

30 November 2015

Mark Carne
Chief Executive
Network Rail Infrastructure Limited
One Eversholt Street
London
NW1 2DN

Dear Mark

SECTION 57C OF THE RAILWAYS ACT 1993: FINAL DECISION ON PROPOSED PENALTY SUM

I am writing to inform you that we have reached our final decision in relation to the proposed penalty sum notice (the notice) published on 10 August 2015 following our finding that Network Rail (NR) breached condition 1 of its licence in relation to its delivery of performance to GTR and Southern services in 2014-15.

In accordance with the Railways Act 1993 we set a consultation period following publication of the notice with a deadline for responses of 1 September, which was subsequently extended to 11 September following a request from NR. We received NR's formal response to the consultation on 11 September in which it set out its intention to offer a reparation fund, the details of which could be provided by the end of October. In September, our Board agreed to give NR further time to provide a more detailed offer of a reparation fund. We received further details of this reparation fund in NR's subsequent letters of 13 and 18 November. We have also taken account of the views of Transport Focus and London TravelWatch in response to NR's proposed reparation schemes.

The Board considered all representations received in response to the notice and ORR's regulatory policies and statutory duties and determined that NR's offer to fund a package of performance improvements schemes¹ costing a total of at least £4.1million complies with our reparations criteria².

Having reached this decision the Board then went on to consider if the proposed penalty sum should be mitigated in light of its acceptance of the reparation fund. Given that the range of schemes proposed target both immediate performance improvements and long term benefits for passengers (and the level of funding NR will provide to deliver these) the

¹ NR's Reparation Schemes as set out in its letters 13 and 18 November :

- Station management and Incident response
- Customer management
- Tactical workstream to improve incident management service recovery
- Strategic workstream to implement Incident Management System

² ORR reparations criteria sets out a reparation offer will be judged against whether it is: genuinely additional, appropriately targeted and proportionate to the harm done (as far as practicable); deliverable.

Board agreed to accept NR's offer in lieu of the proposed penalty of £2million because it did not believe that imposing the penalty would further incentivise NR to comply with its licence.

We will be monitoring the implementation and delivery of the reparation fund schemes as a customer reasonable requirement under our existing performance monitoring regime to ensure NR is being held to account for their delivery for the benefit of passengers. This may include, if necessary, using an independent reporter to audit NR's delivery. Our relevant teams will be in contact with NR shortly to discuss the details in taking forward this monitoring work.

In conclusion, we consider that the fund and its package of schemes will provide a range of benefits for those passengers affected by NR's poor performance issues on the GTR (and formally Southern) services in 2014-15. We also welcome NR's commitment to review the station and customer management elements of the fund and provide further funding for these schemes if sustainable improvements can be delivered.

A copy of this letter and associated correspondence will be published on our website.

Yours sincerely



Richard Price
Chief Executive



Alan Price
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

1 Eversholt Street
London
NW1 2DN

T: +44 (0) 33 085 43815
E: phil.hufton@networkrail.co.uk

13 November 2015

Dear Alan

Operational Performance Reparations Fund

In response to ORR's formal notice, issued on 10 August 2015, Network Rail has offered to establish a reparation fund of at least £2 million for additional performance improvement schemes in the South East of England in lieu of a fine.

We fully appreciate that the reparation fund is to be targeted on service performance improvements for GTR passengers. Performance is not where it needs to be and we recognise the need to take immediate action which will deliver the fastest possible benefits to passengers.

TfL Rail is a template for sustained performance improvement

TfL Rail took over operation of the Great Eastern Metro services from Abellio Greater Anglia on 31 May 2015. In the short period until 1 July 2015, an immediate PPM improvement of around six percentage points was achieved, reaching a level not seen since 2011. In order to achieve this, TfL Rail focussed on five areas: Station management; fleet management; train driver numbers; improved incident response; and customer management.

Performance improvement highlights are¹:

- Reduced PPM failures across nearly all causation groups (e.g. non-track assets)
- 10 per cent improvement in right time starts from origin
- Reduced delay per incident.

¹ Study period p1 -5 2015/16

We firmly believe that the improvements achieved by the TfL Rail approach could be duplicated by LSE to most effectively replicate a step change in performance, customer service and passenger information.

The table below describes, in more detail, the schemes implemented by TfL Rail. We propose to use the reparations fund to deliver three of these schemes; station management; incident response and equipment and customer management. Furthermore, we are working collaboratively with GTR to deliver the remaining two schemes: fleet management and drivers. GTR has an ongoing fleet reliability improvement programme, on which they report progress to our Alliance Board, which ORR has attended as an observer. We are aware that GTR has existing recruitment and training programmes in place for train crew but we would welcome your support in the engagement with DfT to augment and accelerate these existing programmes.

Scheme	TfL Rail scheme	GTR Reparations fund action
Station management	Employment of additional station dispatch staff, trained in suicidal behaviour awareness. Further vigilance strengthening through employment of Land Sheriffs (using the Network Rail model but with station focus). Prolonged staff presence from before the first train to after the last.	We will re-purpose our Land Sheriffs in Sussex with a station focus working closely with the operator.
Incident response	Increased MOMs and track response teams.	We will reverse our decision to curtail Land Sheriffs and dedicated track response teams.
Equipment and customer management	TfL Rail has introduced iPADS for all drivers enabling live updating and taken a proactive approach to customer management during disruption (e.g. water provision during hot weather).	We will strengthen staff numbers further at the major London termini stations and improve information displays.
Fleet management	Strengthened fleet maintenance supervision (core maintenance is currently provided by Abellio).	No direct action but GTR programme progress managed through the Alliance Board.
Drivers	Where possible within rostering needs, there are planned spare drivers at key locations during peak hours.	No direct action but existing programmes need support to expand and accelerate.

We have assessed this proposal against the criteria set out in your letter of 28 September and believe that this proposal meets ORR's criterion for the following reasons:

- **Genuinely additional:** After the problems experienced by passengers over Christmas 2014, we put additional, non-business as usual, resources in place to improve the passenger experience by upgrading our incident response ability. Cost challenges mean that we currently plan to curtail this additional Land Sheriff resource and the dedicated track response teams. Having seen the obvious benefits that TfL Rail has achieved through deployment of this additional resource, we strongly believe that using the reparations fund to reverse this decision will be effective. Furthermore, the plan to strengthen staff numbers at major London termini is also additional as there are no plans or funding currently in place to deliver this initiative. These schemes are supplemental to those set out in our Case to Answer response to ORR on 30 July 2015
- **Appropriately targeted:** The benefits of this plan are aimed directly at GTR passengers. The proposed increase in staff presence at stations through re-purposing of Land Sheriffs and strengthening staff numbers is intended to improve customer access to information and also to drive up vigilance at stations
- **Deliverable:** We are committed to immediately progressing these schemes in order to begin to deliver benefits to passengers before Christmas 2015. The station management and incident response schemes involve a redeployment of existing staff and can therefore be readily implemented. The additional staff required to deliver the improvements to equipment and customer management will be recruited via a contracting agency and will be on boarded as part of the Christmas 2015 readiness activities
- **Proportionate to the harm done:** Strengthening staff numbers to address the service-affecting issues in the table below will target a reduction in PPM fails for these categories. Whilst it is extremely difficult to model an impact on PPM fails as a result of greater station vigilance, we strongly believe that the scale and timeframe of delivery of these improvements acts to redress the poor passenger experience caused by operational underperformance.

Reason code	GTR PPM Fails	GTR PPM Loss
Fatalities and or injuries sustained on platform result of struck by train or falling from a train	343	0.03%
Trespass	2746	0.24%
Fatalities and or injuries sustained on platform result of struck by train or falling from a train + Trespass	3089	0.27%

Following the Jane Simpson report, we established a benefits realisation model. We will regularly review and monitor the benefits of these schemes, using this model as the benchmark. If there is a demonstrable positive benefit we will commit to funding the continued delivery of these schemes, beyond the £2 million reparation threshold, such that sustainable improvements can be delivered.

In addition to our proposal for the reparations fund, and following consultation with both GTR and Southeastern, we have jointly established a shortlist of schemes which would form part of the LSE Route Performance Improvement Programme (LSE PIP). Further details of the LSE PIP schemes are included in the Appendix.

These schemes all contribute to driving our business as usual activities forward. Following rigorous assessment of each scheme we propose to prioritise the delivery of the two schemes that aim to improve incident management: the tactical workstream to improve incident management service recovery and customer communication and the strategic solution to implement the Incident Management System (IMS). These two incident management workstreams are inherently interconnected. The benefits of implementing IMS will be optimised by the completion of the process improvement through the tactical workstream. We anticipate that, assuming the implementation of IMS commences in May 2017, a PPM benefit of the roll out of both schemes of 0.43 per cent would be realised by the end of financial year 2016/17 and a larger impact of 1.46 per cent would be realised by the end of financial year 2017/18.

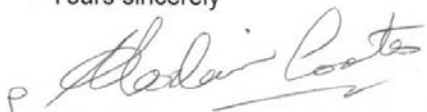
We are committed to pursuing both the schemes within the TfL model and prioritising the incident management schemes within the LSE PIP. Both incident management schemes are being proposed by LSE Route for approval as costed options in addition to our business as usual plans. We propose to fund the TfL Rail related activities through the reparations fund as we believe these most immediately deliver a step change improvement to passengers in terms of improved performance, better customer service and passenger information.

Following agreement from ORR on the proposed use of the reparations fund we will establish a ring fenced fund which will be managed by Neal Lawson. We will report on progress through the Network Operations DLM.

We have contacted the nominated individuals at Transport Focus and London Travelwatch but have yet to receive a formal response. We will keep them updated on our progress.

I am copying this letter to Patrick McLoughlin, Claire Perry and officials at the DfT, Sir Peter Hendy, Mark Carne and Patrick Butcher at Network Rail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Phil Hufton', with a horizontal line underneath.

Phil Hufton
Managing Director, Network Operations



Alan Price
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

1 Eversholt Street
London
NW1 2DN

T: +44 (0) 330 8543815
E: phil.hufton@networkrail.co.uk

18 November 2015

Dear Alan

Operational Performance Repairs Fund

Further to our letter of 13 November 2015 and subsequent conversations held between ORR and Network Rail, I am writing to you to further clarify the proposed use of the reparation fund that we intend to establish in tandem with other performance enhancing schemes.

We firmly believe that the quickest and most effective improvements can be delivered through emulation of the approach TfL Rail took to improving performance on the Great Eastern Inner Metro. We also propose to take forward the IMS tactical and strategic solutions that form part of the LSE PIP. With ORR's support we are therefore intending to take forward a package of measures which are described more fully below.

By way of summary we are committing to GTR additional performance enhancing activities totalling approximately £4.1 million. Taken together, we believe that these schemes will deliver immediate performance improvements for GTR passengers and create the opportunity to deliver sustained long-term benefits. Our intended approach is described more fully below.

Firstly, and subject to ORR's acceptance of our proposals, we intend to deliver as many of the initiatives as we can from the suite of schemes that were previously implemented by TfL Rail.

Given the scale of passenger growth on the LSE route which has contributed to increases in subthreshold delay, we believe that the most effective immediate use of the reparations fund is to immediately address these issues through the provision of additional resource.

Through the activities that are within the direct control of Network Rail, we intend to increase the presence of staff both at managed stations and on trains and also increase the number of track response workers, as detailed below:

- In order to target a reduction in fatalities, suicides and trespass, we intend to fund additional Land Sheriff shifts, focussed in stations and on trains. Additionally, we believe, a greater Land Sheriff presence on stations and trains will help to improve the flow of passengers, and in turn improve the efficiency of train departures and better manage situations where passenger behaviour can cause delays to services.
- An increase in the number of track response workers will reduce incident response times.
- Rolling contract staff at Victoria station beyond the Christmas blockade will primarily target the provision of improved passenger information and better customer service. These contractors are also trained in crowd control and this forms part of their remit when these situations arise.

For those initiatives that we do not directly control:

- Through our weekly joint visualisation process and monthly alliance board we will work with GTR to deliver the expansion and acceleration of the existing driver recruitment and training programmes.
- We will also continue to work collaboratively with GTR to strengthen fleet management and increase train maintenance discipline.

As discussed with ORR colleagues, whilst it is extremely difficult to model the performance impact of these initiatives, we believe that the full suite of schemes outlined above will have a positive impact on PPM and CaSL, as evidenced by TfL Rail following implementation. More resource in stations and on trains will contribute to improved passenger flows through stations and prevention of suicides, fatalities and trespass.

An increase in track workers will allow us to respond more quickly to operational and criminal incidents (i.e. cable theft) when such events occur. Furthermore, additional drivers at key locations will increase right-time departures and a strengthened fleet management resource will reduce delays caused by maintenance issues.

The table below sets out the costs of the additional resource that we will deploy in order to deliver those schemes where we have direct control. To determine the costs for the drivers' scheme and the fleet management scheme will require further work alongside GTR.

Summary: proposed schemes to be funded through reparations

Scheme	Additional activity*	Cost	Cost incurred from	PPM Gain	Year Benefit Realised
Station management and Incident response	Additional resources within the Brighton DU and Croydon DU: <ul style="list-style-type: none"> Land Sheriff shifts Dedicated track response 	£128,205 per period	Dec 2015	TBC	2015
Customer Management	We propose to roll on the contract with SES after the Christmas 2014 blockade (Victoria station only)	£25,540 per period	Jan 2016	TBC	2016

*Staffing and shift details as provided in e-mail correspondence to Nigel Fisher on 17th November.

Subject to ORR's acceptance of our proposals, we are committed to deploying these additional resources at a total cost of approximately £2 million.

It is proposed to review progress quarterly to determine whether the anticipated benefits have been realised (as set out in our letter of 13 November) and if there is a demonstrable positive benefit we have already set out that we will commit to funding the continued delivery of these schemes beyond the £2 million threshold, such that sustainable improvements can be delivered.

Secondly, this clarification solidifies the proposals made in our letter of 13 November regarding the LSE PIP and the delivery of the two schemes to improve incident management:

- the tactical work stream to improve incident management service recovery, and
- the strategic solution to implement the Incident Management System (IMS).

I can confirm, subject to satisfying internal governance arrangements, we intend to move forward with these initiatives since we are confident that a positive business case exists. These schemes, total approximately £2.1 million, and will be funded by the Route in addition to the reparation funded schemes as outlined above. In the table below, I summarise the schemes that we would take forward on this basis:

Summary: LSE PIP schemes

Scheme	Additional activity	Cost	Cost incurred from	% PPM Gain	Year benefit realised
IM recovery and customer communication	PIP will map and improve current processes for incident response and service recovery. PIP will ensure that customers receive appropriate communications during an incident, allowing them to make the best possible decisions for their journey.	£0.6 million opex	2016	0.43	2016/17
IMS	IMS utilises agreed standard work-flows for every conceivable abnormal scenario, which will allow for effective and consistent control, helping to consolidate various data sources in order to reduce primary and reactionary delay.	£1.5 million capex	2017	1.03	2017/18

We are confident, that taken together, the initiatives outlined above, and the substantial financial commitment to performance improvement that they represent, satisfies the assessment criterion as outlined in your letter of 28 September. However, should require any further clarification regarding our proposals, please do let myself or Alasdair Coates know as soon as possible.

Yours sincerely



Phil Hufton
Managing Director, Network Operations