

## APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity. If a train operator wants to access the national railway network, it will need a track access agreement with Network Rail which requires ORR's approval under the Railways Act 1993. When determining access to the network, we must have regard to our [statutory duties](#), most of which are set out in section 4 of the Act. We must exercise our functions (which include the approval of access contracts) in a way that we consider best achieves those duties.

Use this form to apply to the Office of Rail and Road (ORR) for a passenger track access contract, or an amendment to an existing contract by a supplemental agreement, under sections 17-22A or the Railways Act 1993.

It sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

This form should be completed up to section 10 and sent to consultees along with a copy of the proposed contract or supplemental agreement. Sections 10 and 11 should be filled in after the consultation and before applying to ORR.

We are happy to talk to you informally before you apply. Please contact us [here](#). You can download a copy of this form, and of our model track access contract, from our [website](#). Please ensure that you are using the latest version of this form as published on our website. We may ask for applications which have not used the latest version to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

# 1. Application Summary

## 1.1 Beneficiary company name:

First Trenitalia West Coast Limited

## 1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input type="checkbox"/>	Scotland's Railway <input type="checkbox"/>
Other Facility Owner:	<input type="checkbox"/>	Please state:			

## 1.3 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
Supplemental Number:						18	
Current contract date:						1 December 2022	
Current contract expiry date:						14 December 2030	

## 1.4 Applicant status:

Public Service Operator <input type="checkbox"/>	Public service contract start date:	1 December 2022
	Public service contract end date:	14 December 2030
	Name of funder (e.g. DfT, Local Authority):	DfT
	Does the funder support this application?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Open Access <input type="checkbox"/>		
Charter Operator <input type="checkbox"/>		

## 1.5 Executive summary of the proposed contract or amendment:

This Application, made under Section 22A of the Railways Act 1993, is for Contingent Rights to enable the following service changes, which will be contained within Avanti West Coast's 'December 2025' timetable Bid.

Insufficient time was available to complete the S22 application ahead of the ORR deadline of 20<sup>th</sup> May 2024 to receive applications, as per ORR's '*Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes*' letter dated 24<sup>th</sup> April 2024. This S22A has not yet gone out to industry consultation.

AWC and NR consider this application meets ORR's criteria for the 20<sup>th</sup> May submission.

### Sundays

An additional (16:13) Liverpool Lime Street to London Euston passenger train slot calling at Runcorn, Lichfield Trent Valley and Tamworth Low Level.

An additional (20:06) London Euston to Liverpool Lime Street passenger train slot calling at Tamworth Low Level, Lichfield Trent Valley and Runcorn.

Proposed commencement date:	14 December 2025
End date:	14 December 2030
Date approval or directions wanted by:	

## 1.6 Industry consultation:

Who carried out the consultation?			
Consultation start date:		Consultation end date:	
Not carried out <input type="checkbox"/>			

### 1.7 Applicant details

<u>Facility Owner</u> Company: Network Rail Contact name: Paul Harris Job title: Franchise & Access Manager Address: 2 <sup>nd</sup> Floor, Baskerville House, Centenary Square, Broad Street, Birmingham B1 2ND Phone: [REDACTED] E-mail: [REDACTED]	<u>Beneficiary</u> Company: First Trenitalia West Coast Rail Ltd Contact name: Sue Rhymes Job title: Track Access Manager Address: Ground Floor, Victoria Square House, Victoria Square, Birmingham, B2 4DN Phone: [REDACTED] E-mail: [REDACTED]
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### 1.7 Date of application to ORR:

### 1.8 Checklist of documents attached to the application form:

- Proposed new contract (S17 or S18) or supplemental agreement (S22 or S22A)
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting documentation required for competing services (see section 6.2)
- Other supporting documents, side letters or collateral agreements (please list):


## 2. Licence and railway safety certificate

### 2.1 Please state whether:

- you intend to operate the services yourself; or
- have them operated on your behalf. 
  - if so, please name the proposed operating company:

### 2.2 Does the proposed operator of the services:

- (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and**
- (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

**Train operating licence:** First Trenitalia West Coast Rail Limited (the “Train Operator”) holds a valid train operating licence under section 8 of the Railways Act 1993 and a European licence for the purposes of the Railways (Licensing of Railways Undertakings) Regulations 2006.

**Railway Safety Case:** The Train Operator holds a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006

### 3. The proposed contract or amendment

**3.1 Application overview:** Please detail the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

This Application, made under Section 22A of the Railways Act 1993, is for Contingent Rights to run from 14 December 2025. These services were incorporated in the timetables developed by the WCML Industry Planning Group (IPG) and Event Steering Group (ESG) workstreams.

#### Summary of Changes

##### Sundays

1Axx 16:13 Liverpool Lime Street to London Euston calling at Runcorn, Lichfield Trent Valley and Tamworth Low Level.

1Fxx 20:06 London Euston to Liverpool Lime Street calling at Tamworth Low Level, Lichfield Trent Valley and Runcorn.

**3.2 Safety risks:** Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner’s safety authorisation and the train operator’s safety certificate).

N/A

**3.3 Contract duration:** For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

Proposed commencement date:	14 December 2025
End date:	14 December 2030

**3.4 Terms not agreed with the facility owner (for applications under sections 17 or 22A only):** Please explain any areas of the application which have **not** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

Unknown, as under consideration as part of the ‘20<sup>th</sup> May’ process.

### 3.5 Bespoke provisions (departures from ORR's model access contracts)

Does the proposed contract include any departures from ORR's model access contract:

Yes  No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

### 3.6 Consolidated contract

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

No – 17<sup>th</sup> SA to be implemented first

## 4. The impacts of the proposal

**4.1 Benefits:** please set out what specific benefits the proposal will achieve. Please describe the benefits to passengers and any impact on other operators, including freight operators.

The additional service departing Liverpool at 16.13 will provide important relief capacity at a time when there is currently a high level of demand for travel which is expected to increase. The return working from Euston at 20.06 ensures that the 2tph pattern continues later into the evening, providing additional fast journey opportunities to stations in the Trent Valley.

**4.2 Capacity:** How have you satisfied yourself that there is enough network capacity for the services in the proposal? Please include details on all relevant capacity considerations, including but not limited to track, platform availability, and power supply traction.

These services were incorporated in the timetables developed by the WCML Industry Planning Group (IPG) and Event Steering Group (ESG) workstreams, therefore, we know the capacity exists for these services.

AWC has worked closely with Network Rail in collaboration with other Operators, and has built its timetable on conclusions from the WCML IPG Final Report published in February 2021. The resulting Concept Train Plan, developed through the ESG, delivers a timetable structure that incorporates the services detailed in 4.1.

Power supply capacity modelling is currently being undertaken by Network Rail.

**4.3 Performance:** What is the impact on network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

The rights sought reflect commitments to the Secretary of State on award of the West Coast Franchise.

Changes being proposed shown below:

#### Sundays

##### **Up**

16:13 Liverpool Lime Street to London Euston calling at Runcorn, Lichfield Trent Valley and Tamworth Low Level.

The closest AWC Sunday services currently are the 16:43 and 15:43 services from Liverpool to Euston (1A53 and 1A47 respectively). Between period 2410 and mid-May 2024, 1A53 had an average On Time percentage of 71.0%, and an average T-3 of 80.7%. It was the 2<sup>nd</sup> best out of 14 Liverpool – Euston services on Sundays. 1A47 had an average On Time percentage of 51.7%, and an average T-3 of 65.2%, and was 10<sup>th</sup> out of the 14 services.

These two trains do not typically call at Lichfield or Tamworth, however. The later 20:43 service 1A72 does call at these stops, as well as Runcorn, Crewe, Stafford, Nuneaton, Rugby Milton Keynes and Watford Jn. Over the same time period, this service had an average On Time percentage of 54.0%, and an average T-3 of 71.0%. It was the 8<sup>th</sup> best performing out of the 14 Liverpool – Euston services on Sundays.

##### **Down**

20:06 London Euston to Liverpool Lime Street calling at Tamworth Low Level, Lichfield Trent Valley and Runcorn.

The closest AWC Sunday services currently are the 19:42 and 20:39 services from Euston to Liverpool (1F36 and 1F38 respectively). Between period 2410 and mid-May 2024, 1F36 had an average On Time percentage of 45.5%, and an average T-3 of 66.2%. It was the 5<sup>th</sup> best out of 14 Euston - Liverpool services on Sundays.

1F36 does not typically call at Lichfield or Tamworth, however 1F38 does call at these locations. Over the same time period, 1F38 had an average On Time percentage of 46.4%, and an average T-3 of 57.1%. It was the 11<sup>th</sup> best performing out of the 14 Euston – Liverpool services on Sundays. It would be reasonable to assume similar performance for the new service.

**4.4 Maintenance and renewals:** Are there any implications for the facility owner's maintenance and renewal activities?

N/A

## 5. The expression of access rights

**5.1 Changes to rights:** please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

This Section 22A is for the following contractual amendments; required to support the service changes listed in Section 1.5, which will form part of the December 2025 timetable Bid. Summarised below.

Service Amendment	Days	Additional Contingent Right Required	Timing Load
Liverpool Lime Street to London Euston	SUN	Plus 1	390
London Euston to Liverpool Lime Street	SUN	Plus 1	390

**5.2 Flexing rights:** Please explain any limitations on the facility owner's flexing rights in the proposal and the rationale for such limitations.

None

**5.3 Specified equipment:** Please explain any changes to specified equipment (rolling stock). Has the vehicle and route acceptance procedure in the Network Code (Part F) has been completed? Please explain whether you have, or will have, the rolling stock necessary to exercise the rights.

The rights being sought utilise existing specified equipment.

**5.4 Contractual obligations:** Are the proposed services necessary to fulfil obligations under a public service contract? For publicly contracted operators seeking additional access rights, we will expect to see evidence of funder support for the specific rights and of operators' intent and ability to operate the new services.

These services form part of the service specification contracted as an obligation under the FTWCRL Franchise Agreement.

**5.5 Public funding:** Other than the DfT, Welsh Government or Transport Scotland, are the proposed services subject to financial support from central or local government including PTEs. If so, please give details.

N/A

**5.6 Long Term Planning Process:** Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

N/A

## 6. Competing passenger services:

We would expect to apply the 'not primarily abstractive' test to:

- (i) a new open access service which would compete with franchised services and so impact on the public sector funder's budget;
- (ii) a new franchised service which would compete with an existing franchised service, where we would expect to focus the test on areas where the competing franchised services are operated on behalf of different funders or where for some other reason there are particular concerns over the impact on a funder's budget; and
- (iii) a new service, which might be open access or franchised, which would compete with an existing open access service and which, if it caused the existing open access operator to withdraw from the market, could reduce overall competition on the network.

**6.1** Please state if your application is for a competing passenger service, and if so please describe the nature of the competition:

N/A

**6.2** For competing services, please also confirm that you have attached as part of your submission to ORR the following:

- Business plan, including details of:
  - forecasts of passenger traffic and revenues, including forecast methodology;
  - pricing strategies;
  - ticketing arrangements;
  - rolling stock specifications (e.g. load factor, number of seats, wagon configuration);
  - marketing strategy;
  - estimated elasticities of the services (e.g. price elasticity, elasticity with respect to quality characteristics of the services).
- Demand forecasting (including associated spreadsheet models) demonstrating modelled generation : abstraction ratio.
- Indicative timetables, including associated .spg files

## 7. Incentives

**7.1 Train operator performance:** please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving operator performance.

N/A



**7.2 Facility owner performance:** please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving the facility owner's performance.

N/A

**7.3 Monitoring of services:** Will all proposed services be monitored for performance throughout their journey? If not, please explain.

Yes

**7.4 Performance regime changes (for applications under sections 17 or 22A only):** where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed.

N/A

## 8. Enhancement

**8.1 Enhancement details:** where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework).

N/A

**8.2 Enhancement charges:** please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

N/A

## 9. Other

**9.1 Associated applications to ORR:** please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide evidence that this process has been completed.

N/A

**9.2 Side letters and collateral agreements:** please confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it.

N/A

**9.3 Confidential redactions:** please list any information that you have redacted from any documentation sent to consultees. If there has been no pre-application consultation, please list any information you want us to exclude from publication. Please provide full reasons for any redactions.

The consultation version should exclude those items normally redacted by the ORR, for the usual reasons of commercial confidentiality.

## 10. Pre-application consultation

### 10.1 The consultation:

If consultation has not been carried out, explain why not. If it has, please list the consultees.

As noted above, AWC has worked collaboratively with multiple key stakeholders in development of these proposals as through the industry IPG and ESG forums, alongside ongoing engagement with local authorities and sub-national transport bodies.

Who conducted the consultation?

List all consultees who responded and include their responses and any associated documentation or correspondence between the parties.

**10.2 Resolved issues:** please explain any issues raised by consultees which have been resolved.

**10.3 Unresolved issues:** Please explain any issues raised by consultees which have ***not*** been satisfactorily resolved and why you think these issues should not stop ORR approving the application.

**10.4 Subsequent Changes:** Have any changes been made to the proposal following consultation?

## 11. Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.*

**For agreed applications under section 18 or 22, Network Rail should complete the information below. For disputed applications under section 17 or 22A, the beneficiary should complete it.**

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed .....[Redacted]..... Date ...17<sup>TH</sup> MAY 2024.....

Name (in caps) ...SUE RHYMES ..... Job title ...TRACK ACCESS MANAGER....

For (company) ...AVANTI WEST COAST.....

## 12. Submission

**12.1 What to send:** please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

### 12.2 Where to send it:

Email: [track.access@orr.gov.uk](mailto:track.access@orr.gov.uk)