

Statement of compliance with the pre-release access to Official Statistics Order 2008

Introduction

1. This statement sets out the Office of Rail Regulation's operational arrangements for giving the Secretary of State for Transport and Office of Rail Regulation CEO, pre-release access to official statistics once they are in their final form prior to publication. These arrangements are designed to ensure that such access is justified, limited, controlled and publicised and complies with statutory requirements. Their purpose is to maintain public confidence in the integrity of official statistics while allowing the Secretary of State for Transport and Office of Rail Regulation CEO, to comment immediately on the implications of statistics covering policy areas for which they are democratically responsible.

Exclusion

Different arrangements apply to the Secretary of State for Transport and Office of Rail Regulation CEO, and officials' access to the organisation's own administrative or management data where those data subsequently form the basis for published official statistics. These arrangements are set out separately; please view ORR's statement of administrative sources within the code of compliance page for further information.

Authority

2. These arrangements have been drawn up by the Organisation's Head of Profession for Statistics in consultation with the responsible Secretary of State for Transport and Office of Rail Regulation CEO. The Head of Profession for Statistics is also responsible for ensuring the day-to-day implementation of these arrangements.

General principle

3. The Organisation operates under the general principle that pre-release access to official statistics must be:

- limited to the minimum number of persons deemed necessary to allow the responsible Secretary of State for Transport and Office of Rail Regulation CEO, to either:
 - provide responses to questions, or make statements about those statistics at, or shortly after, their time of publication;
 - take action just before, at, or shortly after the time of publication.
- allowed in those circumstances where the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from so doing.

Grant of advance access

4. The arrangements set out in this statement are confined to those persons who meet the eligibility criteria set out in **Annex A(i)** attached. Recipients can, in addition, share their access with their immediate administrative support staff even though those staff may not directly engage with the statistics in question. Their advance access is limited to statistics which meet the eligibility criteria set out in **Annex A(ii)** attached, and which are in their final form prior to being published for the first time.

Documentation and publication

5. In the interests of openness and transparency, the Organisation maintains a public record on its website listing the titles of all the statistical releases to which these arrangements apply, as well as the job titles of all those persons to whom pre-release access has been granted, and the organisations to which they belong.
6. To view the complete list of official statistics to which this Statement applies, click on the following link. Clicking on the title of each release will show a list of which persons have been given access to each release. (The justification for giving advance access to each listed recipient is available on request).

<http://www.rail-reg.gov.uk/server/show/nav.1863>

Period of access

7. In line with the legislation, pre-release access to the organisation's official statistics is restricted to a maximum of 24 hours before their public release on the following day – usually at 09.30
8. In exceptional circumstances only, and in accordance with Principle 5 of the Pre-release Access to Official Statistics Order 2008, the Head of Profession for Statistics may grant pre-release access in excess of 24 hours. They will only do this if, in their opinion, the public benefit outweighs the detriment to public trust which is likely to result from such extended access. When this happens, the Head of Profession will publish on their organisation's website their reasons for

granting extended access, and will also inform the UK Statistics Authority's Chief Executive – the National Statistician.

Conditions of access

9. Those persons who are given access to the Organisation's official statistics ahead of their release must keep the statistics secure and under embargo, and they must abide by the following conditions of access. They must avoid:
 - disclosing the statistics or any part of a publication containing those statistics to any person not listed as a pre-release recipient;
 - providing any indication of the size or direction of any trend revealed by the statistics;
 - using such access for personal gain, or taking any action for political advantage;
 - exploiting such access to change or compromise the content, presentation, or timing of publication of official statistics.
10. Where the statistics in question are market-sensitive, each recipient must sign a declaration to the above effect.

Special circumstances

11. Aside from the circumstances described above, the Head of Profession may also allow access to statistics ahead of their release to a limited number of persons in a limited number of special circumstances, sometimes for more than 24 hours. In each case, such access will be documented in the relevant release. For example:
 - access may be given to the compilers of complementary reports due to be published at the same time as, or shortly after the statistics so that they can incorporate the latest available figures. Such access may also be longer than 24 hours;
 - international organisations may gain access in order to compile supra-national statistics;
 - journalists may be given access to complex or compendia releases in order to give them time to absorb and understand the significance of a given release. Such access, however, will never exceed 24 hours;
 - in exceptional circumstances, pre-release access may be extended to someone who is not an 'eligible person' as defined in the Order. In which case the UK Statistics Authority will be informed and the reason for such exceptional access published.

Breach of conditions of release

12. In the event where an organisation becomes aware that a lapse in release practices for any of their designated 'National Statistics' has led to a **substantive** breach of the principles and rules set out in the legislation and described in this Statement, the Head of Profession for Statistics will notify the

UK Statistics Authority's Chief Executive (the National Statistician); take action to prevent a recurrence; and provide the Authority with a written explanation using the Authority's standard reporting form. The National Statistician may decide to conduct an inquiry on behalf of the Authority, the results of which will be posted on the Authority's website. In the case of minor breaches, or genuinely accidental breaches which have no major repercussions, the Head of Profession may deal with the matter informally.

Sanctions against non-compliance

13. The Organisation's Head of Profession for Statistics may, for a period, withdraw pre-release access from any person judged to have breached the conditions of their access.
14. In addition, a heavier sanction can be imposed by the UK Statistics Authority which has a statutory duty to assess the extent to which any organisation's 'National Statistics' comply with the *Pre-release Access to Official Statistics Order 2008* and with the associated obligations set out in this Statement. The Authority can, for instance, challenge an organisation where it considers that pre-release access to a National Statistic is not justified or where an organisation is failing to conform to these arrangements. It can also withdraw, or consider withdrawing, 'National Statistics' designation from the statistics in question.
15. In the event of any such challenge or withdrawal the Head of Profession will publish the Organisation's response or reaction on its website along with its plans for achieving conformance.

Annex A

Criteria for granting pre-release access

(i) - Categories of persons within government to whom the Office of Rail Regulation would normally grant pre-release access to its statistical releases....

- Those Ministers who have policy or operational responsibility for a particular subject-matter covered by a statistical release; who are accountable to Parliament and the electorate for their stewardship of that policy; and who may need to respond to questions about the statistics, or take appropriate action, at the time of release of those statistics;
- Those Chief Executives who have operational responsibility for a particular activity covered by a release, and who are accountable for their stewardship of that activity to Ministers, and through them to Parliament; and who are in a similar position to those Ministers described above;
- The Departmental or Agency officials with ultimate responsibility for formulating, developing, maintaining, monitoring or implementing that policy;
- Other Departmental or Agency officials who have been assigned the specific responsibility to brief Ministers or Chief Executives about the statistics in question (e.g. Special Advisers, Policy Advisers, Analysts)
- Departmental Press Officers responsible for managing Ministers' interface with the media with respect to the policy or statistics in question.

(plus any immediate ancillary staff who support the above)

(ii) - Categories of statistical release to which the Office of Rail Regulation would normally grant pre-release access.....

- Releases categorised as 'market-sensitive' (i.e. releases which embody statistics which, when disclosed, would be reasonably likely to have a significant effect on the value or traded volume of any investment).
- Releases which incorporate statistics which are used to monitor or measure the government's performance (either generally, or against formal targets);
- Releases which have the potential to impinge substantially on the formulation, implementation, or monitoring of government policy;
- Releases which have the potential to inform, or impact on, decisions about the allocation of public funds;
- Releases which have, demonstrably and historically, had a high public profile (i.e. regularly generate column inches in the print media or regularly attract the attention of the broadcast media) and on which Ministers or Chief Executives with responsibility for the subject-matter might reasonably be expected to comment at the time of release;
- Releases which incorporate statistics derived from other departments' or agencies' administrative or management systems, and for which Ministers or Chief Executives in those other departments have ownership and operational responsibility.

- Compendia publications (e.g. Social Trends, Regional Trends, etc which often include data which has already been released) or complex publications which have been made available to the media in advance of their public release, and under embargo, in order to give journalists time to absorb and understand their contents.
- Releases which cover matters of wide public interest

Annex B

Definitional notes

(a) Pre-release access

In the context described above, the phrase 'pre-release access' covers privileged access to statistical releases in their final form prior to being placed in the public domain. It does not cover pre-release access available to:

- those staff intimately engaged in the process of producing and disseminating the statistics in question (including those responsible for overseeing this process);
- those persons requested by producers of statistics to quality assure their statistics before their public release.

However the restrictions listed under 'Conditions of access' above do apply to the above

(b) Heads of Profession for Statistics

Organisations which employ a large number of official statisticians, or produce a large number of official statistics will normally appoint a Head of Profession for Statistics in consultation with the National Statistician. As well as being accountable to their own Secretary of State for Transport and Office of Rail Regulation CEO and departmental line-managers, Heads of Profession are responsible to the National Statistician for the professional integrity of the statisticians whom they manage, and for the quality of the statistics which those statisticians produce. In particular they are responsible for observing the UK Statistics Authority's Code of Practice for Statistics as well as any professional standards set by the National Statistician.