

RAIL FREIGHT INDUSTRY CODE OF PRACTICE

ACCESS PROVISIONS

A. Objectives of the Code of Practice

1. To set a common process for third parties gaining access to freight sites.
2. To explain the obligations of both the Applicant and the Facility Owner during the access process.
3. To promote the efficient use of freight sites and reflect the interests of Facility Owners, beneficiaries, tenants and customers.

All parties adopting this Code of Practice shall act reasonably and in a non-discriminatory manner.

It is **not** the purpose of this Code of Practice to include processes for the operation of trains once access to a freight site has been granted.

B. Governing Legislation and Guidance

The primary legislation and guidance notes pertaining thereto are as follows:

- Railways Act 1993 (as amended) (“the 1993 Act”)
- Railways Infrastructure (Access and Management) Regulations 2005 (“the 2005 Regulations”)
- Guidance on Appeals to ORR under the Railways Infrastructure (Access and Management) Regulations 2005.” This document can be found at the following location: <http://www.rail-reg.gov.uk/upload/pdf/275.pdf>

The EU is currently recasting the First Railway Package and additional and amended legislation is anticipated. This Code of Practice will be updated to reflect legislative changes.

C. To Whom and What is the Code applicable?

1. The 1993 Act granted rights of access to freight sites owned or operated by British Railways Board prior to 1 April 1994.
2. The 2005 Regulations extended access rights to include all terminals and ports (Regulation 6) and services (Regulation 7). Schedule 2, subject to the requirements of Regulation 7, lists services to be supplied by Facility Owners to Applicants. Certain rail facilities are excluded in accordance with Regulation 4 (d) of the 2005 Regulations.
3. This Code of Practice applies to all freight sites in Great Britain other than those that are exempted from the legislation set out in C1 & C2 above.

D. Contact Points

1. Each Facility Owner shall provide contact details of 2 nominated individuals who will be responsible for dealing with access applications. The lead contact point shall be specified.

E. Facilities Access Requests

1. Applicants shall submit requests for access to the nominated representative of the Facility Owner concerned. Details relating to the following shall be provided as part of the application.
 - Name of freight site(s).
 - Commencement date.
 - Frequency of access.
 - Term of access.
 - Train service characteristics (in particular train length, wagon types, number of containers/volume of product)
 - Path details (in particular, estimated arrival and departure times).
 - Additional services requested (in particular number of container lifts, storage requirements, details of lorry movements)
 - Ancillary services requested (in particular wagon or load inspections, fuelling, shunting).
 - Dangers or environmental hazards associated with train service.
2. Facility Owners shall use reasonable endeavours to respond to Applicants within 10 working days in one of the following ways.
 - a. Accept request.
 - b. Accept request in part (giving reasons for partial acceptance).
 - c. Request further information (along with reasons why this information is required).
 - d. Refuse request (giving reasons for such refusal).
 - e. Request further time to consider the request (giving reasons why further time is required and a revised timescale for response).
3. Both parties will be expected to work constructively together to achieve mutually acceptable outcomes. Facility Owners are required to advise applicants of any known restrictions affecting the facility (e.g. Town & Country Planning, environmental issues, lease termination date etc.), which might affect the access being sought or granted.

F. Freight Site Capacity

1. It is desirable for freight sites to be used in such manner as to maximise capacity whilst taking account of the interests of existing users, tenants and customers.
2. Should an application be refused on the basis of insufficient capacity, the Facility Owner will provide details of why there is insufficient capacity and both parties should work together to identify and agree possible solutions (including reasonable alternatives).

G. Site Visits

1. Requests for site visits or meetings to allow applications to be discussed or validated should be agreed in advance. The Facility Owner shall respond to any such request from an Applicant within 10 working days and offer a site visit or meeting within the following 10 working days during normal working hours. If the Facility Owner is unable to facilitate a site visit or meeting within this timescale, reasons must be given.
2. Applicants are responsible for reasonable exceptional costs incurred by Facility Owners in evaluating access requests, and where possible such costs should be agreed in advance.

H. Charging Arrangements

1. The Facility Owner will provide a proposed charge within 10 working days of receipt of the Applicant's application. Any such charge shall be based on the reasonable costs of provision of the service (including a reasonable proportion of the long term costs of the facility) plus a reasonable rate of return.
2. Such evidence as is reasonably necessary to justify the level of charges at a freight site will be made available by the Facility Owner upon request.
3. Charging arrangements must be non-discriminatory and may be set on the basis of a national formula, individual facility arrangements or a combination of both. Facility Owners should make clear whether or not a contribution to future renewal or investment costs is included within the charge.

I. Methods of Working

1. Unless the acceptance of an application warrants a change to the Facility Owner's Safe System of Work ("SSoW"), the Applicant will be required to agree and sign a copy of the existing document in advance of access being granted.
2. Where the acceptance of an application warrants a change to the SSoW, the parties (including any other relevant users of the site) shall work together in a reasonable timescale to identify and agree appropriate revisions. Access will only be granted once all affected parties have agreed and signed an amended SSoW.

J. Short Notice Ad-hoc Access

1. **The Facility Owner shall use reasonable endeavours to accommodate short notice and/or ad-hoc access requests. Facility Owners shall use reasonable endeavours to respond to any such request, including details of applicable charges, within 2 working days.**
2. **Access terms for such short notice access will be agreed between the parties by exchange of emails or letters which, for very short notice requests, may be between the Facility Owner's and Applicant's respective Operations Control offices.**
3. **Any such access will be subject to the Applicant complying with the Facility Owner's safe System of Work.**

K. Facilities Access Agreements

1. The Applicant and Facility Owner are required to enter into a Facilities Access Agreement at the earliest date which is reasonably practicable in compliance with [The Freight Facility \(Ports and Terminals\) General Approval 2011](#) or submit the agreement to ORR for approval.

L. Records

1. Applicants and Facility Owners shall retain relevant records of dealings and timescales for responses which should be made available to other parties upon request.

M. Disputes

1. Should Applicants consider the Facility Owner to be acting unreasonably in respect of any of the elements contemplated by this Code of Practice, they may refer the matter to ORR in accordance with the provisions of the relevant legislation.