

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.

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):

Virgin West Coast 4th TG Supplemental, applied for under Section 22A of the Act

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

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail	Company: West Coast Trains Limited
Contact individual: Darren Horley	Contact individual: Richard Miller
Job title: Customer Manager	Job title: Head of Infrastructure Contracts
Address: 11 th Floor, The Mailbox	Address: Room 33, North Wing
100 Wharfside Street	Euston Station
Birmingham, B1 1RT	London NW1 2HS
Telephone number: 07786310444	Telephone number: 020 7391 8142
Fax number: 0121 345 4004	Fax number: 020 7957 1763
E-mail address: darren.horley@networkrail.co.uk	E-mail address: richard.miller@virgintrains.co.uk

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

Train operating licence: West Coast Trains 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 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**

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The additional rights are being sought further to the Secretary of State for Transport's announcement on 6 December 2012 regarding the introduction of new services between London and Blackpool North and London and Shrewsbury. The proposed date of commencement is the December 2013 Principle Change Date (PCD). The rights will terminate or expire in accordance with the existing provisions within the TAC.

The TAC expires on PCD 2022 and the West Coast Franchise expires on 9 November 2014.

The Train Operator is proposing to introduce two services a day in each direction, Monday to Saturday, and one train in each direction on Sundays to both destinations. The Shrewsbury services depart at 0706 and 1506, calling at Telford Central, Wellington, Stafford and Rugby, with arrivals at Euston at 0918 and 1718 respectively. The return services from Euston depart at 1133 and 1837, calling at the same points and arriving at Shrewsbury at 1350 and 2057 respectively. The Blackpool North services depart at 0636 and 1403, calling at Kirkham & Wesham, Preston, Wigan North Western, Warrington Bank Quay, Stafford and Rugby, with arrivals at Euston at 0933 and 1654 respectively. The return services from Euston depart at 1033 and 1933, calling at the same points and arriving at Blackpool North at 1335 and 2218 respectively.

The amendments to Schedule 5 of the Contract necessitate consequential amendments to Schedules 2, 4, 7 and 8.

This application seeks to make the following amendments to the TAC:

Schedule 2

Paragraph 3.2 "Non-electrified" core routes – the addition of the routes between Preston Fylde Junction and Blackpool North, and Bushbury Junction to Shrewsbury, via Oxley Chord;

Paragraph 4.1 "Electrified" diversionary routes – the addition of the route between Oxley Stafford Road Junction and Wolverhampton North junction.

Schedule 4

Annex B to Part 3 of Schedule 4 – Lookup Table for EBM Weights - amendments to the lookup table and map.

Schedule 5

Amendments to Table 2.1 "Passenger Train Slots", Table 4.1 "Calling Patterns", Table 5.1 "Specified Equipment" to provide two return services per day to each destination (Monday to Saturday) and one return service to each destination on Sundays. The services are to be operated using 5-car Class 221 rolling stock.

Schedule 7

Amendments to Appendix 7C, Default Train Consist Data to identify the default vehicle class to be used in the provision of these services.

Schedule 8

Amendments to Appendix 1 to include new monitoring points at Shrewsbury and Blackpool North, and revised monitoring point weightings.

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**

The scope of the access rights sought has been discussed with Network Rail, however NR has advised that it is not in a position to agree any aspect of the application, although it regards the amendments to Schedules 2, 4, 7 and 8 and non-contentious.

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

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- 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**

Not Applicable

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 proposed services provide new direct journey opportunities between London and both of Blackpool and Shrewsbury. The services also provide crowding relief to existing services and support the objective of accelerating Anglo-Scots services.

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 paths we are seeking are already used in other hours of the day between Euston & Preston (and vice versa). Network Rail’s “West Coast Main Line Capacity: December 2013” report states that whilst the paths being sought result in timetable conflicts, the services do not conflict with operators access rights. Whilst NR has not yet identified how to make use of its flexing rights to resolve the timetable conflicts, it is a reasonable assumption to make (much as we did with the Lancaster to Glasgow extensions) that there is sufficient capacity for these services as we operate within a standard pattern timetable.

We will be modelling the performance implications of the additional services in terms of their impact upon our own operation but expect this to be negligible.

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 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**

Not Applicable

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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**

Not Applicable

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**

The services are to be operated using 5-car Class 221 rolling stock. The Class 221 is already authorised to operate over the route to Blackpool North. A route clearance exercise is underway for the route to Shrewsbury.

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**

The additional rights are being sought further to the Secretary of State for Transport's announcement on 6 December 2012 regarding the introduction of new services between London and Blackpool and London and Shrewsbury.

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**

Not applicable

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

Not applicable.

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**

The proposed services are consistent with the West Coast RUS to support growth in developing markets, as well as forecast growth in demand between London Euston and Glasgow (Gap JT1), and Option OC3.2.

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**

Not applicable

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**

Not applicable

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**

Additional monitoring points at the destinations have been incorporated into the proposed schedule 8 amendments. The monitoring point weightings are also to be adjusted to reflect the operation of these new services. The revised MPWs are being calculated and will be provided to ORR and NR separately.

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**

The proposal does not depart from the established Schedule 8 in the TAC.

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**

Not applicable

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**

Not applicable

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**

The weightings and financial values in Appendix 1 of Schedule 8.

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**

A pre-application consultation was undertaken by the Train Operator

The following parties were consulted:

Department for Transport	National Express
Firstgroup	tir-ltd
South Eastern Railway	Lorol
Southern Railway	premetro
Alliance Rail	shlegal
CrossCountry Trains	Colas Rail
Harsco	DB Schenker
DRSL	Eurotunnel
Britamrail	Freightliner
GB Railfreight	Wotho
Hpuk	Dpworld
MDS Transmodal	Roadways
Rail Freight Group	TfL
London Underground	London Travelwatch
High Speed 1	Passenger Focus
Arriva Trains Wales	East Midlands Trains
London Midland	Merseyrail
East Coast	Northern Rail
Transport for Greater Manchester	Mersey Travel
Centro	Welsh Assembly Government
Transport Scotland	

The period of consultation was 28 days.

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.

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Arriva raised concerns regarding the impact of the proposed services on their existing rights and services, however this has now been withdrawn. Copies of the correspondence are attached.

Passenger Focus requested the addition of Poulton-le-Fylde as a calling point. We have included this station as a contingent rights within the "Additional Stations" column in Table 4.1, Calling Patterns.

The Welsh Assembly asked us to consider the integration of our services with those of ATW, which we agreed to consider as part of the timetable development process.

Mersey Travel, FirstGroup and London Midland pointed out the omission of Preston in the proposed Table 4.1 for Service Group 6 Northbound services. This has been corrected.

DfT raised a point regarding the proposed TSC. We do not believe this to be an issue and DfT has not responded further.

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.

The relevant correspondence between the parties is provided separately. The general key themes related to the impact of the proposed services on operators' rights and whether they would form part of our Service Level Commitment.

Alliance Rail and London Midland questioned whether the rights sought would be part of our Franchise Agreement Service Level Commitment. We have been in discussion with the DfT to develop the business case and clarify this point, and we anticipate this to be finalized in the near future.

All train operators asked for clarification of the effect of the proposed services on their rights and services, including performance issues. We advised them that our expectation was that the accommodation of these rights would not result in a breach of their access agreements with Network Rail and that the use of 125mph rolling stock, with appropriate turnaround times would not impact on route performance. This would be demonstrated by the formal timetable offer made to them by Network Rail, which is expected on 7 June 2013.

Alliance Rail questioned the duration of the rights with regards to the 2016 Event Steering Group and Centro asked about the use of Oxley Chord (which is not currently used for passenger moves) and the implications for withdrawing the service should it run for more than 5 years. We are not in a position to resolve these points.

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.

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

Signed Date

Name (in caps) Job title

For (company)

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