

# APPLICATION TO THE OFFICE OF RAIL REGULATION FOR A PASSENGER TRACK ACCESS AGREEMENT, OR AMENDMENT TO A PASSENGER TRACK ACCESS AGREEMENT UNDER SECTIONS 17-22A OF THE RAILWAYS ACT 1993

## 1. Introduction

Please use this form to apply to the Office of Rail Regulation (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our [criteria and procedures](#) (C&Ps). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published [model passenger track access contract](#) as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us [here](#).

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: [www.rail-reg.gov.uk](http://www.rail-reg.gov.uk).

## 2. The application

**2.1 Title of proposed contract or supplemental agreement** (please also include the section of the Railways Act 1993 under which you are applying):

Sixth Supplemental Agreement made under s22A of the Act

**2.2 Contact details** (Company and named individual for queries):

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail	Company: Grand Central Railway Company Limited
Contact individual: Mark Garner	Contact individual: Jonathan Cooper on behalf of Grand Central
Job title: Customer Manager	Job title:
Address: George Stephenson House York	Address: Alliance Rail Holdings 88 The Mount York
Telephone number: 07825375313	YO24 1AR
Fax number:	Telephone number: 01904 628904
E-mail address: <a href="mailto:Mark.Garner@networkrail.co.uk">Mark.Garner@networkrail.co.uk</a>	Fax number:
	E-mail address: <a href="mailto:jc@alliancerail.co.uk">jc@alliancerail.co.uk</a>

**2.3 Licence and railway safety certificate:** please state whether you intend to operate the services yourself or have them operated on your behalf.

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.

**C&Ps paras 3.9-3.15**

The Grand Central holds a valid train operating licence and an accepted safety certificate.

### 3. The proposed contract or amendment

**3.1 Executive summary:** please provide an executive summary of 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). **C&Ps para 3.22-3.28**

Please also 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). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#). If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

Date of commencement: For services operating from the Principle Change Date in December 2017.

The Grand Central Railway Company Limited is consulting the industry on the following proposed changes to its track access contract:

- One additional service (Monday to Saturday) between Wakefield Kirkgate and London Kings Cross, departing Wakefield at around 05:00; and
- One additional service (Saturday excepted) between London Kings Cross and Wakefield Kirkgate, departing Kings Cross between 21:45 and 22:45.

In addition to the above Grand Central is also seeking to call for the first time at Peterborough. The calls at Peterborough will be limited in that only four calls are planned per day. The services which are planned to call at Peterborough are the two new additional services above and the following existing services:

- 1A69 Sunderland to London Kings Cross at Peterborough.
- 1N90 London Kings Cross to Sunderland at Peterborough –

The passenger benefits to these service changes are the following:

- Earlier arrivals into London from Yorkshire.
- Later journey opportunities for passengers traveling to Yorkshire.
- New direct journey opportunities for passengers between Sunderland, Hartlepool, Eaglescliffe, Thirsk and Peterborough.

In addition these service changes will allow for better allocation of staff resources and reduce the cost of operation.

**3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only):** please set out here any areas of the application which have **not** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. **C&Ps para 3.102**

It has been difficult to establish from Network Rail its position, initially the LNE route was supportive of this application and has progressed this with the Sale of Access Rights Panel (SoAR). Unfortunately the SoAR panel despite being “broadly supportive” of the application has been unable to agree to the sale of the rights.

We do not know what the reasons are for withholding the sale of these rights other than that the SoAR panel has asked some further questions. We have asked Network Rail for its reasons but we have not received any details.

On the 25<sup>th</sup> August we received a letter from Network Rail identifying that it could not support the application as it does not know if the capacity is available. However discussions with Network Rail Capacity Planning have continued and paths are being developed. We have provided the latest work in progress in Annex A.

It is hoped that Network Rail will be able to sell the access rights, however until they are in agreement Grand Central must make this application under s22A of the Railways Act.

**3.3 Departures from ORR's model passenger track access contract:** please set out and explain here any:

- areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. **C&Ps paras 2.34-2.37**
- 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 passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps paras 5.1-5.44**
- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. **C&Ps paras 6.2-6.3**

None in this proposal.

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#### **4. The expression of access rights and the use of capacity**

**4.1 Benefits:** please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

The changes proposed by Grand Central are in relation to services early morning and late evening only.

The passenger benefits to these service changes are the following:

- Earlier arrivals into London from Yorkshire.
- Later journey opportunities for passengers traveling to Yorkshire.
- New direct journey opportunities for passengers between Sunderland. Hartlepool, Eaglescliffe, Thirsk and Peterborough.

In addition these service changes will allow for better allocation of staff resources and reduce the cost of operation.

**4.2 Adequacy:** please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

The proposed train paths discussed with Network Rail Capacity Planning and possible paths were identified as being available in the May 2016 timetable. Subsequent work since the consultation was carried out has developed paths and calls in the Dec 2017 timetable. These paths are provided in Annex A – but they are still work in progress.

**4.3 Flexing rights:** please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on

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the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

The additional paths sought are on the basis of quantum only and so Network Rail has a considerable amount of flexibility.

The station call at Peterborough is contingent upon other operators Firm Rights.

**4.4 Journey time protection:** please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

None

**4.5 Specified equipment:** please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of 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 being sought. **C&Ps paras 8.87-8.90**

Rolling Stock will be a class 180 unit. These trains are route cleared over the routes sought.

**4.6 Franchise obligations:** please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

Not applicable.

**4.7 Public funding:** please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

None - these fast Intercity trains will be provided without taxpayer funding.

**4.8 Passenger Focus and, where applicable, London TravelWatch:** please state whether (and if so to what extent) the proposed services have been discussed with these bodies. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

Both organisations will be consulted as part of the normal process.

**4.9 Route utilisation strategies (RUSs):** if applicable, please state which RUSs (including the Freight RUS) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. **C&Ps paras 4.5-4.8**

Not applicable

## 5. Incentives

**5.1 Train operator performance:** please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. **C&Ps paras 4.26-4.36**

None

**5.2 Facility owner performance:** please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance. **C&Ps paras 4.26-4.36, 5.1**

None.

**5.3 Monitoring of services:** would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this is in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

The proposed supplemental agreement does not depart from the established performance mechanisms contained within Grand Central's Track Access Contract.

**5.4 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. **C&Ps para 5.38-5.40**

None.



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## 6. Enhancement

**6.1 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). **C&Ps paras 4.80**

Not applicable.

**6.2 Enhancement charges:** please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

Not applicable.

## 7. Other

**7.1 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). **C&Ps paras 3.18-3.19**

None.

**7.2 Supporting information, side letters and collateral agreements:** please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- 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. **C&Ps paras 6.12-6.16, 6.21**

None.

**7.3 Confidentiality exclusions:** please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34**

None.

**Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed**

## 8. Pre-application consultation

**8.1 The consultation:** has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **C&Ps paras 3.62**

Alliance Rail conducted the consultation for a full 28 day period. An extension was given the Department for Transport.

The following were consulted:

**To:** 'Garner Mark'; trackaccess@crosscountrytrains.co.uk; EXTL: Taylor Simon; lanita.masi@eastmidlandstrains.co.uk; john.beer@gtrailway.com; tony.crabtree@GTRailway.com; EXTL: Mendham, Louise (First Group); richard.elwen@gwr.com; jon.plowright@hulltrains.co.uk; andy.wylie@firstgroup.com; catherine.rowe@abelliogreateranglia.co.uk; james.carter@londonmidland.com; helen.cavanagh@northernrail.org; liz.hudson@northernrail.org; neil.a.sutton@scotrail.co.uk; david.simpson@sleeper.scot; laura.price@firstgroup.com; darren.horley2@virgintrains.co.uk; wilsoncd@freightliner.co.uk; EXTL: Leadbetter, M; birdj@freightliner.co.uk; hollandb@freightliner.co.uk; yatesd@freightliner.co.uk; moranj@freightliner.co.uk; andy.moyle@gbrailfreight.com; EXTL: Ian Kapur; wotho@aol.com; woorm@hpuk.co.uk; mike.garratt@mdst.co.uk; maggie@rfg.org.uk; simon.ball@colasrail.co.uk; richard.devall@colasrail.co.uk; sgear@harsco.com; nigel.oatway@dbschenker.com; chris.connelly@drsl.co.uk; ghanson@britamrail.com; gkeys@britamrail.com; j.bailey@maritimetransport.com; dave.burley@railopsgroup.co.uk; neil.sime@victa-railfreight.com; ahickling@britamrail.com; cgeldard@geldardconsulting.com; Geoff.jones@highspeed1.co.uk; chris.connelly@drsl.co.uk; robert.holder@gwr.com; andy.moyle@gbrailfreight.com; EXTL: Ian Kapur; nigel.oatway@dbschenker.com; wotho@aol.com; premetro@aol.com; Ian Yeowart; Track Access; Transport.advisory@marybonar.com; chris.phillimore@tir-ltd.co.uk; ian.williams@orr.gsi.gov.uk; bill.hammill@orr.gsi.gov.uk; PassengerServices\_Access&Operations@railexecutive.gsi.gov.uk; steven.mcmahon@transportscotland.gsi.gov.uk; john.provan@transportscotland.gsi.gov.uk;

RRAS@transportscotland.gsi.gov.uk; andrewlee@tfl.gov.uk; EXTL: Christinebricard (@tfl.gov.uk); Bhavik.Depala@london.gov.uk; christopher.hopkinson@sypete.co.uk; raymond.johnstone@nexus.org.uk; emma.mons-white@twmetro.co.uk; james.farnell-smith@nexus.org.uk; derek.gittins@nexus.org.uk; james.nutter@westyorks-ca.gov.uk; consultations@londontravelwatch.org.uk; john.sears@passengerfocus.org.uk; Regulatory Reform New TAC/SA Info; Reed, David; Phil.Dawson@virgintrainseastcoast.com

Responses were received from the following:

Network Rail

Abellio Greater Anglia

West Yorkshire Combined Authority

Virgin Trains East Coast

DB Regio Tyne & Wear Ltd

Passenger Focus

Department for Transport – requested an extension.

**8.2 Resolved issues:** please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation.

We have provided responses in Annex B

**8.3 Unresolved issues:** please set out any issues raised by consultees which have ***not*** been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you think these issues should not stop ORR approving the application.

We have responded to all the questions we have received except for Network Rail. Network Rail and Grand Central are in discussion on the capacity issues and the paths to date are provided in Annex A.

We will advise the ORR of the continuing discussion we have with Network Rail regarding available capacity. However the work to date shows that the services can be accommodated subject to flexing.

## 9. 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 **C&Ps para 3.40***

***In the case of agreed applications under section 18 or 22, Network Rail should fill in the required information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.***

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

Signed 

Date 09 September 2016

Name (in caps) JONATHAN COOPER Job title ...Head of Contracts, Alliance Rail  
on behalf of Grand Central Railway Company Limited

## 10. Submission

**10.1 What to send:** please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. **C&Ps para 3.39**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps para 3.37-3.38**

### 10.2 Where to send it:

Manager, Track Access Team  
Directorate of Railway Markets and Economics  
Office of Rail Regulation  
One Kemble Street  
London  
WC2B 4AN