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Research Briefing

By Michael Benson
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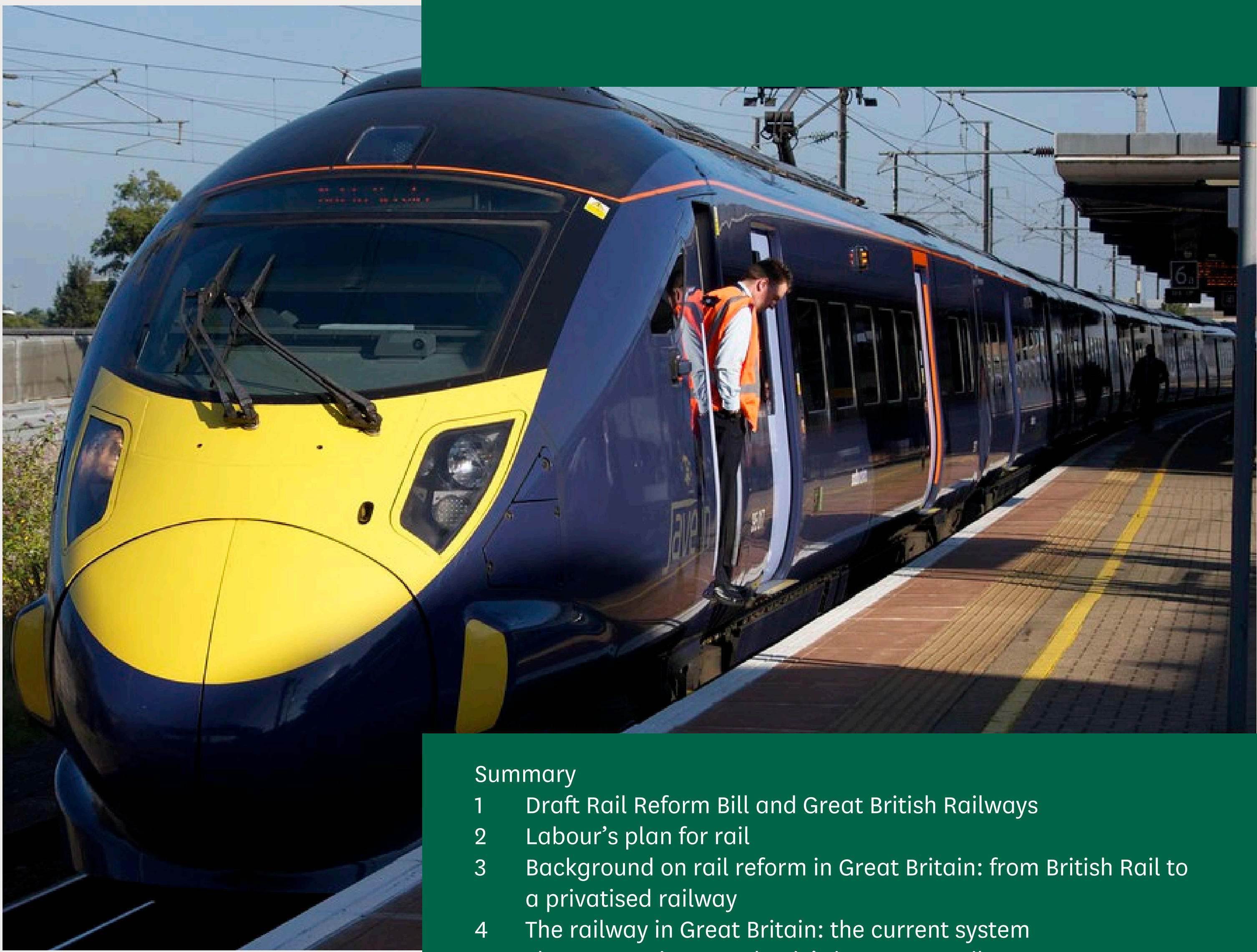
# The future of rail





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# Contents

# Summary


In February 2024, the Government published a draft Rail Reform Bill for pre-legislative scrutiny. This delivers some of what was promised in the 2021 rail white paper, the Williams-Shapps plan for rail, described by the then Transport Secretary Grant Shapps as "the biggest shake up" of the sector in over 30 years.

In April 2024, Labour published its plan for rail reform, Getting Britain Moving: Labour's Plan to Fix Britain's Railways (PDF).

This briefing describes the draft Bill, progress on rail reform to date, and Labour's alternative plan for rail reform, as well as the reaction to these. It also describes the current system and how the railway in Great Britain has been structured over the last 30 years.


## Draft Rail Reform Bill

In the 2023 King's Speech, the Government announced it would introduce a draft Rail Reform Bill for pre-legislative scrutiny. The draft Bill was published on 20 February 2024.

The draft Bill sets out the necessary legislation to create a publicly owned Integrated Rail Body (IRB) and to transfer some powers from the Secretary of State for Transport to the IRB (PDF), including the powers to agree franchises. Network Rail Infrastructure Limited would be designated as the IRB (PDF).

The IRB would act as a central decision maker for railway infrastructure as well as planning and contracting of passenger services in Great Britain, which are currently done by separate organisations.

While much of the reaction to the draft Bill has been positive, there have been criticisms of it being a draft Bill, since there will not be parliamentary time to pass legislation before the general election on 4 July 2024.

## Rail reform: Progress to date

In March 2024, the National Audit Office (NAO) published a review of progress to date on rail reform. This noted that the rail reform programme is high-risk and complex. It also noted that the Department for Transport (DfT) has made limited progress against its plans, with most work and expected savings delayed until after the 2024 general election.

The NAO report made four recommendations, focused on work that the DfT can undertake now to ensure it can successfully deliver rail reform following the general election.

On 27 May 2024, the Commons Public Accounts Committee published Rail reform: The rail transformation programme. This made six recommendations, focused on implementing rail reform and progress that can be made without legislation.

## The Williams-Shapps Plan for Rail

The Williams-Shapps Plan for Rail was published in May 2021 and set out the Government's plans for altering the management of railways in Great Britain. In a statement to Parliament, the Transport Secretary described the plan as "the biggest shake up in three decades, bringing the railway together under a single national leadership, with one overwhelming aim: to deliver for passengers".

The plan proposed:

- establishing a new public body, 'Great British Railways', to act as a single "guiding mind" to own the infrastructure, receive fare revenue, run and plan the network and set most fares and timetables;
- creating a new 30-year strategy for the railway alongside five-year business plans to "provide clear, long-term plans for transforming the railways to strengthen collaboration, unlock efficiencies and incentivise innovation";
- creating a national brand and identity (an updated version of British Rail's double arrow logo) to emphasise that the railways are one connected network, with national and regional sub-identities;
- reforming and upgrading to the fares system, with an emphasis on standardisation and simplicity, as well as introducing new and innovative products such as flexible season tickets; and
- replacing franchising with a new commercial model similar to that used on Transport for London's Overground and bus network, where the revenue from fares goes to the public sector and private operators are paid a fee to run services.

The IRB in the draft Rail Reform Bill will be branded as Great British Railways, which was proposed in the plan.

# Labour's plan for rail

In December 2023 Labour commissioned an independent Review of Rail Infrastructure and Urban Transport. Following this, it published Getting Britain Moving: Labour's Plan to Fix Britain's Railways (PDF) on 25 April 2024.

This plan has a number of similarities to the plans for rail reform in the 2021 rail white paper the Williams-Shapps plan for rail. However, Labour is proposing that as contracts with train operators come to an end, they will be nationalised (PDF). Labour's plan also sets out several actions that can be undertaken without legislation, including making changes to the rail timetable, reviewing fares and setting up a forum to improve relationships with rail workers and trade unions.

Reaction to Labour's plan has also been largely positive, although some have criticised its plan to nationalise train operators.

# Railways in Great Britain: The current system

Since privatisation of the railways in 1993, responsibility and accountability for the running of the railway is split between a range of different bodies, often operating with different incentives. For example:

- most rail infrastructure is owned, maintained and operated by Network Rail, a publicly owned company (with some limited exceptions).
- most passenger services have been run by privately-owned train operating companies (TOCs) under multi-year franchises let by the UK, Scottish and Welsh governments.
- trains (or rolling stock) are owned by private rolling stock leasing companies (ROSCOs) and leased to the TOCs.
- most railway stations, while owned by Network Rail, are leased to train operators, except for the main passenger terminals which Network Rail runs itself.

Since privatisation, successive governments have attempted to address the fragmentation that exists within the rail industry by bringing responsibility for track and train (namely responsibility for managing the infrastructure and running services) closer together.

# 1 Draft Rail Reform Bill and Great British Railways

## 1.1 Parliamentary process

In the 2023 King's Speech, the Government announced it would introduce a draft Rail Reform Bill for pre-legislative scrutiny.[1]

The Prime Minister Rishi Sunak noted that due to the scale and complexity of the changes contained in the bill, introducing it as a draft bill would allow pre-legislative scrutiny and a faster passage through Parliament when legislation was brought forward.[2]

The draft bill was published on 20 February 2024.[3] The Transport Select Committee was scrutinising the draft bill prior to the dissolution of Parliament in May 2024.[4] The Committee  has published a short report on its activities in the 2019 Parliament, which notes that if a future Government proceeds with the draft bill there are a number of areas which require further scrutiny.[5]

## 1.2 Overview of draft Bill

The draft Rail Reform Bill sets out the necessary legislation to create an Integrated Rail Body (IRB). This is the legal name for Great British Railways (GBR) (often described as the 'Guiding Mind')[6]. The explanatory notes to the draft Bill note that it is the government's intention that Network Rail Infrastructure Limited will be designated as the IRB.[7] The draft Bill also sets out the necessary legislation to transfer some powers (specifically some powers to agree franchises with train operators) from the Secretary of State for Transport to the IRB.[8]

1 Prime Minister's Office, The King's Speech 2023: background briefing notes, 7 November 2023, pp37-9
2 Prime Minister's Office, The King's Speech 2023: background briefing notes, 7 November 2023, p37
3 Department for Transport, Draft Rail Reform Bill, 20 February 2024
4 Transport Select Committee, Scrutiny of the draft Rail Reform Bill (accessed 2 May 2024)
5 Transport Select Committee, The work of the Transport Committee in the 2019 Parliament, HC828. 28 May 2024, paras 3-4
6 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p104
7 DfT, Draft Rail Reform Bill: explanatory notes (PDF), 20 February 2024, p4
8 DfT, Draft Rail Reform Bill: explanatory notes (PDF), 20 February 2024, p4

It also sets out certain requirements of the IRB, including:

- Publishing a business plan.
- Publishing an annual report on how it has increased private sector involvement in the railway.[9]

The draft bill specifies that the Secretary of State for Transport "may give the IRB directions or guidance about the manner in which it is to exercise its functions."[10]

The draft bill also states that Scottish and Welsh Ministers may make arrangements for the IRB to undertake franchising functions on their behalf.[11]

## 1.3 Reaction to draft Bill

Much of the reaction to the draft Bill has been positive. Andrew Haines, Network Rail chief executive and Great British Railways Transition Team Lead (see Section 0), welcomed the draft bill, saying:

> Passengers, freight customers and communities are crying out for a simpler, better railway and the publication of the draft Bill is an important step on that journey.
>
> Bringing track and train together under a guiding mind is by far the best way to improve the service the railway offers, unlock the economic potential of a growing network and reduce the burden on the taxpayer.[12]

Maggie Simpson, Director General of the Rail Freight Group (who represent rail freight operators and others involved in rail freight such as logistics companies, ports, and so on) welcomed that the draft bill set out that the IRB will be required to "make provisions for the carriage of goods by rail".[13]

However, there have also been criticisms of this being a draft Bill, since there will not be parliamentary time to pass legislation before the general election on 4 July 2024. While broadly welcoming the draft Bill, Rail Partners (who represent the interests of private sector train and freight operators) noted that it is "not a substitute for legislation".[14]

9 DfT, Draft Rail Reform Bill (PDF), 20 February 2024, s. 1(2)
10 DfT, Draft Rail Reform Bill (PDF), 20 February 2024, s. 1(2)
11 DfT, Draft Rail Reform Bill (PDF), 20 February 2024, s. 3
12 Independent, Draft Bill sets out plans for major rail reform, 20 February 2024 (accessed 3 May 2024)
13 Rail Freight Group, RFG comment on Government Draft Rail Reform Bill, 20 February 2024 (accessed 3 May 2024)
14 Rail Partners, Rail Partners responds to publication of the draft Rail Reform Bill, 20 February 204 (accessed 3 May 2024)

Similarly, Darren Caplan, Chief Executive of the Railway Industry Association (RIA) who represent the railway supply chain, said:

> Last May, RIA and 70 of our members wrote to Prime Minister Rishi Sunak about the need to take the establishment of Great British Railways forward. So whilst we would have wanted a full Transport Bill providing for GBR progressing already, it is good that the Government is at least taking this preliminary step towards unifying track and train, and developing a "guiding mind" and a long-term plan for the railway.[15]

While the Campaign for Better Transport (a charity working to improve transport) broadly welcomed the draft bill, they also noted that there are things that do not require legislation which could be implemented now to provide immediate benefits to passengers, such as improvements to ticketing.[16]

Some trade unions have also criticised the draft bill for not bringing the railways into public ownership.[17]

## 1.4 Rail reform: Progress to date

### Great British Railways Transition Team

Some measures included in the Williams-Shapps Plan for Rail do not require legislation. The DfT has set up a Great British Railways Transition Team (GBRTT) to "work with the Department for Transport and Network Rail to provide industry leadership, within today's legal framework".[18]

In addition to preparatory work for GBR, GBRTT's work is structured around nine workstreams:

- Fares, ticketing and retail
- Strategic planning
- Strategic freight
- Passenger revenue
- Customer
- Industry commercial

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15 Railway Industry Association, RIA responds to the publication of the draft Rail Reform Bill, 20 February 2024 (accessed 3 May 2024)

16 Campaign for Better Transport, About us (accessed 20 May 2024), Campaign for Better Transport, Is 2024 the year for rail reform?, 22 February 2024 (accessed 3 May 2025)

17 TSSA, TSSA condemns draft Rail Reform Bill, 21 February 2024 (accessed 3 May 2025)

18 GBRTT, About us (accessed 8 May 2024)

- Business planning and financial management
- Digital and data services
- Policy and transformation.[19]

## GBR headquarters

In February 2022 the Department for Transport (DfT) launched a competition to find a headquarters for GBR.[20] After a competitive process, in March 2023 Derby was selected as the location for the GBR headquarters.[21]

## NAO report on rail reform

In March 2024, the National Audit Office (NAO) published a report reviewing progress to date on rail reform. Initially, the NAO intended to review whether the DfT had set up its Programme to deliver value for money and the progress it had made to date. However, due to delays to the legislation supporting reform, the NAO amended the scope of its review to look at:

- whether DfT has a clear rationale for the reform of the rail sector
- DfT's approach to the delivery of rail reform, what DfT has achieved and the impact of the delays to reform
- whether DfT's interim arrangements will support its full reset of rail reform after 2024.[22]

The NAO review noted that the rail reform programme is high-risk and complex. It also noted that the DfT has made limited progress against its plans, with most work and expected savings delayed until after the 2024 general election.[23]

The report also raised concerns about the deliverability of the objectives of rail reform:

> As of December 2023, DfT assessed that, of the 12 high level benefits it aimed to achieve with rail reform, five were rated 'red' and seven 'amber'.[24]

Following the announcement in the King's Speech in autumn 2023 that pre-legislative scrutiny would be undertaken on the draft rail reform bill and the "expectation" that legislation to establish GBR would not be introduced in the current parliament, the report noted that the "DfT took the decision to pause some of its work on rail transformation, particularly around structural

19 GBRTT, Our workstreams (accessed 8 May 2024)
20 DfT, Public competition launched to find new home for Britain's railways, 5 February 2022
21 DfT, Derby named as home of Great British Railways HQ, 21 March 2023
22 NAO, Rail reform: the rail transformation programme (accessed 7 May 2024)
23 NAO, Rail reform: the rail transformation programme, 8 March 2024, pp7-8
24 NAO, Rail reform: the rail transformation programme, 8 March 2024, p8

reform".[25] Instead, the DfT introduced interim arrangements "to be in place for the next 12 to 18 months ahead of future legislation."[26]

During this period DfT is focusing on three types of work:

- Activities that do not require legislation and can result in benefits in the short-term:
  - Examples include setting a freight growth target, fare trials and continuing negotiations on workplace reform.
- Activities that do not require legislation and can result in benefits related to wider reform. These have been divided into seven key areas of focus:
  - Aligning business planning
  - Improving track and train collaboration
  - Increasing passenger and freight revenue growth
  - Making changes to fares, ticketing and station retail
  - Optimising rail timetables
  - Revising engineering access
  - Considering future commercial development.
- Preparations for reform following the election:
  - Examples include supporting the pre-legislative scrutiny of the draft Rail Reform Bill and developing the future commercial model for the railway.[27]

The report made four recommendations:

- So that it can advise ministers early in the next Parliament, the DfT should develop its understanding of how rail reform can be successfully delivered. This work should include learning lessons from the planning and delivery of rail reform to date and from other major programmes.
- DfT and GBRTT should continue to work with the rail sector to change the culture and support a holistic approach to the sector ahead of any legislation.
- The DfT should improve delivery of the programme, including securing full commitment across government for the planned reforms; agreeing

25 NAO, Rail reform: the rail transformation programme, 8 March 2024, p33
26 NAO, Rail reform: the rail transformation programme, 8 March 2024, p33
27 NAO, Rail reform: the rail transformation programme, 8 March 2024, p35

the scope and delivery approach with key stakeholders; developing a full delivery plan and communicating this to stakeholders; and establishing delivery and governance arrangements.

- The DfT should learn lessons from the NAO's work on delivering reform at speed, including assessing the benefits of this approach, risks to implementation and ensuring there are contingencies in place.[28]

## Public Accounts Committee report on rail reform

On 27 May 2024, the Public Accounts Committee published their report on progress on rail reform to date. This made six recommendations under two broad headings, implementing rail reform and making progress without legislation:

- Implementing rail reform:
  - The DfT should, as soon as possible during the next Parliament, set out how and by when it will successfully deliver rail reform,
  - The DfT should commit to producing a plan for passengers that clearly sets out what they should expect from rail travel following reform. The DfT and HM Treasury should work together to resolve disincentives in the system and bring the level of government subsidy for passenger services to a sustainable level. The DfT should set out in its Treasury Minute ahead of the next parliament how it is addressing these disincentives.
  - The DfT needs to make progress in implementing reforms which improve outcomes for both passengers and taxpayers. In its Treasury Minute response the DfT should set out what passenger improvements and outcomes it has delivered, as well as providing an update on the savings it has made from rail reform in this interim period.
  - The DfT should urgently resolve disagreements with HMT and other stakeholders ahead of taking forward reform in the next Parliament. Its Treasury Minute response should set out the areas that remain to be agreed with HMT, and how it and HMT plan to resolve these.
  - The DfT should meaningfully engage with the rail workforce to implement its reforms successfully. In its Treasury Minute response, the DfT should set out how it plans to engage with the workforce.
- Making progress without legislation:
  - The DfT should fulfil its commitment to improve access to the rail network for all who wish to use it. It does not need to wait for further

28 NAO, Rail reform: the rail transformation programme, 8 March 2024, p11

consultation or legislation to make improvements to station facilities and train services. It should report back to the Public Accounts Committee alongside the Treasury Minute on its plans and timetable for when stations and trains will be accessible to all.[29]

[29] Committee of Public Accounts, Rail reform: The rail transformation programme, HC652, 27 May 2024

# 2 Labour's plan for rail

## 2.1 Independent Review of Rail Infrastructure and Urban Transport

In December 2023 Labour commissioned an independent Review of Rail Infrastructure and Urban Transport. This was carried out by Jürgen Maier, former Chief Executive of Siemens UK and Vice Chair of the Northern Powerhouse Partnership.

The review focuses on four key themes:

- Growth opportunity through unlocking planning
- Clarity and certainty of policy and funding
- Devolution and sustainable partnerships
- Private sector and industry capacity.[30]

A call for evidence was issues in December 2023[31], and the findings of the review are expected to be published shortly.[32]

## 2.2 Summary of Labour's plan for rail

On 25 April 2024 Labour published Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF]. This identifies a number of issues with the railways, including a lack of innovation, fragmentation, Government micromanagement, declining productivity, a weakening financial position and a lack of a long-term strategy.[33]

Labour then set out their vision for passengers, comprising the following six points:

1. More reliable services

30 Urban Transport Group, Rail and Urban Transport Review (accessed 29 April 2024)
31 Urban Transport Group, Rail and Urban Transport Review (accessed 29 April 2024)
32 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, p16
33 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, pp 7-11

2. Simpler, more affordable tickets

3. Integrated, efficient services

4. Improved service quality

5. Accessible services

6. Safe services.[34]

Labour's "Plan for Change" sets out how they propose to reform the railways' "structure, governance, decision making and strategy" in order to address these issues.[35] Key measures include establishing GBR, a "directing mind" whose responsibilities will include "planning timetables, improving services, and the operation, maintenance, and improvement of rail infrastructure."[36] This is similar the government's plan to create GBR.

The plan also sets out that current contracts with Train Operating Companies will transition into management by GBR as they come to an end.[37] However, there will still be a role for the private sector, with open access continuing and GBR leasing rolling stock from the ROSCOs. This is a continuation of the current policy where rolling stock is leased from the private sector (see Section 4.1 below). The plan also promises the development of a "long-term industrial strategy for rolling stock":

> Over the longer term, we will develop a long-term industrial strategy for rolling stock which supports British manufacturing, innovation and interoperability and aligns with the wider objectives of the industry. This will seek to end the current boom-and-bust cycle, ensure a strong pipeline of work, and consider the best financing structures for future orders, in partnership with private capital.[38]

Labour have also set out a "Plan for Urgent Action". This comprises a number of actions that can be taken immediately without requiring broader structural change and legislation. These include establishing a shadow directing mind, developing a "resource-led, viable timetable", reviewing the fares system and appointing a team to develop a plan and establish "a forum to foster a more productive relationship with rail workers and their trade unions".

Labour's plan also includes a commitment to delivering a Railways Act in the first parliamentary session following the general election.[39]

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34 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, p13
35 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, p16
36 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, p16
37 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, p24
38 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, pp21-3
39 Labour Party, Getting Britain Moving: Labour's Plan to Fix Britain's Railways [PDF], 25 April 2024, p17

## 2.3 Reaction to Labour's plan for rail

Labour's plan has been welcomed by a number of industry bodies and commentators. Sir Keith Williams who Chaired The Williams Rail Review (see Section 6 below), was reported as backing Labour's plan:

> Speaking on April 24 ahead of Labour's policy announcement, Williams said he welcomed the party's intention, 'if they are elected, to take forward the substance of my recommendations to deliver a better railway for passengers and freight by creating a rail body with an integrated profit and loss account, at arm's length from government. Running a better railway and driving revenue and reducing costs will deliver economic growth, jobs and housing by delivering better connectivity',[40]

Paul Plummer, Industrial Professor of Rail Strategy at the University of Birmingham (and former CEO of the Rail Delivery Group) wrote in a blog that "there's a lot to like about the proposals from the Labour Party.", including enabling the rail industry to manage the railway on a day-to-day basis, removing micro-management by politicians, as well as setting up GBR in shadow mode prior to legislation so that it can make progress more quickly.[41]

The Railway Industry Association (RIA), welcomed Labour's commitment to make rail reform a priority early in the next parliament.[42]

Despite its plan to nationalise the train operating companies, some have also welcomed the role that the private sector will continue to have under Labour's plans. Mary Grant, chief executive of the Rolling Stock Leasing Company Porterbrook, said:

> We welcome the Labour party's commitment to leverage private capital to help deliver its long-term strategy for rolling stock.[43]

The Rail Freight Group (RFG) also welcomed Labour's plan, saying:

> We are pleased that the Labour Party has highlighted the huge economic potential of rail freight and is committed to measures including statutory duties for freight and long-term growth targets. Our members are working to get more goods moving by rail and we strongly welcome this support.[44]

Transport Focus, the independent watchdog for transport users, highlighted how passenger-centric Labour's plan is:

> It is good to see there is a strong consensus that passenger priorities need to be at the centre of any rail reform. Passengers will judge these, and any other

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40 Rail Business UK, Williams Review author backs Labour plan to adopt Great British Railways reforms in full, 24 April 2024

41 University of Birmingham, Labour proposals for rail nationalisation, 25 April 2024

42 Railway Industry Association, RIA response to Labour's plans for UK rail, 25 April 2024

43 Financial Times, Labour plans to retain key private sector role in Britain's nationalised railways, 26 April 2024

44 Rail Freight Group, RFG Press Comment on Labour Party's Plan to Fix Britain's Railway, 25 April 2024

> proposals, by whether they deliver more reliable services and better value for money.
>
> We will be considering the proposals carefully from that perspective and stand ready to share our expertise and knowledge of customer priorities.[45]

The main rail unions (RMT, ASLEF and TSSA) have all welcomed Labour's announcement, although the RMT and TSSA both noted that they would like the plan to go further and include nationalising the ROSCOs and Freight Operating Companies.[46]

However, some have criticised the plans for nationalisation as ideologically driven. For example, Rail Partners said in response:

> [...] Nationalisation is a political rather than a practical solution which will increase costs over time. [...]
>
> Over time, the increased costs to the taxpayer of nationalisation due to the loss of commercial focus from private train companies will lead to either reduced train services or increased subsidy.[47]

David Pitt, Vice President of UK Rail at ticketing systems operator SilverRail noted that, rather than being focused on private versus public ownership, it is important that the rail industry addresses the immediate issues it is facing:

> While nationalisation debates will undoubtedly continue, it is crucial that all parties – government, unions, and the private sector – collaborate to address immediate concerns such as service reliability and customer satisfaction. We believe that rather than being a black and white issue in terms of nationalisation or privatisation, there is room for an improved middle-ground approach that combines elements of public oversight with private sector innovation and competition.[48]

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45 Transport Focus, Labour's plans for rail reform – Transport Focus response, 25 April 2024

46 RMT, RMT response to labour rail announcement, 24 April 2024; ASLEF, ASLEF welcomes labour's pledge on public ownership, 25 April 2024; TSSA. TSSA welcomes Labour's rail nationalisation plans, 25 April 2024

47 Rail Partners, Rail Partners responds to Labour's plans to renationalise the railways, 24 April 2024 (accessed 1 May 2024)

48 Rail Business UK, Mixed response to Labour rail proposals, 26 April 2024

# 3 Background on rail reform in Great Britain: from British Rail to a privatised railway

## 3.1 Privatisation of rail (1990s)

Before privatisation in the early 1990s, British Rail – a single, public-owned and integrated company – managed the infrastructure and provided passenger and freight services across the country. In July 1992, the Conservative Government published a White Paper outlining its proposals for privatising British Rail.[49] The 1992 White Paper made the case for privatisation saying:

> Privatisation is one of the great success stories of this Government. It has taken different forms in different industries. But common to all privatisations has been the harnessing of the management skills, flair and entrepreneurial spirit of the private sector to provide better services for the public. The time has come to extend these benefits to the railways [...]
>
> Our objective is to improve the quality of railway services by creating many new opportunities for private sector involvement. This will mean more competition, greater efficiency and a wider choice of services more closely tailored to what customers want.[50]

The then Conservative Government increased private sector involvement in rail through the sale of some of the British Rail's businesses and the progressive contracting out of passenger services. Its 1992 White Paper argued that the rail industry was "more insulated from the demands of the market than its private sector airline, coach and road haulage competitors."[51] As such, the paper suggested the sector, under British Rail, had "fewer incentives to improve its performance and less freedom to respond to what the customer wants."[52]

The Railways Act 1993 radically changed the structure of the railway industry by separating the responsibility for the railway's infrastructure and its train

49 DoT, New opportunities for the railways: the privatisation of British Rail, Cm 2012, July 1992; this was accompanied by a statement to the House on 14 July, see: HC Deb 14 July 1992, cc971-72; there were further debates on the White Paper in October 1992 (HC Deb 29 October 1992, cc1160-1222) and on an Opposition motion opposing privatisation in January 1993 (HC Deb 12 January 1993, cc771-869)

50 DfT, New opportunities for the railways: The privatisation of British Rail, Cm 2012 July 1992

51 DfT, New opportunities for the railways: The privatisation of British Rail, Cm 2012, July 1992

52 DfT, New opportunities for the railways: The privatisation of British Rail, Cm 2012 July 1992

services.[53] Over a relatively short period, British Rail was split up into over 100 private companies.[54] The private sector became responsible for buying and leasing trains (rolling stock companies), running passenger and freight services (train operating companies and freight operating companies) and managing the infrastructure (see Section 4.1 below). For example, the ownership and management of rail infrastructure was privatised and rebranded under Railtrack.

The privatisation of the railway in Britain was unprecedented. In the words of the Transport Select Committee at the time "no country with a rail system of comparable size and density of use is there an example, either in operation or even under consideration, of a complete scheme such as that contained in the Railways Bill."[55]

At first the railways performed reasonably well following privatisation. More trains were running, more passengers were being carried, more freight was being moved and both punctuality and reliability improved.[56] However, by the 2000s problems had started to emerge. Following the Hatfield crash in 2000,[57] Railtrack, which was sold to the private sector in 1996, went into administration in October 2001 and many of its responsibilities were transferred to Network Rail in 2002. Despite early improvements during the 1990s, punctuality had also started to decline.[58]

## 3.2 Labour Government: 1997-2010

Rather than renationalise the railways, the Labour Government in late 1990s and early 2000s, sought to restructure of the industry. Labour established the Strategic Rail Authority (SRA) to fill what it considered to be a gap in the long-term strategic planning of the sector following privatisation (see Box 1). Labour's 1998 White Paper, A New deal for Transport: Better for everyone, said that:

> through a new Strategic Rail Authority, we will bring vision to the privatised railway and we will ensure that it meets the needs of passengers and the freight customers it serves. Passengers rightly demand better services and more accountability.[59]

Despite its decision to abolish the SRA few years later, the Labour Government remained committed to a public-private partnership in the rail

53 Railways Act 1993

54 House of Commons Library, Rail structures, ownership and reform, CBP 7992, July 2017

55 Transport Committee, The Future of the Railways in the Light of the Government's White Paper Proposals (second report of session 1992-93), HC 246, April 1993, paras 523- 524

56 Railway Forum fact sheet, Britain's growing railways (factsheet no. 1), 30 January 2001

57 On 17 October 2000, an express train bound for Leeds derailed in the Hertfordshire town of Hatfield killing four people. The Health and Safety Executive found that the train had driven over a section of track in poor condition, with over 300 factures, which should have been replaced.

58 DfT, The Future of Rail White Paper [PDF], July 2004, para 2.3.4

59 DfT, A New deal for Transport: Better for everyone, July 1998

sector. Alistair Darling, the then Secretary of State for Transport, told the House in January 2004 that:

> Privatisation had some disastrous and far-reaching consequences for the railways—Railtrack's performance, for example—but the private sector has brought considerable increased investment, and in many cases train companies have provided innovation that was conspicuously lacking in the past. We want to build on that. That is why the Government believe that renationalisation would not solve the problems that the railways face. What is essential is to put in place a structure that works and can deliver not just cost control but safe, reliable railways that work efficiently.[60]

In addition to abolishing the SRA, the Labour Government in its 2004 White Paper, The Future of Rail, proposed to give more responsibility for the operation and performance of the railway to Network Rail, reduce the number of franchises and align them more closely with Network Rail's regional structure, give a greater role to devolved administrations and the Mayor of London in decisions about passenger services and infrastructure and transfer responsibility for regulating the safety of the railway from the Health and Safety Executive to the then Office of Rail Regulation.[61] Some of these changes –the transfer of safety regulation, proposals relating to devolved decision-making and the abolishment of the SRA– were legislated for in the Railways Act 2005.[62]

## Box 1: The Strategic Rail Authority (SRA), 2001-2005

The Strategic Rail Authority (SRA) was set up in 2001 by the Labour Government and abolished a few years later. Labour's intention was that the SRA would provide the rail industry with the strategic leadership that had been lacking since privatisation and the tackle the fragmentation of the industry. The SRA was meant to ensure that the railway:

- operated in the interests of the public;
- was run as a network, rather than a collection of separate businesses;
- balanced the needs of passenger and freight customers; and
- integrated with other forms of transport.

Despite some successes, the SRA lacked the powers it needed to bring different parts of the industry together and, after only three years in operation, the Labour Government proposed that the SRA be abolished.

You can read more about the SRA in the Commons Library briefing paper Railways: Strategic Rail Authority, 1998-2005.

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60 HC Deb 19 January 2004 col 1077
61 DfT, The Future of Rail White Paper, July 2004
62 Railways Act 2005

## 3.3 The Coalition Government and the McNulty Rail Value for Money study

Prior to the 2010 General Election, the Labour Government established a review group in 2009, chaired by Sir Roy McNulty, to report on the costs of the railway in Britain and identify options for improving value-for-money. This review was published in 2011.[63]

Among other things, the review concluded that the key objectives of privatisation had not materialised and that there were structural barriers to improving the efficiency of the railway. The review added that "there is still quite some distance to go before these objectives are fully achieved."[64] Although the McNulty review dismissed the case for structural reform, it identified that the incentives between train operators and those who manage the infrastructure are most likely to align when the two functions are integrated, or managed, within the same body – what is known as vertical integration.[65] The Coalition Government published a rail Command Paper in 2012, in which it said the:

> Government welcomes the direction of the study's recommendation and considers greater alignment of incentives for efficiency between Network Rail and train operators to be the most pressing reform necessary to drive down costs [...]
>
> Government is committed to exploring the full menu of options for promoting greater alignment, including options to place responsibility for train operations and infrastructure management in an area in the same hands.[66]

The Coalition Government committed to explore the benefits of full integration on discrete parts of the network. Subsequently, franchises and Network Rail experimented by forming alliances, but with mixed success. The Transport Select Committee's report on rail franchising in 2017 concluded:

> it is clear that the alliancing programme, while a step toward greater alignment between the operator and Network Rail, has not achieved the desired benefits that were initially envisaged for this programme. We conclude that the programme is ultimately limited by the misalignment between franchises and Network Rail routes that prevents the establishment of deeper commercial arrangements.[67]

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63 DfT and ORR, Realising the Potential of GB Rail: Final Independent Report of the Rail Value for Money Study, May 2011
64 DfT and ORR, Realising the Potential of GB Rail: Final Independent Report of the Rail Value for Money Study, May 2011
65 DfT and ORR, Realising the Potential of GB Rail: Final Independent Report of the Rail Value for Money Study, May 2011
66 DfT, Reforming our Railways: Putting the Customer First, March 2012, p.41
67 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66

# 4 The railway in Great Britain: the current system

## 4.1 Roles and responsibilities for rail in Great Britain

Privatisation introduced greater private sector involvement and competition into the rail industry, but it also added extra complexity, with different organisations, with different incentives, responsible for different parts of the industry. Under the current system:

- most rail infrastructure is owned, maintained and operated by Network Rail, a publicly owned company (with some limited exceptions)[68];

- most passenger services have been run by privately-owned train operating companies (TOCs) under multi-year franchises let by the DfT and the Scottish and Welsh governments (except in London and Merseyside where they are let as concession agreements by the relevant local body). The public register of passenger service contracts contains a list of the franchise agreements for each operator, as well as other subsequent contracts that have been introduced (see Section 4.2).[69] Freight services, together with some passenger services (for example Hull Trains, Grand Central), are provided through 'open access', where operators secure timetable slots on the network from the regulator, the ORR[70];

- trains (also referred to as rolling stock) are owned by private rolling stock leasing companies (ROSCOs) and leased to the TOCs, although franchising authorities (namely the DfT, Scottish and Welsh governments) have had a significant say in the types of trains that TOCs lease through detailed franchise agreements[71];

68 Network Rail website (accessed 19 December 2021)
69 DfT, Public register of passenger service contracts (accessed 19 December 2021)
70 ORR On the right track: Open access explained, 12 June 2019
71 ORR, Rolling Stock Companies (accessed 19 December 2021)

- railway stations are owned by Network Rail. Network Rail lease most stations to train operators, but run the main passenger terminals, including all the major stations in London[72]; and
- the Rail Delivery Group (RDG) represents the industry and develops policy on its behalf. The RDG also performs several cross-industry functions, including National Rail Enquiries.[73]

For more information on the roles and responsibilities for rail see the Library briefing paper, Rail FAQs.

## Department for Transport

The DfT sets the strategic direction for the railway in England and Wales, funds investment in infrastructure, regulates fares and manages passenger services.[74] Since privatisation, the DfT procured and managed passenger services through a series of franchises with private operators (see Section 4.2). However, more recently, the DfT has replaced franchising with a series of interim contracts, in response to the Covid-19 pandemic.

## Network Rail

Network Rail is responsible for the railway infrastructure (the track, signals, bridges, tunnels, levels crossings, overhead wires and stations). Alongside maintaining, renewing and developing the rail network, Network Rail is responsible for:

- operating the network;
- managing performance;
- directing service recovery;
- setting timetables;
- allocating capacity; and
- leading industry planning.

Network Rail is a large organisation with over 40,000 staff. It is responsible for large sums of public money. Network Rail uses five-year periods, called Control Periods, for planning and budgeting. The current Control Period is Control Period 7, which runs between 1 April 2024 and 31 March 2029. Network

[72] Network Rail website (accessed 19 December 2021)
[73] Rail Delivery Group website (accessed 19 December 2021)
[74] National Audit Office, Departmental Overview 2019-20: Department for Transport, December 2020

Rail's budget for Control Period 7 is £43.1 billion.[75] The total asset value of the rail network across Great Britain in 2019-20 was £332 billion.[76]

Network Rail is regulated by the ORR, which is also the safety regulator.

See Library briefing paper on Network Rail (SN02129) for more information.

### Office of Rail and Road

The ORR is the independent economic and safety regulator for the railway in England, Wales and Scotland. It also performs some regulatory functions in Northern Ireland. The ORR:

- regulates Network Rail and HS1;
- regulates health and safety standards and compliance across the whole rail industry; and
- oversees competition and consumer rights issues.

It has a number of statutory duties in all of these areas.

For more information about the regulation of rail see the Library briefing, Rail regulation (SN02071).

## 4.2 Passenger services: Franchising, emergency rail contracts and direct awards

### Moving away from franchising

The railway in Great Britain is currently in a transition phase, where it is moving away from franchising, which has been the dominant commercial model for most passenger services since privatisation, towards a new style of public-private partnership. Since privatisation, the vast majority of rail services have been provided under multi-year franchises let by the DfT and devolved administrations.[77] However, as a result of Covid, franchising was replaced with a series of emergency contracts which shifted the cost and revenue risk of running the railway to the Government (see below). The Government then replaced these emergency measures with another set of contracts, designed to bridge the gap between franchising and the new style contracts proposed by the Williams-Shapps Plan for Rail (see section 7.3 below).

75 ORR, PR23 final determination: Summary of conclusions and overview for England & Wales [PDF], 31 October 2023, p6

76 National Audit Office, A financial overview of the rail system in England, HC 1373, 26 April 2021

77 Public register of rail passenger contracts, DfT updated 28 October 2021.

## Franchising

Franchising involved a franchising authority (such as the DfT, Welsh Government and Scottish Government) setting out a specification for what it wanted the franchisee to do over a set period (for example the level of service, upgrades, performance etc.). Companies then bid for the right to operate a franchise to that specification and the franchising authority picked whichever company it thought would deliver the best overall package and the best value for money. Bids were judged not only on price, but also on past performance, their commitments to improve the reliability of train services and crew and their operational viability. Franchise agreements included details of the performance standards that franchisees had to meet and arrangements for terminating the franchise in the case of a failure to meet these standards.

Under franchising, the cost and revenue risk of running rail services was taken on by the private sector. Franchisees earnt money from fares and government subsidies. When bidding for the franchise, these companies competed over the amount of subsidy they would require – or the premium they would be prepared to pay – to run those services. The amount of profit, or loss, a franchised operator made depended on the difference between their income and expenditure and the amount it paid to or received from the Government in the form of premium payments or subsidy.[78]

The approach to franchising varied under different governments. The Conservative Government’s 1992 White Paper promised that “flexibility will be preserved in all aspects of franchising, to take full account of the private sector's views on how it can best bring its skills to bear.”[79] There would, according to the 1992 White Paper, be “no universal template for a franchise contract” and “no standard duration either.”[80] The Labour Government adopted a stricter approach. In its 1998 White Paper, Labour outlined that it “will expect to see in all new franchises, and in any that are renegotiated, more demanding performance standards for train operators and arrangements which enable passengers to hold operators to account for the services they run.”[81] Then, in 2004, Labour decided to reduce the number of franchises in order to align them with the structure of Network Rail (see Chapter 3).

Franchising coincided with a period of rapid growth in passenger numbers. Following decades of regular decline in the post-war period up to 1980s, passenger numbers increased sharply from the mid-1990s at an average annual increase of 4%.[82] The number of journeys on the railway in Great Britain increased by 89% in the 20 years up to 2018/19, faster than any other

78 National Audit Office, A financial overview of the rail system in England, HC1373 April 2021

79 DfT, New opportunities for the railways: The privatisation of British Rail, Cm 2012 July 1992

80 DfT, New opportunities for the railways: The privatisation of British Rail, Cm 2012 July 1992

81 DfT, A New deal for Transport: Better for everyone, July 1998

82 There is a lively debate about whether privatisation caused all or some of the passenger increases or whether it just happened to coincide with a railway boom caused largely by external factors.

mode of transport.[83] However, while journeys on the railways reached a record high of 1.8billion in 2018/19, the growth in passenger numbers had begun to plateau.[84]

Between 2010-11 and 2017-18, train operating companies paid more in premiums to the Government than they received in subsidies, according to official figures from the ORR.[85] However, the amount of government subsidy steadily increased from 2016/17.[86] Train operators still made a net contribution of £223million to the Government in 2017-18, but in 2018/19, train operators received a net payment from the Government of £417million.[87] In 2019/20, the Government's net contribution to train operators rose to £1.2billion, due, at least in part, to Covid.[88]

## Problems with franchising

From early on in its introduction, there were a series of recurring problems with franchising, which the new style of contracts proposed by the Williams-Shapps White Paper seek to address (see Section 7.3). The problems included the revenue risk placed on train operators, the size, complexity and length of contracts and a lack of competition for rail franchises.

Many of the alleged benefits of franchising did not materialise. At the time of privatisation, franchising was promoted as a way to reduce fares, improve services for passengers and drive efficiencies. The Transport Select Committee's report on rail franchising in 2017 concluded that:

> It is clear that franchising coincided with significant growth in passenger rail but has not yielded all the benefits for passengers envisaged when the Government made the case for privatisation in 1992. Many metrics of performance are plateauing against the backdrop of substantial growth in premiums paid to Government. Ultimately, it is the passenger who pays: rail fares have grown significantly in recent years.[89]

### Revenue risk placed on train operators

Even before the Covid pandemic, some train operators were "experiencing commercial difficulties", according the National Audit Office, because their income rose at a slower rate than their expenditure. For some operators, the growth in passenger numbers they expected when they bid for the franchise did not materialise, which in turn affected their profitability.[90] The transfer of financial risk was one of the proposed benefits of franchising. However, the Transport Select Committee's report in 2016 noted that:

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83 DfT, Rail factsheet, December 2020

84 ORR, Table 1220 Passenger journeys

85 ORR, Rail finance 2018-19, November 2019

86 National Audit Office, A financial overview of the rail system in England, HC1373 April 2021

87 ORR, Rail finance 2018-19, November 2019

88 ORR, Rail industry finance 2019-20, [PDF] November 2020

89 Transport Committee, Rail Franchising, HC 66, February 2016

90 National Audit Office, A financial overview of the rail system in England, HC1373 April 2021

> falling profit margins for passenger operators in recent years, and the increasing size and complexity of franchises, appears to be increasing risk to private operators.[91]

The Brown Review into rail franchising in 2013 recommended that franchisees “should be responsible for risks they can manage” but “should not be expected to take external macroeconomic, or exogenous, revenue risk.”[92] Since privatisation, there have only been a few instances where the Secretary of State has removed a franchise. Where this has happened it has usually been because of a financial default.[93] For example, the Secretary of State for Transport’s eventual decision to remove the Northern Rail Franchise from Arriva North in January 2020 was because the franchise was no longer financially sustainable.[94]

### Size, complexity and length of rail franchises

The size and complexity of the franchise contracts let by the DfT increased over time and were larger than elsewhere in Europe. The Brown Review in 2013 noted a trend towards fewer, larger franchises.[95] Over time the number of franchises let has been reduced from 25 at the time of privatisation to 14.[96] This was mainly as a result of reforms by the Labour Government in 2007 to align franchises to the structure of Network Rail. The Thameslink, Southern and Great Northern (TSGN) franchise, which was let in 2014, covered 20% of the rail network.[97] The upfront financial capital operators needed to put down in the form of a Parent Company Guarantee deterred some from bidding.[98] Over time operators complained that the franchise contracts had become more prescriptive and were being managed more rigidly by the DfT.[99]

Another problem with franchising has been the length of the contracts. The Transport Committee, in 2016, commented that “the relatively short length of franchises reduces the incentive of operators to both invest and drive down costs.”[100] However, the DfT has opted in favour of shorter contracts following the Brown Review. The Brown Review outlined that forecasting revenue is harder over longer periods. It insisted that 15 years, in most cases, is too long. Instead, the Brown Review suggested that an initial period of 7 to 10 years for a franchise “would strike an optimum balance between length and risk.”[101]

### Lack of competition

Under franchising, operators competed for the market (for example the right to operate services on certain parts of the network) rather than within the

91 Transport Committee, Rail Franchising, February 2016, HC 66
92 DfT, The Brown Review of the Rail Franchising Programme, January 2013, para 1.14
93 Commons Library Insight, Northern Rail: the end of the line, 30 January 2020
94 DfT, Rail update: Northern Franchise, 9 January 2020
95 DfT, The Brown Review of the Rail Franchising Programme, January 2013
96 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66
97 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66
98 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66
99 DfT, The Brown Review of the Rail Franchising Programme, January 2013, para 2.9-2.12
100 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66
101 DfT, The Brown Review of the Rail Franchising Programme, January 2013

market.[102] The Transport Committee in 2017 reported that "franchising is predicated upon there being competition for the market, but the reality falls well short of that aspiration." [103] They found that direct awards, where there is no competition between bidders, were in place for most franchises. They also found that there was a lack of market interest from prospective bidders when new franchises were put out to tender. The Transport Committee concluded that:

> The direct award dependency of the Department and recent fall in market interest demonstrates that genuine competition has been restricted to a limited number of franchises. This core policy objective [of franchising] is not being met.[104]

## Emergency contracts during the Coronavirus pandemic

As a result of the Coronavirus pandemic, the Government introduced a series of emergency rail contracts, known as Emergency Measures Agreements (EMAs) and Emergency Recovery Management Agreements (ERMAs), which transferred the cost and revenue risk of running the railway from train operating companies to the Government.[105] [106] When the coronavirus hit and people were encouraged to avoid public transport and work from home, passenger numbers collapsed and the industry's revenue decreased.[107] This left operators in a situation where they would, in all likelihood, have all defaulted on the financial arrangements within their franchise agreements in quick succession. The use of these emergency contracts has kept services running while demand for rail has been low.

These emergency contracts have also been used as a stepping-stone to bring franchising to end and transition the industry to a new the new style of contracts proposed in the Williams-Shapps Plan for Rail.[108] For example, under the ERMAs, the Government introduced a series of conditions requiring operators to cooperate with each other and make start on reforms to the industry.[109] They also initiated a process whereby operators have negotiated sums with the Government to relieve them of the obligations in their franchise agreements.[110]

More information on these emergency contracts is set out in Chapter 5.

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102 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66, para 17
103 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66, para 19
104 House of Commons Transport Committee, Rail Franchising, February 2017, HC 66
105 Rail Update: Written statement - HCWS175, 23 March 2020
106 Rail update: HCWS460, 21 September 2020
107 ORR, Passenger Rail Usage 2020-21 Quarter 4, 3 June 2021
108 Transport Committee, *Oral evidence: Coronavirus: implications for transport*, HC 268, 24 June 2020, Qq352-3
109 Rail update: HCWS460, 21 September 2020
110 House of Commons Public Accounts Committee, Oral evidence: Department for Transport Recall, HC 850, 15 October 2020, Q1

### Direct awards to incumbent operators

From October 2021 onwards, the Government replaced these emergency measures with a series of contracts awarded directly to the incumbent operators, known as direct awards, as the next step towards a new commercial model for the industry. These are known as National Rail Contracts. These new direct awards have a longer timeframe (currently from 2-6 years) than the emergency arrangements introduced in response to the pandemic.[111] Under these contracts, operators continue to receive a management fee for running services, while the Government takes on the revenue risk.[112]

More information on National Rail Contracts is set out in Section 7.3 below.

### Open access

A small number of other services are run by open access operators who are granted slots – specific time on the national rail timetable – to run their own services by the regulator, the ORR.

For more information on rail franchising see the Library briefing paper on Passenger rail services in England (CBP 6521)

## 4.3 Rail fares and ticketing

The current structure, type and level of rail fares in Great Britain has been determined by a mixture of history, market forces and regulation.[113] The fares structure that is in existence is a hangover from the days of British Rail and many of the regulations underpinning rail fares were introduced through the Ticketing Settlement Agreement (TSA) in 1995.[114]

The overall fares structure, including what fares are regulated and how they change year-on-year, has been determined by government policy. [115] Individual rail fare changes are made by train operators, but certain categories of those fares are regulated by Government and can only be increased by a given amount each year.[116]

As such, rail fares fall into one of two categories: regulated and unregulated fares. About 45% of rail fares, including season tickets and commuter fares,

111 TransPennine Express, FirstGroup signs new National Rail Contracts for TPE and SWR, 20 May 2021
111 Chiltern Railways awarded new six-year contract, BBC News, 4 December 2021
112 PQ 15358 [Rail Delivery Group: contracts] answered on 22 June 2021
113 Steer Davies Gleave, Research project on fares - Final Report: analysis, recommendations and conclusions, 28 February 2011, pi
114 Rail Delivery Group, Ticketing and Settlement Agreement, 23 June 1995
115 Rail Delivery Group, Rail fares FAQs (accessed on 19 December 2021)
116 Rail Delivery Group, Rail fares FAQs (accessed on 19 December 2021)

are regulated fares.[117] Annual increases in these fares are capped – by the Secretary of State for Transport in England, Welsh Ministers in Wales and Scottish Ministers in Scotland – and linked to the previous year's July RPI figure.[118] All other fares, including first class and advance tickets, are termed unregulated fares because they are set at the discretion of train operators.[119]

The National Rail Conditions of Carriage, within the TSA, sets out how rail fares are created, set, honoured and settled between operators. The conditions require (except in certain defined circumstances) all train operators to sell a core range of tickets for all services, including those of other operators, and to do so in an unbiased manner.[120] For example, where there is a choice of fares between A and B, operators must offer both and explain the difference between them. Changes to key parts of the TSA (including the National Rail Conditions of Carriage) must be approved by the Secretary of State for Transport. [121]

The current ticketing arrangements on the national rail network is also underpinned by the TSA, which all train operators (including non-franchised, open access operators) are required to adhere to as a condition of their operating licence issued by the ORR.[122] While there has been some progress since privatisation, such as the introduction of smart-ticketing, the tangerine "magstripe" ticket is still required on many rail journeys.

## Cost of rail fares

The cost of rail fares has increased by 20% in real-terms over the last twenty years.[123] The long-distance sector has seen the biggest real terms change in rail fares since the series began in 1995, while the average fare increases on first class tickets have been over three times that of standard class tickets.[124] These increases are largely due to unregulated fares having a greater share of the market in the long-distance sector, and unregulated fares not being subject to the inflationary cap set by the government and devolved administrations (see the Chart 'Rail fares are 20% more expensive in real-terms than in 1995' below).

## Who pays for the railway?

Consecutive governments have had a policy to shift the burden of funding the railways from the taxpayer to the passenger. After privatisation, there was a consistent increase in the proportion of rail costs funded by the taxpayer; a

117 ORR, Fares and penalty fares (accessed on 19 December 2021)
118 ORR, Fares and penalty fares (accessed on 19 December 2021)
119 ORR, Fares and penalty fares (accessed on 19 December 2021)
120 Rail Delivery Group, Ticketing and Settlement Agreement, 23 June 1995
121 Rail Delivery Group, Ticketing and Settlement Agreement, 23 June 1995
122 Rail Delivery Group, Ticketing and Settlement Agreement, 23 June 1995
123 DfT, Decarbonising Transport: A Better, Greener Britain, July 2021, page 7
124 ORR, Rail fares, table 7180

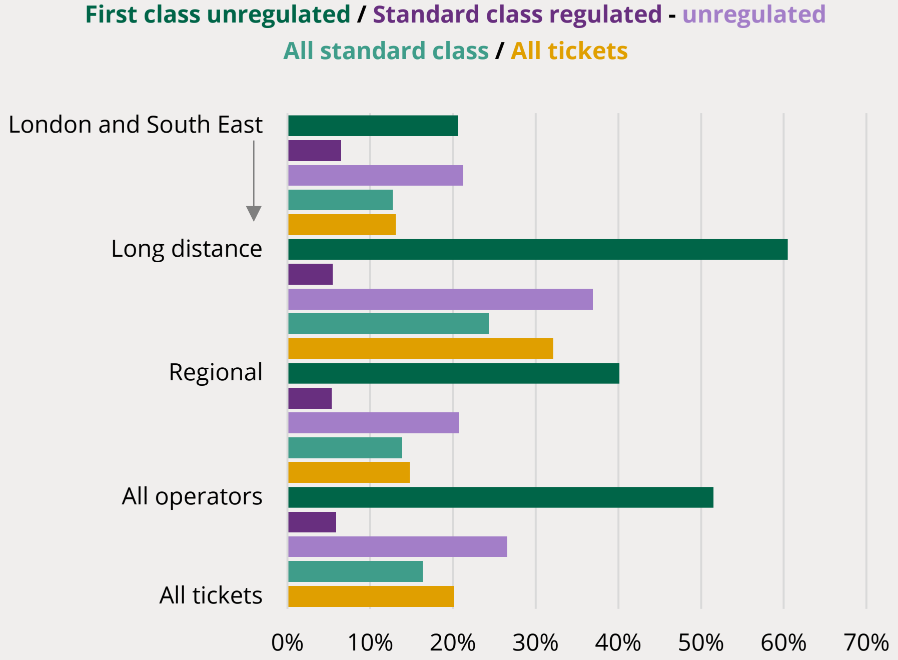
pattern of 25–35 per cent taxpayer subsidy in the second half of the 1990s increased to 40–50 per cent after 2000.[125]

By 2005/06, taxpayers were paying a higher proportion than fare payers. The Labour Government's 2007 Rail White Paper stated that "this is clearly not sustainable"[126] and said that between 2009 and 2014 'cost efficiencies' would "allow the subsidy requirement to return closer to historic levels."[127] In its 2012 command paper the Coalition Government stated its intention to bring down taxpayer and fare payer funding for the railway.[128]

In 2018-19, before the Covid pandemic, the split was about 48-52 (passengers providing 48% of rail industry income), a small decrease on the previous year and a sharp decline compared to five years previously when the split was 39-61 (passengers providing 61% of rail industry income).[129]

## Rail fares are 20% more expensive in real terms than in 1995

Real terms change in average price 2021 on 1995 by sector, class and ticket status; Great Britain




Source: Office of Rail and Road, Rail fares, table 7180

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125 DfT, Delivering a Sustainable Railway, Cm 7176, July 2007, para 12.6

126 DfT, Delivering a Sustainable Railway, Cm 7176, July 2007, p126

127 DfT, Delivering a Sustainable Railway, Cm 7176, July 2007, pp127-9

128 DfT, Reforming our Railways: Putting the Customer First, Cm 8313, March 2012, p12

129 ORR, UK rail industry financial information 2018-19, 26 February 2020, pp10-11 and GB rail industry financial information 2013-14, February 2015, p15

# 4.4 Devolution and local involvement in rail

## Local involvement in decisions about rail in England

The running of the railway in Great Britain has been largely centralised. The DfT procures most rail services and decides on rail enhancements. Network Rail, which owns and manages the infrastructure, including the main passenger terminals, is a national body, although following The Shaw Report in 2016, The future shape and financing of Network Rail, it has been developing a more devolved, regional structure.[130]

Since 2010, a profusion of local and regional bodies has emerged with different levels of responsibility for transport funding and planning.[131] These include the traditional two tier (county and district) councils, unitary councils, combined authorities (with and without elected mayors), local enterprise partnerships (LEPs), integrated transport authorities and sub-national transport bodies (STBs). Some areas have 'devolution deals' with the Government, each delivering different levels of responsibility for local transport.[132] However, while these regional and local bodies can influence decisions on rail, they typically have no formal powers of their own.

Transport for the North (and any future STBs, should any be formally designated) provides advice to DfT as part of its statutory powers (for example by publishing a regional strategic transport plan), which the Secretary of State must 'have regard' to.[133] However, there are some exceptions, such as Merseyrail, in which regional authorities are responsible for the provision of rail services and infrastructure.

The 2019 Conservative Manifesto committed to "giving metro mayors control over services in their areas."[134] A number of metro mayors have been keen to see their rail powers extended so that they can have more power over the design and oversight of their local rail networks (like the Mayor of London).

## Devolution of rail: Scotland, Wales & Northern Ireland

The extent of devolved responsibilities for rail varies across the UK. Northern Ireland's rail system is entirely devolved, whereas UK Parliament has reserved powers for rail in Scotland and Wales.

### Scotland

In Scotland, Schedule 5, Part II, Head E of the Scotland Act 1998, as amended, prescribes those areas reserved to the UK Parliament; everything else is

130 The Shaw Report, The future shape and financing of Network Rail, May 2016
131 House of Commons Library, Local transport in England, 2010-, CBP7676, August 2021
132 House of Commons Library, Devolution to local government in England, March 2020
133 Cities and Local Government Devolution Act 2016 (legislation.gov.uk)
134 The Conservative and Unionist Party Manifesto 2019, Get Brexit done: Unleash Britain's Potential, November 2019

devolved.[135] The 1998 Act was substantially amended in 2012 and 2016. In general, the provision and regulation of railway services is a reserved matter except for those that both begin and end in Scotland, which are devolved.

The Scottish Government is responsible for letting and managing the ScotRail and Caledonian Sleeper franchises, setting regulated rail fares and determining Network Rail's priorities and funding for projects in Scotland. Transport Scotland was established as an executive agency of the then Scottish Executive in January 2005. It is the national transport agency for Scotland and has a directorate dedicated to delivering rail services and projects.

In March 2021, the Scottish Government announced that the running of ScotRail services would transfer from private sector operator Abellio to the public sector from the end of March 2022, under powers which allow for the appointment of an Operator of Last Resort.[136] On 1 April 2022, ScotRail Trains Limited took over responsibility for running ScotRail services.[137] ScotRail Trains Limited is owned by Scottish Rail Holdings Limited, a non-departmental public body under the control of Scottish Ministers.[138]

In June 2023, the Caledonian Sleeper service transferred from private operator Serco to the public sector. Services are operated by Caledonian Sleeper Limited, which is owned and overseen by Scottish Rail Holdings Limited.[139]

### Wales

In Wales, the original devolution settlement under the Government of Wales Act 1998 did not equip the National Assembly for Wales with primary law-making powers, and most transport policy remained under Westminster control.[140] In 2014, the Silk Commission recommended that the National Assembly should move to a reserved powers model like Scotland.[141] This was then enacted by the Wales Act 2017.[142]

Schedule 7A, Part II, Head E prescribes those areas reserved to the UK Parliament, including some road and rail transport, and almost all aviation, maritime and transport security matters.[143] The main devolved areas are in local and public transport and the Wales & Borders rail franchise. Unlike Scotland, most rail infrastructure and the funding of Network Rail in Wales remains reserved, with the exception of the Core Valley Lines.

135 Scotland Act 1998
136 Scotland's train operator ScotRail to be nationalised, BBC, 18 March 2021
137 Transport Scotland, ScotRail Franchise (accessed 25 April 2022)
138 ScotRail, About ScotRail (accessed 25 April 2022)
139 Transport Scotland, Caledonian Sleeper Franchise (accessed 7 May 2024)
140 Government of Wales Act 1998
141 Commission on Devolution in Wales, Empowerment and Responsibility: Legislative Powers to Strengthen Wales, March 2014
142 Wales Act 2017
143 Government of Wales Act 2006

Transport for Wales (TfW) was established in 2015 as a wholly-Welsh Government owned company. Transport for Wales has taken responsibility for the Wales and Borders franchise since October 2018.[144] TfW awarded the franchise to a new private operator in October 2018. After the Covid 19 pandemic, the franchise was initially with replaced with emergency contracts similar to those used in England. However, in October 2020, the Welsh Government announced that the franchise would be taken into public ownership from February 2021, with all rail services transferred over to a publicly owned company, Transport for Wales Rail Ltd, a subsidiary of Transport for Wales.[145]

In March 2020, the Core Valley Lines were transferred from Network Rail to Transport for Wales. Transport for Wales leases its assets to Amey Infrastructure Wales Limited, who are the Infrastructure Manager for the Core Valley Lines network. [146]

### Northern Ireland

Railways in Northern Ireland are completely devolved, governed by separate legislation and managed in a different way. The services and infrastructure are operated by a number of companies, all owned by the state-owned Translink.

## 4.5 Rail infrastructure

Rail infrastructure in Great Britain is owned, maintained and operated by Network Rail, a publicly-owned company, with the exception of the HS1 route through Kent and the Core Valley Lines (CVL) in Wales, which are maintained and operated by private companies under agreements with the UK and Welsh Governments respectively.[147]

Rail maintenance and upgrades are planned on a five-yearly basis as part of the industry-wide Periodic Review.[148] The industry is currently in Control Period 7, which covers the period 2024 to 2029.

Enhancements (such as electrification and new signalling) have, since 2017, been part of a separate process, called the Rail Network Enhancements Pipeline (RNEP).[149] The first update of projects within this pipeline was published in October 2019. These programmes of work are publicly funded, though there is a small number of schemes in the RNEP that could be

144 The Welsh Ministers (Transfer of Functions) (Railways) Order, SI 631
145 Welsh Government, Welsh Government to take rail franchise under public control, 22 October 2020
146 Transport for Wales, Core Valley Lines infrastructure manager (accessed 7 May 2024)
147 HS1 Ltd, What we do (accessed 22 December 2021); Transport for Wales, Core Valley Lines infrastructure manager (accessed 7 May 2024)
148 ORR, Periodic review 2018 (PR18) (accessed 7 May 2024)
149 Policy paper overview: Rail network enhancements pipeline: autumn 2019 update - GOV.UK (www.gov.uk)

privately financed. No update to the RNEP has been published since October 2019.[150]

[150] PQ 12457 [on Railways], 8 February 2024

# 5 The Coronavirus pandemic's impact on rail

Because of Covid-19 pandemic, and the Government's advice and restrictions on travel, passenger numbers plummeted in 2020-21 to "the lowest level of annual passenger usage since before 1872."[151] In 2020-2021, 388 million rail journeys were made in Great Britain, just over 22% of the 1.7 billion journeys made in the previous year.[152] With fewer people using the railways, passenger revenue fell dramatically. According to the Office of Rail and Road (ORR), passenger revenue totalled £1.9 billion in 2020-21 (just 18.3% of the £10.4 billion generated in 2019-20).[153]

Services were kept going through a series of emergency interim contracts which altered the financial mechanisms in place under franchising by essentially shifting the cost and revenue risk of running rail services from train operators to the Government.

## 5.1 Emergency Measures Agreements (EMAs)

On 23 March 2020, the Secretary of State for Transport announced that train companies operating franchises let by the DfT would be able to temporarily transition onto Emergency Measures Agreements (EMAs) – emergency contracts introduced in response to the Covid pandemic. The EMAs suspended the financial mechanisms within the franchise agreements and transferred all of the revenue and cost risk of running the railway to the Government for an initial period of six months. In return for running services operators were paid a management fee (a maximum of 2% of the cost base of the franchise before Covid began).[154] As a result of the changes, the Office of National Statistics reclassified franchisees as 'public non-financial corporations' (see Box 3).

Every franchise moved onto an EMA except those which were already run by the public sector Operator of Last Resort (OLR) before the pandemic struck.[155] Because passenger numbers and revenue had collapsed due to the pandemic any franchisees that did not move onto EMAs would, in all likelihood, have defaulted on their franchise agreements. The EMAs expired on 20 September

151 ORR, Passenger Rail Usage 2020-21 Quarter 4, 3 June 2021
152 ORR, Passenger Rail Usage 2020-21 Quarter 4, 3 June 2021
153 ORR, Passenger Rail Usage 2020-21 Quarter 4, 3 June 2021
154 Rail Update: Written statement - HCWS175, 23 March 2020
155 DfT, Public register of passenger service contracts (accessed 19 December 2021)

2020. With the expiry date approaching, ministers considered a range of options for providing rail services.[156]

### Box 3: Statistical reclassification of rail franchises, July 2020

On 31 July, the Office for National Statistics (ONS) published letters to the Treasury and the Scottish Government notifying them of the ONS' decision to re-classify franchisees operating on EMAs as 'public non-financial corporations' with effect from 1 April 2020, the date the EMAs came into force.[157] Its main reasons for taking this decision were that:

- The EMAs place constraints on the capacity of franchisees to raise funds (for example by borrowing or entering into any loan or lending agreement).
- The main reason franchised train services continue to run is because it is Government policy to ensure the continuation of these services;
- Almost all the financial risks associated with rail transport are now borne by the Government; and
- For the duration of the EMAs, without the permission of the Secretary of State for Transport, franchisees cannot take key decisions that relate to their corporate policy (for example increasing their workforce, reducing their workforce by more than 5%, or reducing ticket prices).[158]

## 5.2 Emergency Recovery Management Agreements (ERMAs)

From 21 September 2021, the Government replaced EMAs with a second round of interim contracts known as Emergency Recovery Management Agreements (ERMAs). These contracts were intended to run for up to 18 months (until

[156] Railways: Coronavirus: Written question – 74502, 20 July 2020

[157] ONS press notice, "Correspondence on classification of train operating companies now running under emergency measures agreements", 31 July 2020

[158] ONS press notice, "Correspondence on classification of train operating companies now running under emergency measures agreements", 31 July 2020

March 2022) and were "designed to ... bring current franchises to an end when these agreements expire".[159] The Government described the ERMAs as:

- having "tougher performance targets";
- allowing the DfT to "make an early start on key reforms, including requiring operators to co-ordinate better with each other and driving down the railways' excessive capital costs";[160]
- having lower management fees, set at a maximum of 1.5% of the cost base of the franchise before the pandemic began; and
- running an "almost full" service to ensure there is space to help passengers travel safely.[161]

Rail Delivery Group (RDG), on behalf of the rail industry, welcomed the ERMAs as a "stepping-stone to a better railway" involving the private sector in a more effective way.[162] However, rail unions and the Labour Party criticised the arrangements as 'papering over the cracks' and called for private companies to be removed from rail service provision altogether.[163]

## Termination sums

The ERMAs also initiated a process whereby franchise operators have been negotiating sums with the DfT to terminate their franchise agreements. To reach these sums the DfT developed a model to "generate a projection of financial performance had the pandemic not occurred."[164] In oral evidence to the Public Accounts Committee in October 2020, Ruth Hannant, the then Director General for the Rail Group at the DfT, explained that while the DfT said it has not wanted to penalise operators for the "effect of the pandemic on their business", it was also of the view that operators "should not be relieved of any losses that they would have suffered if the pandemic had not occurred."[165] Ms Hannant went on to say that:

> We have set up a fair, objective and reasonable process, and if they [train operators] don't agree with the number that comes out of that process, it is open to them to reject it and go back to their previous financial terms.

159 Rail update: HCWS460, 21 September 2020

160 Given that the vast majority of infrastructure projects come under the auspices of Network Rail, a publicly owned body since 2002, it is unclear what this means in practice.

161 DfT press notice, "Rail franchising reaches the terminus as a new railway takes shape", 21 September 2020

162 RDG press notice, "Rail companies respond to government announcement about rail franchising", 21 September 2020

163 BBC News, "Rail franchises axed as help for train firms extended", 21 September 2020

164 House of Commons Public Accounts Committee, Oral evidence: Department for Transport Recall, HC 850, 15 October 2020, Q1

165 House of Commons Public Accounts Committee, Oral evidence: Department for Transport Recall, HC 850, 15 October 2020, Q1

> Obviously, they could decide to pursue litigation, but we would hope that they wouldn't, because we believe the process is very fair.[166]

Dominic Booth, the Managing Director of Abellio, told the Transport Committee in November 2020 that he did not "recognise some of the numbers that have come out [from the DfT's projections] so far from the previously strong and healthy contracts we had in place."[167] The Secretary of State for Transport informed the Transport Committee in August 2021 that the "Department has negotiated, to the tune of many, many millions of pounds, payments from the train operating companies."[168] West Midlands Trains, for example, paid £90.5million to terminate its franchise agreement. Termination sums for other franchises, such South Western Railway and Great Anglia, amount to tens of millions of pounds.[169]

166 House of Commons Public Accounts Committee, Oral evidence: Department for Transport Recall, HC 850, 15 October 2020, Q1

167 House of Commons Transport Committee, Oral evidence: Coronavirus: emergency measures for the railways, HC 918, 18 November 2020, Q53

168 House of Commons Transport Committee, Oral evidence: Work of the Secretary of State for Transport, HC626, Wednesday 22 September 2021, Q35

169 PQ 17797 [Railways: franchises] answered on 17 June 2021

# 6 The Williams Rail Review: 2018-2021

One of the criticisms of privatisation is that it fragmented the rail industry.[170] Except for a brief period in the early 2000s, no single organisation or individual has been ultimately in control of, or responsible for, running the railway. Since the railway was privatised, numerous reviews and White Papers have highlighted problems associated with the fragmentation of the rail sector.[171] For example, in 2004, Alistair Darling, the then Secretary of State for Transport, said, when announcing a review of the railway, that:

> The way in which it (the rail industry) was privatised has led to fragmentation, excessive complication and dysfunctionality that have compounded the problems caused by decades of under-investment. Quite simply, there are too many organisations, some with overlapping responsibilities, and it has become increasingly clear that that gets in the way of effective decision making and frequently leads to unnecessary wrangling and disputes. That is no way to run the railways.[172]

Fragmentation has inhibited the ability of different parts of the industry to co-operate. One of the problems with the fragmented nature of the rail sector is that different organisations, such as train operators and Network Rail, operate to very different incentives.[173]

The Williams Rail Review was announced off the back of a series of problems in the rail sector, which were all deemed to be "symptomatic of deeper, more fundamental issues in the railway."[174] One of these events was the May 2018 timetable changes. In July 2019, Chris Grayling told the then Transport Select Committee that "one of the reasons why we had the problems last year [the May 2018 timetable crisis] is that accountability is too fragmented."[175] He went on to say that "there are too many places in the way the industry is structured at the moment for things to fall between the cracks, and that is

170 DfT, Williams Rail Review: an update on progress, 16 July 2020; DfT, Realising the Potential of GB Rail Report of the Rail Value for Money Study: Summary Report, May 2011; HC Deb 19 January 2004 col 1076; DfT, A New deal for Transport: Better for everyone, July 1998;

171 DfT, Realising the Potential of GB Rail Report of the Rail Value for Money Study: Summary Report, May 2011; DfT, A New deal for Transport: Better for everyone, July 1998; HC Deb 19 January 2004 col 1076

172 HC Deb 19 January 2004 col 1076

173 DfT and ORR, Realising the Potential of GB Rail: Final Independent Report of the Rail Value for Money Study, May 2011

174 DfT, Williams Rail Review: an update on progress, 16 July 2020

175 Transport Committee, Departmental policy and performance: Update with the Secretary of State, 17 July 2019, HC 2161, Q12.

what happened last year."[176] See Box 4 below for more information on the May 2018 timetable changes.

## Box 4: May 2018 timetable changes

The scale of the timetable changes in May 2018 were unprecedented, four times the size of the average six-monthly timetable change, involving 42,300 individual changes to the timetable, affecting almost half of the passenger services on the rail network. Despite the complexity, the changes were introduced in a much shorter timeframe than was usually the case under standard industry practice. The Transport Committee's report noted there simply was not enough time "to ensure a reasonably smooth implementation."[177] Delays in infrastructure works in the North and the phasing in of new trains in the South contributed to the problems. Reports by the ORR and the Transport Committee outlined points where the governance and decision-making structures failed.[178]

Following the timetable changes, two large passenger operators failed to run significant proportions of their planned daily services with substantial knock-on effects on other parts of the network. For example, Govia Thameslink Railway, failed to run 470 of its 3880 planned services, while 11% (310 out of 2810) of Arriva Rail North's planned services also did not run. The Transport Committee's inquiry into the timetable crisis concluded that the:

> May 2018 timetabling crisis was in part a consequence of the astonishing complexity of a disaggregated railway in which the interrelated private train companies operating on publicly owned and managed infrastructure have competing commercial interests.[179]

176 Transport Committee, Departmental policy and performance: Update with the Secretary of State, 17 July 2019, HC 2161, Q12.

177 House of Commons Transport Committee, Rail timetable changes: May 2018 [PDF], HC1163, December 2018, p3

178 House of Commons Transport Committee, Rail timetable changes: May 2018 [PDF], HC1163, December 2018; ORR, Independent Inquiry into the disruption in May 2018 – Final report, 7 December 2018

179 House of Commons Transport Committee, Rail timetable changes: May 2018 [PDF], HC1163, December 2018, para 62

# 6.1 The Williams Review

On 20 September 2018, the then Secretary of State for Transport, Chris Grayling, launched a 'root-and-branch' review of the railway.[180] Reflecting on his time in office, Chris Grayling told the then Transport Select Committee in 2019 that:

> If I could turn the clock back, I would probably have started with revolution [of the railways] on day one, and not evolution on day one, because it has become abundantly clear since that it is revolution that is needed.[181]

## Scope

Keith Williams, deputy chairman of the John Lewis Partnership and former chief executive of British Airways, was appointed to chair the Review and was given a clear mandate to 'deliver revolution.'[182]

The Review's terms of reference were published on 11 October 2018. They stated that the Review should make recommendations to support:

- commercial models for the provision of rail services that prioritise the interests of passengers and taxpayers;
- rail industry structures that promote clear accountability and effective joint-working for both passengers and the freight sector;
- a system that is financially sustainable and able to address long-term cost pressures;
- a railway that is able to offer good value fares for passengers, while keeping costs down for taxpayers;
- improved industrial relations, to reduce disruption and improve reliability for passengers; and
- a rail sector with the agility to respond to future challenges and opportunities.[183]

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180 DfT press notice, "Government announces 'root and branch' review of rail", 20 September 2018

181 Transport Committee, *Departmental policy and performance: Update with the Secretary of State*, HC 2161, 17 July 2019, Q12

182 Transport Committee, *Departmental policy and performance: Update with the Secretary of State*, HC 2161, 17 July 2019, Q12

183 DfT, Rail Review – Terms of reference (accessed 12 August 2020)

It was also made clear that the Review's recommendations should not negatively affect the public sector balance sheet, aside from some reasonable transition costs. Public investment decisions, such as HS2 and other major rail projects, were outside the scope of the review.

At the heart of the Review was the aim to put customers – passengers and freight companies – first. To this end, Keith Williams, in July 2019, outlined a series of fundamental, evidence-based, passenger needs, which the review's recommendations should satisfy. The first five formed the core passenger offer:

- reliability and punctuality;
- safety and security;
- value for money;
- consistency and transparency; and
- accessibility.

Beyond these basic user needs, Keith Williams emphasised the importance accountability and leadership, accurate information and communication and appropriate compensation and redress to maintaining high levels of satisfaction.[184]

## Delays and changes due to Covid

Announcing the launch of the Review, the then Transport Secretary, Chris Grayling, said it would conclude with a White Paper, and that he expected the reforms to begin from 2020.[185] However, the publication of the White Paper was delayed due to the 2019 General Election and the coronavirus pandemic. The Transport Secretary, Rt Hon. Grant Shapps, told the House of Commons Transport Committee in June 2020 that: "Had it not been for coronavirus we would have released a White Paper already."[186]

The Transport Secretary explained that the pandemic had superseded some of what Williams had recommended and that there was an opportunity to move faster on reform:

> [...] we have now ended up holding the entire network in our hands, as it were. We think that means we can do things more quickly overall, but we will need a bit more time to put those plans in place [...]
>
> [...] a lot of what the White Paper did was to get us in part where we are now. Circumstances have ended up superseding a lot of what Keith was doing [...]

184 DfT, Williams Rail Review: an update on progress, Jul 2019

185 DfT press notice, "Government announces 'root and branch' review of rail", 20 September 2018

186 Transport Committee, Oral evidence: Coronavirus: implications for transport, HC 268, 24 June 2020, Q352

> Unusually coronavirus, in this case, has not pushed things behind. It has potentially speeded things up.[187]

The eventual White Paper was named as the Williams-Shapps Plan for Rail to reflect the changes that had been made in light of the coronavirus pandemic and its implications for rail.

187 Transport Committee, Oral evidence: Coronavirus: implications for transport, HC 268, 24 June 2020, Qq352-3

# 7 The Williams-Shapps Plan for Rail: The Government’s plans for rail reform

## 7.1 The Williams-Shapps Plan for Rail: an overview

The Williams-Shapps Plan for Rail was published in May 2021.[188] In a statement to Parliament, the Transport Secretary described the Plan as “the biggest shake up in three decades, bringing the railway together under a single national leadership, with one overwhelming aim: to deliver for passengers.”[189] The Plan proposed:

- to create a new public body, GBR, as a single "guiding mind" to own the infrastructure, receive fare revenue, run and plan the network and set most fares and timetables;
- to replace the franchise system with new passenger service contracts, similar to the contracts operated on Transport for London's Overground and bus network;
- the reform of, and upgrades to, the fares system, with an emphasis on standardisation and simplicity, together with the introduction of new and innovative products such as flexible season tickets;
- a new 30-year strategy for rail be created to “provide clear, long-term plans for transforming the railways to strengthen collaboration, unlock efficiencies and incentivise innovation”; and
- the establishment of a national brand and identity (an updated version of the classic ‘double arrow’ logo) to emphasise that the railways are one connected network, with national and regional sub-identities.

188 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021
189 HC Deb 20 May 2021 c888

## 7.2 GBR: A new body responsible and accountable for running the railway

The Williams-Shapps Plan for Rail set out the Government's plans to establish a new body, GBR, to integrate and manage the day-to-day running of the railway.

### Responsibilities of GBR

Once established, GBR would take on many of the functions currently undertaken by the DfT, Network Rail and the Rail Delivery Group (RDG). For example, the Government has said GBR will "run and plan the rail network, own the infrastructure, and receive the fare revenue. It will procure passenger services and set most fares and timetables." [190] GBR would also:

- Deliver the Government's priorities for rail;
- Develop a 30-year strategy and 5-year business plans;
- Manage the railway budget;
- Be responsible for safe and efficient operations;
- Be accountable for the passenger offer;
- Own stations and infrastructure;
- Plan access in the public interest; and
- Support the rail freight market and cross-regional services.

### Holding GBR to account

The Government has acknowledged that GBR would be "a powerful body" and that strong structures and measures would need to be in place to ensure it acts in the public interest.[191] The Plan states:

> [...] there is, of course, a risk that it [GBR] may become in some ways too powerful, or at least empowered to make decisions that are not in the public interest. It would, for instance, be easy to improve punctuality on a given line by halving the train service; or to create more time for maintenance by permanently ending evening trains. It may be easier to save money by cutting services or facilities than by cutting inefficient or wasteful practices.[192]

190 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021
191 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021 p.35
192 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021 p.35

The relationship envisaged between ministers and GBR is intended to be akin to the relationship between Transport for London and the Mayor of London.[193] GBR would be responsible for the day-to-day management of the railway, leaving the DfT to set policy and strategy over the medium to long-term.[194] However, the Secretary of State would be able to intervene by issuing guidance and directions. GBR would be an arms-length body sponsored by the DfT. The precise relationship between the two bodies would be set out in a Framework Agreement.[195]

The Government would give GBR a binding mandate which emphasises that its primary focus is to serve the "interests of passengers, freight customers and taxpayers" and grow the use of the railway.[196] GBR's funding would be dependent on meeting this mandate. Ministers would continue to take "key funding decisions" and would also have "strong levers" to set the direction for the railway and ensure GBR "pursues government policy."[197] For example, the Secretary of State would be responsible for appointing the Chair of GBR and agreeing a framework for pay, including performance-related pay.[198]

### Governance framework for GBR: Government proposals

The Williams-Shapps Plan for Rail explained that ministers would hold GBR to account through "a structured framework underpinned by legislation."[199] The DfT's consultation in June 2022 (see section 7.7) proposed a governance framework for GBR, which mirrors the approach used in other sectors, including highways and other regulated utilities.[200] This framework included the following levers:

- **Statute**: this would consist of new and existing legislation. New primary legislation would introduce powers to enable other elements of the governance framework. For example, primary legislation would be used to require GBR to comply with a statutory licence as well as guidance and directions issued by the Secretary of State.[201]
- **Statutory licence**: the Government proposed to introduce a statutory licence specifying the core duties and functions of GBR, including how it should carry out its responsibility to act in the public interest.[202] The

193 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.11
194 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.11
195 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.9
196 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021 p.35
197 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021 p.37
198 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021 p.37
199 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021 p.37
200 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.13
201 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.14
202 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022

licence would be issued by the Secretary of State to GBR and would be overseen, and enforced, by the ORR.[203] The Government proposed to give GBR specific duties in relation to freight, accessibility and the environment.[204] The licence would require GBR to publish and comply with policies in each of these areas.

- **Directions and guidance**: the Secretary of State would have the power to issue guidance and directions to GBR. The Government has said that these would be used in circumstances which are more "changeable or dynamic", where other instruments (for example the licence) are not suitable.[205] However, the Government also said that the power to issue guidance and directions would not be a way for the Government to be "drawn ever closer into operational matters."[206] Guidance and directions issued by the Government would not, according to the DfT, be used to "supersede or modify Great British Railways' obligations under its Licence, or conditions of funding."[207]

- **Business planning and funding**: GBR would be required, as part of its licence, to produce and deliver 5-year business plans covering rail services and infrastructure, based on high-level outputs issued by the Secretary of State and Scottish ministers.[208]

### Regulating GBR

The Plan stated that the ORR's role would expand to enable it to regulate GBR. New responsibilities, which would enable the ORR to review the performance and efficiency of GBR, would be placed on a statutory footing.[209] In many cases, the Government proposed that the ORR would undertake the same, or similar, functions to the ones it currently performs. It would remain the health and safety regulator and competition authority for the railway and would continue to enforce consumer protection law.[210]

The ORR would perform a similar, albeit broader, role in how it regulates GBR's performance. For example, as it currently does with Network Rail, the ORR would be responsible for monitoring the performance of GBR, including how it performs against its business plans and whether the body has

203 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.11
204 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.16
205 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.28
206 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.28
207 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.29
208 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.13
209 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 43
210 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022

breached, or is at risk of breaching, the conditions of its licence.[211] The ORR's role in the periodic review process, which informs the five-year funding settlement for rail infrastructure (except for enhancements) would continue.[212] The ORR would also have oversight of the access regime, including the ability to require GBR to grant access.[213] The Government also proposed to give the ORR the power to levy fees on GBR to cover the cost of its functions, so that the regulator is not dependent on funding directly from Government.[214]

The Government proposed that the ORR would retain many of the enforcement powers is has, such as the ability to issue orders to ensure compliance with licence conditions.[215] The Government, however, proposed not to allow the ORR to fine GBR for a breach of its licence, as it can with Network Rail and other licence holders. The Government's view was that fining a public body has "limited ability to incentivise behaviour" and could impair GBR's ability to improve services.[216]

## 7.3 Passenger service contracts – the end of an era for rail franchising

As set out in the Plan, the Government intended to replace franchising with a new style of contracts, which would be known as Passenger Service Contracts. It became clear from early that the Williams Review would recommend that franchising should be replaced with a different commercial model, more akin to that used by Transport for London (TfL), where the revenue from fares goes to TfL and private operators are paid a management fee to run services. In July 2019, Keith Williams said that "what's absolutely clear is that the current franchising model has had its day." [217] He added:

> What worked in the 25 years after privatisation is now holding the sector back. It hampers collaboration, stops the railway working as a system and encourages operators to protect narrow commercial interest above passengers.[218]

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211 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.25

212 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.41

213 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.46

214 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.48

215 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 3.25; Section 55 of Railways Act 1993

216 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, paras 3.25 & 3.45

217 Williams Rail Review: an update on progress, 16 July 2019

218 Williams Rail Review: an update on progress, 16 July 2019

Work has already started on the development of these new contracts. No legislative change is required to deliver Passenger Service Contracts.[219]

## Overview of Passenger Service Contracts

The Plan described the shift to Passenger Service Contract as a new approach with "demanding standards for key passenger priorities such as punctuality, reliability, passenger satisfaction, capacity, staff availability and helpfulness, customer information, vandalism repair, passenger satisfaction, revenue protection and cleanliness."[220] Under Passenger Service Contracts:

- More of the revenue risk would be borne by the public sector. Unlike the previous franchise arrangements, the income from fares, in most cases, would go to GBR rather than private train operators. Operators would deliver services to a specification set by GBR and manage the costs in doing so. More commercial freedom, and risk, may be granted to operators on some routes (such as long distances routes) where it makes financial sense to do so.

- There would not be a one-size fits all approach. Instead, regional divisions of GBR would tailor the contracts to the "needs of different places and markets" and to "changing passenger needs."[221] This includes varying the geographic and financial size of the contracts.

- There would be a variety of contract lengths, with some contracts likely to run over a longer period than was used under franchising.[222]

The design of these contracts was intended to address some of the problems with franchising such as the size and complexity of franchises, the short length of contracts and the level of financial risk transferred to the private sector (see Section 5.2). The Government believed there will be more competition for these new contracts than there was under franchising. The Plan argued the "new contracts will reduce barriers to entry for bidders and reinvigorate the competitive market for rail."[223] The Plan also outlined that new open access services would be explored where there is spare capacity on the network.[224]

To help deliver a more integrated railway, the Government, in June 2022, also stated that it planned to give GBR the power to issue directions to rail operators requiring them to collaborate and share information, providing such actions will result in certain defined benefits (for example better services

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219 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 2.14

220 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 55

221 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 58

222 Under European law, the maximum length of a franchise contract was limited to 15 years, with the possibility of an extension for 7.5 years.

223 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 59

224 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 59

for passengers).[225] However, in granting GBR these powers, the Government also intended to ensure that "legitimate commercial interests of third parties are protected."[226]

## Responsibility for letting the new contracts

The DfT would no longer procure and manage passenger services. GBR would take over the responsibility for letting the new contracts. The new body would specify various aspects of the service it wants – timetables, branding, fares, services – and agree a fee with private operators under a competitively-procured process. The Plan outlined that decisions about the procurement of passenger services would be led by its regional divisions, sometimes in partnership with other transport bodies and local authorities.[227]

As mentioned in Section 5.2, one of the frustrations operators had with the franchising process was how the agreements put in place by the DfT became less flexible and more tightly controlled over time. From early on in the Williams Review, there was a clear indication that the DfT's role in letting franchises would be transferred to the new guiding mind. In a June 2019 speech, the Permanent Secretary of DfT, Bernadette Kelly, said that it was time for the DfT to get out of the business of letting franchises.[228] On 1 October 2019, Secretary of State Grant Shapps said the DfT should not be letting franchise contracts, and the industry needs a 'fat controller' who is ultimately responsible for network performance and letting contracts.[229]

The Government's legislative proposals which were published in June 2022 confirmed that most of the Secretary of State's powers, as the franchising authority, would pass to GBR.[230] However, the Government said that "ultimate accountability for the railway" will continue to reside with the Secretary of State for Transport and Scottish and Welsh Ministers, where responsibility has been devolved.[231] As such, the Government proposed that the Secretary of State would remain responsible for setting which services GBR will be responsible for providing under Passenger Service Contracts and the process the body needs to follow when choosing an operator.[232]

225 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 2.54
226 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 2.55
227 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p.41
228 DfT, DfT's role in shaping the future of the railway, 20 June 201
229 Government to devolve DfT powers to rail 'fat controller', New Civil Engineer, 2 October 2019
230 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 2.15
231 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 2.16
232 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, para 2.16

## Public sector bids for passenger services

Public sector bodies are currently prohibited from bidding for passenger service contracts. Through the emergency rail contracts introduced during the Covid-19 pandemic, the Government not only kept services going, but also preserved a private market for rail services in Great Britain. The Government has said it remains committed to "maintaining a major role for private business in supporting Britain's railways." [233]

As noted in section 7.7 below the government consulted on amending the Railways Act 1993 to enable GBR to directly award contracts to a public sector operator in certain circumstances, such as infrastructure improvements.[234] The government's rationale was that in such situations the uncertainty caused by such initiatives means that a short-term award to a private operator would not deliver good value for money for the taxpayer.

However, the government decided not to proceed with this, noting that it "is committed to delivery through the private sector to maximise competition, innovation and revenue growth right across the industry." [235]

## Introduction of Passenger Service Contracts

The Government has replaced the ERMAs (see section 5.2 above) with a series of direct awards to incumbent operators known as National Rail Contracts. These were intended "to bridge the gap from existing emergency agreements, as they expire, to the new Passenger Service Contracts outlined in the Williams-Shapps Plan for Rail."[236]

Under these contracts, the Government continues to hold the revenue risk of running the railway and pays operators a management fee, part of which is performance-related. The Government has explained that:

> Under the National Rail Contracts, performance of an operator is measured against four criteria – Operational Performance; Customer Experience; Financial Performance; and Business Management. The assessment is as objective as possible, using a mix of criteria-based, qualitative scorecard assessments and quantified target measures, where practical. Performance payments are achieved solely on meeting outcomes defined within the contract – for example delivering a punctual service.[237]

These interim contracts vary in length. For example, in May 2021, First Group signed a new NRC for South Western Railway services. This contract had a two-year term, running until May 2023. It was subsequently extended to May

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233 PQ10591 (answered on 14 June 2021)

234 Section 25 of the Railways Act 1993

235 DfT, The Plan for Rail A Consultation on Legislation to Implement Rail Transformation: Government Response [PDF], February 2024, pp35-8

236 PQ 15358 [Rail Delivery Group: contracts] answered on 22 June 2021

237 PQ 11633 [South Western Rail Franchise and TransPennine Express: Contracts] answered on 14 June 2021

2025.[238] On the other hand Transport UK Group (previously Abellio) signed a new eight-year contract for East Midlands Railway, which operates services between London and the East Midlands. The Transport UK Group contract, which began on 4 October 2022, will run until October 2030.[239] Once established, GBR is due to take responsibility for these contracts, along with any new Passenger Service Contracts that have been introduced.[240]

## 7.4 Reforms to rail fares and ticketing

In July 2019, Keith Williams said that to create a "modern, customer focused railway we must tackle fares reform," which he argued had not "substantially changed since 1995" and was preventing the industry from becoming more customer-focused and innovative.[241]

The Plan stated that the "unnecessary cost and complexity of today's railways" wee "epitomised in the complicated, paper-based ticket-selling process which inconveniences passengers but also costs more than half a billion pounds a year to administer."[242]

Within the Plan, the Government acknowledged that, although franchising had delivered "substantial benefits for passengers", it has also inhibited the modernisation of fares and ticketing.[243]

### Simplifying fares and ticketing

The Plan promised to deliver a retail revolution on the railway. It stated that:

> a new customer offer will be driven by clearer, easy-to-understand information, simpler travel with contactless and cashless payment and clearer prices. Compensation will be simpler to claim and journeys will become easier across transport services.[244]

GBR, according to the Plan, would set "most fares under a clear framework agreed with Ministers," although operators may have more commercial freedom on some services (for example long distance services).[245] The Government also expected GBR to "simplify the current confusing mass of tickets, standardising mobile and online ticketing, and bringing an end to the need to queue for paper tickets."[246] The Government asked the Rail Delivery

238 DfT, First MTR South Western Trains Limited 2021 rail contract (accessed 7 May 2024)
239 DfT, Abellio East Midlands Limited 2022 rail contract (accessed 7 May 2024)
240 House of Commons Transport Committee, Oral evidence: Great British Railways, HC 1076, 30 March 2022, Q10-11 [Conrad Bailey]
241 DfT, Williams Rail Review: an update on progress, Jul 2019
242 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 65
243 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 52
244 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 22
245 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 70
246 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p. 7

Group to start developing a website and app for GBR, which would act as a "best in class one-stop shop for rail tickets, so passengers will no longer have a confusing menu of options."[247]

### Contactless technology and digital tickets

As part of the Plan, the Government promised to rollout contactless Pay-as-You-Go technology and digital tickets across the network as well as to introduce new products, such as flexible season tickets, which reflect changes to commuting patterns.

Since the Williams-Shapps Plan for Rail was published, the Government has introduced flexible tickets[248] and also committed £360million to fund the rollout of contactless payments at 900 stations and ensure digital tickets are available for every National Rail Station.[249]

## 7.5 Long-term strategy for rail

The Plan set out the Government's intention to develop a 30-year strategy for the whole rail network.[250]

he Secretary of State commissioned Network Rail to develop a 'Whole Industry Strategic Plan' that would become the first 30-year rail strategy. This was due to be published in 2022.[251] It was subsequently renamed 'Long Term Strategy for Rail'.[252] On 25 April 2024, the DfT noted that this was still being developed by the Great British Railways Transition Team.[253]

GBR, once established, would be responsible for delivering this strategy. The strategy would be "a key mechanism" ministers can use to ensure the "railways respond to public priorities such as levelling up, the environment, housing and regeneration."[254] GBR would be responsible for:

- delivering the outcomes set in the strategy;
- updating ministers on its progress; and
- adapting the strategy in response to changing needs.

247 DfT, Seventh annual Rail Industry Forum, 9 December 2021
248 DfT, Flexible season tickets on sale, saving hundreds of pounds for rail passengers, 21 June 2021
249 DfT, Seventh annual Rail Industry Forum, 9 December 2021
250 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p38
251 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p38
252 PQ 11600 [on Railways: Standards], 5 February 2024
253 HL Deb 25 April 2024 c1624
254 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p38

## 7.6 New branding and identity for the rail industry

The fragmentation of the rail network has resulted in no overall identity and brand for the entire network. The Plan noted:

> The rail network should feel like a network, a coherent, consistent, clearly-branded operation that gives passengers confidence in using it.[255]

As a result, it proposed the establishment of a national brand and identity (an updated version of the classic British Railway's 'double arrow' logo). This would emphasise that the railways are one connected network, with national and regional sub-identities.[256] It also proposed the development of a single website and app, as well as delivering consistent passenger standards, such as on accessibility and compensation.[257]

## 7.7 Consultation on legislative changes

In June 2022, the Government began to consult on its proposed legislative changes needed to implement the Williams-Shapps Plan for Rail. This consultation ran until 4 August 2022.

The consultation focused specifically on the legislative changes required to deliver the Government's rail reforms; some aspects of the Williams-Shapps Plan for Rail were not included in the consultation because they do not require primary legislation.[258] The Government published its response to the consultation in February 2024.[259] This set out:

- Things that would be included in the draft Rail Reform Bill:
  - Designation of GBR as an Integrated Rail Body, a 'guiding mind' for the railways.
  - Legislation to allow Scottish and Welsh ministers to make arrangements for GBR to exercise franchising functions on their behalf.
  - A new duty that, while the ORR will continue to independently oversee the access framework, will it to have regard to any policy

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255 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p33
256 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p33
257 DfT, Great British Railways: The Williams-Shapps Plan for Rail, 20 May 2021, p41
258 DfT, The Williams-Shapps Plan for Rail A Consultation on Legislation to Implement Rail Transformation, CP660, June 2022, page 11
259 DfT, The Plan for Rail A Consultation on Legislation to Implement Rail Transformation: Government Response, February 2024

statement on access to and use of the railway approved by the Secretary of State and published by GBR.

- Duties of GBR, to be consulted on and set out in the GBR licence by the Secretary of State for Transport.
- Requirement for GBR to prepare and publish a business plan setting out how it will deliver its functions.
- Power for the ORR to levy a fee on GBR to cover the cost of the ORR's functions.
- Requirement for GBR's licence to include a duty to improve accessibility.
- Requirement for GBR's licence to include a duty to consult with the Disabled Persons Transport Advisory Committee.
- Power for the Secretary of State to lay regulations to ratify the Luxembourg Protocol at a later date.[260]

• Things that would require amendments to other legislation:

  - Changes to the procurement and subsidy regime for rail passenger services.[261]
  - Technical amendments to The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 to facilitate the transfer of responsibilities from the Secretary of State to GBR.
  - Widening the role of Transport Focus so that it can act as a passenger champion in holding GBR to account.
  - Promoting open data, including enabling GBR to distributing data in line with its functions and activities.

• Things that would not require legislation:

  - ORR will independently scrutinise GBR.

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260 The Luxembourg Rail Protocol enables international financial interests in rolling stock to be registered as part of an international legal framework. It also allows for legal remedies for default and insolvency. The UK signed the Luxembourg Rail Protocol in 2016, but, following the UK's departure from the European Union and the loss of the powers under the European Communities Act 1972, has not as yet been able to implement and ratify the Protocol.

261 Regulation 1370/2007 Retained EU law allowed for the creation of a procurement and subsidy regime for rail passenger services (as well as other modes of transport), recognising that these contracts are in the general interest of the public and cannot be operated solely on a commercial basis. The Public Service Obligations in Transport Regulations 2023, SI 2023/1369, came into force on 25 December 2023. This revoked and replaced regulation 1370/2007.

  - The requirement for GBR to act in the public interest.
  - An amendment to the ORR's duty to promote competition to better reflect public sector funding.
  - Governance structure and mechanisms, in particular, where accountabilities lie between the DfT, Secretary of State for Transport and GBR.
  - Regulatory toolkit by which the ORR and the Secretary of State for Transport can hold GBR to account, including the ability of the ORR to impose financial penalties for a breach of the licence.
- Things the government would not proceed with in the draft Rail Reform Bill:
  - Powers for GBR to give a direct award to a public sector operator in specified circumstances.
  - Powers for GBR to partially exempt contracted train operators from competition law to allow them to share information and collaborate in order to drive innovation and improve efficiency.
  - A centralised GBR rail ticket retailer.[262]

[262] DfT, The Plan for Rail A Consultation on Legislation to Implement Rail Transformation: Government Response, February 2024

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