Glaister review into the May 2018 crisis. A return to a regular planning regime is anticipated to result in less short-term changes to planning timescales and as such a more regular timetable output for end users.

The proposal was discussed at the Class Representative Committee (CRC) meeting on 5th January 2023, and 6 out of 8 votes were in favour of accepting the change. This positive vote for change was on the condition of two legal items being resolved with ORR before NR bring the PfC120 changes to ORR for formal approval.

The two items being worked through with ORR are summarised below:

1. Network Licence: Network Rail's Licence needs to be amended to change the reference to provide appropriate, timely and accurate information to train operators at TW-12 as Pfc120 will see this information provided at TW-8. A number of agreed steps are in place with ORR to progress this modification and ORR are in the process of getting ready to begin consultation on the change. Current plans show this consultation completing in July 23.
2. Access & Management Regulations (the Regulations): The definition of 'working timetable period' refers to a change taking place on the second Saturday in December in The Regulations. A clause does exist to enable the infrastructure manager to use different timetable change dates and ORR have requested NR to gain an external legal opinion on the interpretation of this clause which it has done. Agreed steps are in place with ORR to have resolved this issue in April 23.

Both items are being positively worked though between NR and ORR and we expect to be able to resolve both satisfactorily before Pfc120 changes are brought to ORR for endorsement in Summer 23.

Network Rail dispute the assertion made by GBRf in paragraph 5.2 that "it would have been perfectly feasible to revert to Part D timescales for the December 2022 and May 2023 timetables". As part of the consultation of Pfc120 Part D changes, BTPF outlined that recovery plans would need to be developed and implemented to return the planning of future timetable change to comply with the procedures set out in the current Part D. It was anticipated that it would take between 9 to 12 months for the whole industry planning community to return to compliance with the current procedures set out in Part D. Whilst a national framework for recovery would be established, there would be localised pockets of divergence from the plan and there is a need to recognise the additional pressures that this would put on the planning teams and the development of suboptimal timetables. If there is a need to revert to Part D timescales, there would be a cost for extra planning resource to undertake the recovery work.

A concern with returning to the current timescales set out in Part D is that the industry planning community takes a backwards step with collaborative behaviours and alignment to deliver joint goals. Post May 2018 and during the planning community's response to COVID the planning teams have come together and worked much more collaboratively to aligned goals, this method of working has delivered stronger relationships, a greater level of openness and a flexible approach to timetable change that better aligns to the passenger and freight end user demand.

Since the positive CRC vote in January 23 and taking active steps towards resolving the two ORR items, NR have now moved PfC120 changes from planning to implementation stage. In response to GBRf's position in paragraph 5.3, NR have proactively shown the PfC120 changes in V2 2024 National TPRs to provide clarity to industry about the timetable development dates post the December 2023 timetable change. PfC120 was submitted with a clear ambition to be in a position to use the new Part D timescales to support the June 24 development period, hence the need to set the new timetable change date as 02nd June 24 and show the new timetable development dates in V2 2024 National TPRs.

It is NR's view that the provision of these development dates is in alignment with the outcome of the CRC vote. If the PfC120 development dates were not included in the TPRs for timetable changes in 2024, a void after the December 2023 timetable change would have been created and lead to an elongated period of uncertainty for the industry. Whilst the addition of these dates into V2 2024 National TPRs may not have been highlighted specifically, NR has clearly demonstrated its intention to implement the CRC supported PfC120 dates through various industry forums and two update briefing packs from BTPF shared with industry in March and April 2023.

NR does concede that it would have been more informative to include a comment at the top of the development dates to clarify that the dates refer to the PfC120 changes that are awaiting formal ORR approval. In light of this, NR is issuing V2.1 2024 National TPRs w/e 14th April 23 to include wording to that effect.

It is worth noting the constantly changing environment that the timetable planning community has been working in since Covid, and that the level of change has continued to increase in the last 12 months in response to industrial action and DfT undertaking annual business planning activities at varying timescales. At times, this has led the industry to work to different planning

timescales in an effort to provide the most efficient and effective timetabling response to moving requirements for both the Working Timetable (WTT) and short terms plans. A sub-group of OPSG put together the proposals for amended development dates for the December 2022, May 2023 and December 2023 timetable development periods. This shifting landscape along with its impact on planning process and timescales has been openly raised at a variety of industry forums such as, Operational Planning Strategy Group (OPSG), Operational Planning Practitioners Group (OPPG) and Industry Timetable Change Programme Management Office (PMO). Due to this, NR were not in a position to confirm timetable development dates at D-73 for the 2024 timetable year.

5 DECISION SOUGHT FROM THE PANEL

5.1 Network Rail requests that the panel should uphold the decisions that:

- (i) Network Rail believes that it has followed process and National TPR methodology in calculating for the May 23 working timetable the revised values for SO140 and as such, asks that the Panel determine that the values currently published in V2 of the 2024 TPRs remain.
- (ii) Endorse the approach by NR to include the PfC120 development dates to show the intended future process in the National TPRs with the caveat that these dates are reliant on formal ORR approval of Part D changes.

6 APPENDICES

The following appendices are attached separately:

Appendix A – Timeline of events – SO140.docx

7 SIGNATURE

For and on behalf of
Network Rail Infrastructure Limited

Signed *M. Allen*

Print Name *M. Allen*

Position *Head of Finance Operations of Network Rail*