

### Point 1.

The following is a chronological timeline and background of events from GBRf perspective:

17th June (AM): GB Railfreight received a Decision Notice to cancel Week 18 possession 4005032, which had been previously published in all engineering publications. Work content was mainly around the HS2 project on the infrastructure.

17th June (PM): GB Railfreight received an email (with some other operators) advising that a 3rd party contractor wished to retain some of the access to work on a structure. It wasn't clear at this point exactly how much access Network Rail are querying affected operators about.

17th June (PM): GB Railfreight replied to advise that we would not be able to accept the access.

27th June (PM): GB Railfreight set out the services affected by the access and that we requested the work content (now changed) to be amended to "between trains", allowing our services to operate booked route. Since our response on the 17th June, our rostering and operations team have further confirmed the capacity issues and our ability to robustly operate the additional run-round movements with already planned Hams Hall services as well as our resource constraints.

04th July (PM): GB Railfreight received a Decision Notice, which replicated the full blockade that was originally planned for trackwork, but now to remove scaffolding. Note there has been no formal request for this access for the work being carried out, therefore is not a legitimate use of the Late Notice Possession process, which is as follows:

- Network Rail should propose/request a Late Notice Possession to all rail participants.
- Following receipt of the request, operators should have 2 weeks to respond, this can be curtailed if necessary.
- If the access is acceptable by all rail participants Network Rail will issue a Decision Notice.
- Affected operators bid accordingly around the access published in the Decision Notice.

As set out in Condition 3.4.10 (b), "Network Rail shall specify the aspects of the Access Proposal which need to be revised and its reasons for this". Whilst Network Rail has communicated with some operators, it is clear to say that on the email we received off Network Rail on the 17th June, there is a lack of detail about what lines are being requested and for how long. GB Railfreight had received an email requesting some access, however it was far from clear exactly how much for the work being carried out.

Therefore Network Rail has failed to properly consult a Restriction of Use showing the actual access requirements to a likely impacted Timetable Participant and has not followed Part D as is Network Rail's legal requirement. It is, therefore, not possible for Network Rail to even look to apply the Decision Criteria as consultation has not been deemed to be undertaken. The Network Code requires that, before a Restriction of Use is planned, there is adequate consultation by Network Rail with all Timetable Participants likely to be affected, viz:

3.4.4 The procedure referred to in Condition D3.4.3:

(a) must require that no amendment to the Rules may be made unless Network Rail has consulted with all Timetable Participants likely to be affected by such an amendment;  
and that the Decision Criteria must be applied.

### Point 2.

GB Railfreight customers will be heavily impacted by the access as it is most likely the services will need to be cancelled because we simply do not have the capacity or people to handle the required run rounds.

Currently we are operating the affected WTT services 5 days a week on the affected flows. The train services listed below in bold are the affected services that would need to be diverted via Hams Hall Reception Lines and below that are the services they will conflict with. The Reception Lines are part of a private site and we cannot simply add additional services to run round. The additional services at Hams Hall will completely will decimate the performance of all the planned services that actually serve Hams Hall Terminal.

Monday

#### **4D68, 03:39 Wembley Receptions 1-7 to East Midlands Gateway 08:32**

Required to run round at Hams Hall when 4M13 from Felixstowe and 4G67 from Seaforth are due to arrive (and 4L24 run-round)

#### **4L24, 05:36 East Midlands Gateway to London Gateway 12:01**

Required to run round at Hams Hall when 4M13 ex Felixstowe and 4G67 ex Seaforth are due to arrive.

#### **4L68, 13:57 Birch Coppice to London Gateway 21:24**

Required to run round at Hams Hall when 4L53/4O32 are forming up to depart, and 4L07 booked to run round too. This may also knock onto 4M29 RRs and 4M23 arrival.

Tuesday, Wednesday, Thursday & Friday

#### **4M68, 01:46 London Gateway to Birch Coppice 07:54**

Required to run round at Hams Hall when 4M13 ex Felixstowe and 4G67 ex Seaforth are due to arrive (and 4L24 run-round).

#### **4L24 05:36 East Midlands Gateway to London Gateway 12:01**

Required to run round at Hams Hall when 4M13 ex Felixstowe and 4G67 ex Seaforth are due to arrive.

#### **4L68, 13:57 Birch Coppice to London Gateway 21:24**

Required to run round at Hams Hall when 4L53/4O32 are forming up to depart, and 4L07 booked to run round too. This may also knock onto 4M29 RRs and 4M23 arrival.

### Determination

1. Network Rail is in breach of its Track Access Contract as it has failed to carry out its duties as stated in the National Timetable Planning Rules and the Network Code.

2. Direct Network Rail to re-plan the access none disruptively.

3. If Network Rail is found to be in breach of contract, GB Railfreight be awarded costs and damages arising.

### Point 3.

GB Railfreight do not believe exceptional circumstances apply.

### Point 4.

GBRf is happy to agree to a brief summary of the proposed determination.

Please note that we believe Direct Rail Services (DRS), Freightliner, DB Cargo will be an interested party in this matter.

Yours sincerely,



**Darren Pell.**

**Engineering Access Planning Manager.**