

Third Directions and Rule H18(c) Note issued on 03 October 2025

1. I am grateful to Network Rail ('NR') for submission of its Sole Reference Document ('SRD'). A number of issues arise which I think helpful to discuss now to assist the Parties to prepare for the hearing.

6L34

2. It is clear that this issue needs further discussion between the Parties. It is not clear why this cannot be achieved before the date of the hearing, but if such further discussion cannot be held by then, I have concerns about NR's proposed remedy and the order which it is seeking in paragraph 5.1 of its SRD. If the proposed discussions between NR and GB Railfreight (GBRf) were not to resolve the issues, then NR proposes that the matter should be referred back to a timetable dispute. It is not clear to me, however, what mechanism exists to start a fresh timetabling dispute on what is clearly a timetabling matter so long after the date for registering an appeal has passed.
3. My preliminary view, therefore, is that this TTP should determine those matters which can be finalised at the hearing, but then adjourn in respect of 6L34, setting dates by which the Parties must report progress to the Secretary. If the matter does require a hearing to be determined, then this is the properly constituted TTP to do so.
4. I propose to deal with this as a preliminary matter at the opening of the hearing before the Parties make their opening statements on the other issues.

6D67 and 6H55

5. Of course I have not heard submissions, but without wishing to be unduly simplistic, it seems to me that the question to be determined is whether the non-contractual associations to which NR points to support its case, can affect the Minimum Turn Around at Origin or Minimum Turn Around Time at Destination, which NR admits in its SRD are not met. The application of the Decision Criteria has not been raised in relation to these two Train slots.
6. The Parties should be prepared to deal with this question at the hearing.
7. Should the TTP determine that contractual terms have been breached it would welcome proposed solutions from the Parties.

6V96

8. At the hearing GBRf will be asked to confirm whether it agrees with NR that this service has not operated since 04 March 2020. Does GBRf now have a demand from its customer (presumably only likely to be the Ministry of Defence ('MoD') given the originating and destination points) to operate this service? If so, what frequency is required?
9. If, however, there is no demand from the MoD, can this Firm Right be said to be exercised?
10. The provisions under Condition D8.5 do not apply to Firm Rights, but given that NR's position is that this service has not operated for over 3 years, NR will be asked to explain why it has not taken

any steps under Part J or the provisions of GBRf's Track Access Contract to have this Firm Right relinquished or surrendered.

Rule H18(c) Note

The issues to be determined are a mixture of fact and contractual interpretation, rather than raising any point of law.

[Signed on the original]

Clive Fletcher-Wood

Hearing Chair TTP2684