

Exclusion of Commercially Sensitive Material in Station and Depot Access Agreements being placed in the Public Register

1. This note sets out the policy of the Office of Rail and Road (“ORR”) on the exclusion of information from station and depot access documentation to be placed in the public register.

Background

2. The Railways Act 1993 (“the Act”) requires ORR to maintain a register available for public inspection. In relation to access agreements and access contracts, the register must contain:
 - (a) every direction to enter into an access contract;
 - (b) every access agreement;
 - (c) every amendment to an access agreement; and
 - (d) every document issued or made by ORR under an access agreement.
3. In entering any provision in the register, ORR is required to have regard to the need to exclude, so far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:
 - any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
 - any matter which relates specifically to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of the body.
4. ORR must use its judgment in interpreting these provisions, in a manner consistent with its duties under the Act.

ORR’s proposals for station and depot access documentation

5. In placing station and depot access documents in the public register, ORR no longer feels that it is appropriate to exclude any items as a matter of course. This is because these items do not seem to automatically meet the criteria for exclusion set out in the Act.
6. Any requests for deletions from station and depot access documentation submitted for inclusion in the public register should be made on an individual basis, and justified using the criteria set out in the Act. Such requests should be submitted at the time a document is sent to ORR for inclusion in the Public Register. ORR will exercise its discretion in considering such requests.