

Transport Committee

Oral evidence: [Minimum service levels for rail](#), HC 1153

Wednesday 24 May 2023

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Members present: Iain Stewart (Chair); Mike Amesbury; Jack Brereton; Ruth Cadbury; Paul Howell; Grahame Morris; Gavin Newlands; Greg Smith.

Questions 178–234

Witnesses

I: John Larkinson, Chief Executive, Office of Rail and Road; and Jake Kelly, Group Director for System Operator, Network Rail.



Examination of witnesses

Witnesses: John Larkinson and Jake Kelly.

Q178 **Chair:** Welcome to today's session of the Transport Select Committee. This is our final oral evidence session on minimum service levels for rail, and we have two panels today. Later, we will hear from the Minister and officials at the Department for Transport, but first we will hear from two of the public bodies. For the purposes of our record, could I ask you to introduce yourselves and your organisation, please?

Jake Kelly: Good morning, I am Jake Kelly, group director for system operation at Network Rail.

John Larkinson: Good morning, I am John Larkinson, chief executive of the Office of Rail and Road.

Q179 **Chair:** Thank you. I will start with a very general question. In order to balance the rights of the travelling public to go about their daily lives against the right to take industrial action, do you think the introduction of minimum service levels is necessary?

Jake Kelly: As you said, Chair, public transport is enormously important for connecting communities and the economy and keeping industry going. From the perspective of Network Rail, we are determined to keep the railway going. You will know that, broadly speaking, in the previous round of strikes we ran about 20% of services, which shows a determination to keep the railways moving, because they are important.

I would frame it slightly differently. In any legislative context, our job is to keep public transport going for Britain.

Q180 **Chair:** Mr Larkinson, do you have a view?

John Larkinson: I certainly agree that there is a balance to be struck, but we do not see ourselves as having a role in determining minimum service levels. I see our role as being very much about ensuring that the railway operates safely, whatever levels are decided, and that key passenger obligations are met—for example, around accessibility. I would probably focus more on what our role is once the decisions have been taken, rather than the actual decision itself, which I would not see as one for the ORR.

Q181 **Chair:** In the industrial action there has been recently, on some days a minimum service has been provided—perhaps not everywhere but certainly on large parts of the network—and on other days there has been virtually nothing. Do you think it is better to allow the service levels to be determined on a case-by-case basis or do you think there is a role for a minimum service framework to be put in legislation?

Jake Kelly: As you say, the pattern of service delivery varies, has varied and will continue to vary, depending on which unions in which bits of the railway are on strike. Whether it is better to allow it to vary or to seek to



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have minimum service levels is essentially a policy question for the Department, rather than us as an arm's length body. Our job is to make sure that we do our absolute best to run trains, and we will do that in any context.

John Larkinson: I agree. It is a policy choice, and from our perspective it is about how we respond to that policy choice. As you said, the way industrial action has been taken and the services have been run has evolved over time. It has changed in response to circumstances, and we would probably expect the same to happen if minimum service levels were brought in. We would have to adapt and change our approach as required, depending on what service level was decided, and presumably that might change over time as well. It is probably more about how we adapt and respond to it, which we would do because obviously that is our job. Whatever was decided, we would have to make sure that we were still doing our job effectively.

Q182 **Chair:** Do you have a concern that the very fact that such legislation would exist could worsen industrial relations?

Jake Kelly: Union positions on the legislation are of course clear. Certainly, in relation to Network Rail, the ending of our dispute provides a really important platform for us to improve relationships. That is an important part of delivering a service every day to our passengers and freight users. We have to work hard, in whatever legislative environment we have, to build strong relationships. That is an important underpinning for running a decent railway.

Q183 **Chair:** Thank you. And from the ORR?

John Larkinson: You can see from reading the previous evidence that has been given to this Committee that there are strong views about the legislation. I am sure that will continue, but if the legislation comes into force and we get the following regulation setting up the service levels, although the context and the environment may be uncertain or might change over time, it does not really affect the core job. Our task remains the same, although events or circumstances might be changing. The crucial thing is what we do in those changing circumstances and what we might have to do differently. From my perspective, running the ORR, that would be the message internally. Things may happen, things may change and views may be strong or differ, but we cannot let that distract us from the task that needs to be done at the time.

Q184 **Chair:** It would be helpful to have an insight into what discussions you have been having with the DfT on how this legislation could work. I appreciate that the consultation closed relatively recently, but it would be helpful to get a flavour of what involvement you have both had in those discussions.

Jake Kelly: We have responded to the consultation, as you would expect us to. Broadly speaking, our advice is about operating matters, such as how signal boxes and rosters work and what the implications are. As an



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arm's length body, our role is limited to giving operational advice, and those are the kinds of conversations that we have had.

Q185 **Chair:** We will want to go into some of the detailed areas later, but what was the headline conclusion that you fed in?

Jake Kelly: One of the differences, for example, between train crew and signallers is that, whereas with train crew, broadly speaking, there is a one-to-one relationship between the number of train crew you have available to you and the number of trains you can run, in a signalling environment, you have to have signallers available to you across the entire route, so it becomes much more binary than for train crew. London to Birmingham is an example where you need every single signaller available to operate the route, so it is a very binary choice that you have to make.

Q186 **Chair:** And from the ORR perspective?

John Larkinson: We have met the DFT; we met them quite early on in the process, and that was a general discussion. They talked through where they were on the legislation, and they asked us for our general views and what we saw as our role in the process. Those discussions mainly focused on the fact that we saw our role as being quite similar to our role during the current and previous industrial action. We talked them through what we did there and how we thought that would potentially apply under the minimum service levels. It was a very general discussion.

We are not responding to the consultation, mainly for the sorts of reasons that I have already said: we do not see that we have a particular view on that. But we did have a discussion with DFT, and we do keep in touch with them.

Q187 **Chair:** Thank you. I have one final question before I hand over to colleagues. Once the Government have reviewed the consultation responses and made a decision on the further regulations that will be set, will you have a further role in that process before they are introduced? Will they run them past you?

Jake Kelly: I don't know.

Q188 **Chair:** It might be a question for the Minister later. How about the ORR?

John Larkinson: I anticipate that there will be a further process, particularly as the proposal is worked up in more detail. I can envisage that the Department might want to come back to us and talk about how we might modify our approach, depending on exactly where they have got to in that, relative to, say, where we are in the current industrial disputes and our approach there. I can imagine that there will be further discussions, but, as Jake said, we have not talked in any detail about how that might work.

Q189 **Paul Howell:** You are probably aware that we have had various sessions on this, and we have heard different opinions about how a minimum



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service level will be set. We would like to hear your perspective on that. What level of detail do you think it should be at, and how much discretion should or could the different operators have? The Government seem to have proposed the potential of there being either a proportion of the existing timetable or a priority route map. Can I have your perspective on that, in terms of both how you think it would be practical to put it in and what would give the best outcome?

Jake Kelly: How it is specified is essentially a policy choice. The reason I raised the issue of signallers is that the choices are much less straightforward than they are for other elements of the railway, where you either have a route open or you do not. Therefore, where it ends up is likely to have to recognise that you have to make very specific choices about which routes you seek to keep open and which you do not. In the end, that becomes a policy choice rather than an operational railway matter.

Q190 **Paul Howell:** From a practicalities point of view, for the Ministers or whoever will make those decisions, I think what you are saying is that it would be much easier and cleaner to do it on a priority route basis, as opposed to a proportion.

Jake Kelly: On a practical basis, and from a very narrow Network Rail perspective, you either have all the signallers available to operate a route, and you operate it, or you do not. It is as simple as that.

Q191 **Paul Howell:** Thank you. Mr Larkinson?

John Larkinson: I think that is right: it is a policy choice for the Government. We have some experience from what has happened in the recent industrial action about what choices can be made and the resource implications, but, ultimately, it is a call. Presumably, the call would be that the Government want services to be higher than they are now at this stage of industrial action, but there will clearly be a limit—to go back to the balancing point that was made right at the outset.

We do not expect to be involved in that decision, so we have not done any particular analysis of it. We have just focused on the extent to which the experience we built up during industrial action—indeed, during covid, when quite a lot of useful lessons were learned about running a different service level—would apply, depending on what decisions are made.

Q192 **Paul Howell:** Okay. The only point you did not pick up there is what sort of level of discretion individual operators should have in this. Can you restate your perspective? I know you are not making the decisions, but from the point of view of the practical deliverability of a minimum service level, I am trying to get to what you guys want. I got it from Mr Kelly, but I am not sure that I got it from Mr Larkinson.

John Larkinson: Ultimately, the railway has to operate as a system, so Network Rail and the operators need, effectively, to have something that they jointly agree can work. We have seen that during strike days. The



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same sorts of principles apply, but it is a policy choice and not something for the ORR to decide.

Paul Howell: I have what I want at this point, Chair.

Q193 **Jack Brereton:** We have seen that the impact of strikes has been felt more significantly on certain parts of the network because certain areas and parts of the network are being prioritised in the route maps. My own area, Stoke-on-Trent, has been excluded from the route map, as have a number of other quite significant urban areas, which I have read out before: Hull, Swansea, Middlesbrough and Portsmouth. Do you think the current proposals on the route map have got that prioritisation right?

Jake Kelly: Do you mean in terms of minimum service levels? I am not sure there is a right or wrong answer because, essentially, it becomes a policy choice. But you are of course correct that difficult decisions have to be made, in any network, in order to maximise utility across the whole network for passengers and freight users as a whole. In any system, whether in the current or a future context, those difficult prioritisation decisions will have to be made, which will inevitably mean that some people will be pleased, and some will be disappointed. That is the nature of the beast.

Clearly, our objective, in any legislative context, is to run more of the network and to be able to serve more places. That has to be true, but we have to do it in a disciplined way, ensuring, as an absolute bottom line, that we are safe and reliable before we can take additional steps to grow the network.

Q194 **Jack Brereton:** Does the ORR have any comments on that?

John Larkinson: It is clearly a choice. When you come to the minimum service levels, you would look at the routes that are not currently served during industrial action and make a choice as to what extent you want to expand the coverage. Obviously, that would have resource and operational implications, so I would have thought that the Government would look at that as an option, but we do not—

Q195 **Jack Brereton:** At the moment, the route map is not really much in addition to what we have as a minimum service. Certainly, if it is Network Rail staff who are on strike, the minimum service level is similar to the route map that is outlined in the consultation, isn't it?

John Larkinson: It is a choice. The Bill allows for regulations to be made to specify it in detail, and those choices have not been made yet. Ultimately, it is a Government call, balancing the different considerations, each of which would have different operational and resource implications for Network Rail and the train operators, and then for how we would respond, depending on any new issues that came out of those choices. But it is a policy decision, not one for the ORR.

Q196 **Jack Brereton:** Do you think there would be a difference depending on



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which staff are on strike, whether it is the drivers or the signallers? Obviously, different parts of the network would be able to function more in line with normal circumstances, depending on which staff are on strike.

Jake Kelly: It is absolutely true that, depending on which groups of staff are on strike, there are different impacts. Of course, that is also true geographically because of the different ways the railways work in different places. Yes, there are potentially very significantly different impacts.

Q197 **Jack Brereton:** Could you see that both those models could be options, depending on the circumstances?

Jake Kelly: Yes. In any railway environment, you have to make careful trade-offs about how you seek to maximise the service you can provide in the context of safety. That is true in any context and will remain true in any minimum service level context.

Q198 **Paul Howell:** To go back a bit, you have emphasised a number of times in the answers so far that you think that minimum service levels will be there to deliver an increased level of service compared with what is there now, in terms of capacity—as I read it. But one of the desired things from a minimum service level would be to give certainty of service, even if that service is very focused and specific. Is there a tension between certainty of service and the increased level of capacity of service that should be considered when establishing the levels?

Jake Kelly: The level of service clearly depends on choices made by policy makers, but you are right; there is a trade-off between level of service and certainty. That is extremely important for customers. All the way through the events of the last 18 months it has been extremely important that we have been as clear as we can as early as we can with customers and freight users about what choices they have available to them. That is not a strike issue; it is a normal issue. In any context, it is really important to be clear so that people can make plans and make their own choices.

Q199 **Chair:** Before I turn to Grahame, I have an additional question for Mr Larkinson. From your perspective, should you, or do you, look at balancing the different types of rail customers in the sense of shorter, commuter-type journeys, as opposed to longer-distance journeys? If so, how does that affect how we should look at minimum service levels?

John Larkinson: We have not looked at choices about minimum service levels. We have not looked at options, mainly because we do not think it is a decision for us. When we first saw the proposals, the first discussions we had were about what our role would be. We are pretty clear that our No. 1 role would be that the railways continue to operate safely. The second area is about impacts on key passenger obligations. For us, they are things like accessibility and information. There are issues alongside that about the potential for, say, overcrowding on the network, which



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was certainly an issue in some of the earlier conversations about industrial action.

We focus very much from that end. That was a conversation we had with the Department. We have made it very clear, and we have had a few conversations with them about that being the sort of discussion we would expect to have when we are a bit clearer about how the actual proposals would be implemented.

Q200 Grahame Morris: Good morning, Mr Kelly and Mr Larkinson. Perhaps I might follow up for a moment on that last answer. I am thinking about non-strike days and responsibilities, and two recent experiences I had. The 6.58 from Seaham to Newcastle was cancelled due to power shortages on a non-strike day, leaving 30 people on the platform. The next train was 45 minutes late and not everyone could get on it, and it was standing all the way to Newcastle. On Sunday, it took me seven and a half hours to get here on a non-strike day, due to a broken rail. Do your responsibilities extend to ensuring that there is accessibility throughout the network on non-strike days on commuter as well as intercity lines?

John Larkinson: Our responsibilities absolutely apply whether it is a strike day or a non-strike day. I am not familiar with the exact instances, but one of our responsibilities is to hold Network Rail to account; we expect to hold Jake and his team to account. What you are talking about are potentially service-affecting infrastructure failures on the network. We monitor train infrastructure failures. We have a process under way at the moment whereby decisions are made about how the funding will be used on the railway for the next five years, about where we will focus that spend by asset type, which assets are more likely to fail, and so on. We certainly have a responsibility in those areas.

The actual service that runs on a particular line usually depends on the Department for Transport, Transport Scotland or whoever—letting franchise contracts—but each train operator has a set of obligations. If you want to run a train, you have to have a licence. Within that licence, you will have to have various policies around supporting accessible travel, for example, and providing information. We will count for systemic issues, those that seem to be following a pattern. We may see this pattern of things happening here, or a persistent problem there. They are the areas that we tend to focus on because, obviously, on a day-to-day level we cannot focus on every issue or every train. We look out for systemic issues and, in particular, vulnerable groups, and whether on the day there are patterns around how particular groups of people were helped or not helped; for example, we look at what information was provided during disruption. We have a whole raft of areas of responsibility.

Q201 Grahame Morris: I am sure there will be questions later about the impact on vulnerable groups of the Government's proposals in relation to ticket offices, but I won't steal anyone else's thunder on that.



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Mr Kelly, in an answer you gave the Chair at the beginning of this session, you said that, as an arm's length body, it is your responsibility at Network Rail to do your absolute best to run rail services, but isn't it correct that part of your responsibility is to tell Government, if they are in charge of policy, when they have got it wrong? We have had written evidence from Rail Partners that the legislation could lead to unions calling more strike action. The legislation could make things worse. I have no claims to be a scientist, but I remember Newton's second law: to every action there is an equal and opposite reaction. Have you given the Government a heads-up that this could make things worse?

Jake Kelly: I am sure the Government have read the Rail Partners' response and what the general secretaries of the various railway unions have said. As Network Rail, we have to make policy work. That is our job. It is really important that we build strong relationships with our colleagues in any circumstance, and that is what we intend to do.

Q202 **Grahame Morris:** I understand that you are arm's length, but as a trusted friend of Government, or an arm's length body, surely it is your responsibility to give them the heads-up if they are making a mistake. I will leave that with you; I do not expect you to answer.

Can I ask you about your specific responsibilities under the proposed legislation? What will Network Rail be legally responsible for doing and providing? Earlier, you mentioned that it was an all or nothing choice in relation to the network. But there is an alternative, which my colleague Jack Brereton mentioned: running part of the network to ensure that specific services can operate, such as intercity services, for example.

Jake Kelly: A lot of the detail of the secondary legislation has not been published yet, but our role will be to open infrastructure over which train operators can operate—broadly, maintenance and signalling. As Mr Larkinson said, clearly there needs to be a balance because there is no point in opening infrastructure where train operation is not available, and vice versa. There are clearly choices to be made about which bits of infrastructure are open and need to be aligned to train operator colleagues' ability to operate them. What those are and their extent will depend on what the legislation finally says.

Q203 **Grahame Morris:** The dispute is settled for Network Rail.

Jake Kelly: Absolutely.

Q204 **Grahame Morris:** So it is the train operating companies. But should the legislation apply to Network Rail, in terms of placing a responsibility on you, even if the dispute is not of your making and it is the train operators who have to ensure that minimum services are in place?

Jake Kelly: To take the current train operator disputes as an example, the full infrastructure is available in those disputes and, of course, train operators are doing their best to run a service. Broadly speaking, in a similar environment post-legislation, as you imply, the same would be



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true. Our role in that is likely to be quite limited, other than to provide the infrastructure.

Q205 **Gavin Newlands:** I want to follow up some of the points made by Mr Morris, but, first, Mr Kelly, as it stands at the moment, what discussions have you had with the staff of Network Rail about the implementation of this legislation?

Jake Kelly: All our discussions with colleagues across Network Rail at the moment are about how we move on from the strike action that Network Rail has had. We have a really good platform now to build strong relationships and that is what we are talking about. Clearly, the Government have invited responses from unions and railway colleagues, and I am sure they will take those seriously.

Q206 **Gavin Newlands:** To be clear, are you saying that you have not had any in-depth discussions with staff about minimum service level implementation itself?

Jake Kelly: We have had lots of discussions in different contexts, but minimum service levels are a matter for Government, not us.

Q207 **Gavin Newlands:** You may have to implement them.

Jake Kelly: Yes.

Q208 **Gavin Newlands:** But you have not discussed them with staff yet.

Jake Kelly: As I said, we do not know what we are going to implement, so we have to wait and see. Then, there will absolutely be very detailed engagement. At the moment, we are seeking to build the kind of railway that we all want, including our union colleagues.

Q209 **Gavin Newlands:** As it stands, as you understand the legislation at the moment, how do you expect issuing work notices to operate?

Jake Kelly: It is difficult to say without seeing the detail of the legislation. I know that is not a terribly helpful answer, but it is necessarily true.

Q210 **Gavin Newlands:** I was almost certain that that was what you were going to say. There is a lack of detail. I will move on to some of the potential complications that Mr Morris introduced us to.

You are probably aware that the Scottish First Minister said, "Be in no doubt, the Scottish Government will never issue or enforce a single work notice." ScotRail and the Caledonian Sleeper will shortly be under public control and operated by the Scottish Government. Sadly, despite much of our campaigning, Network Rail is still a reserved function, but there is a kind of hybrid situation; there is a very close working relationship between Network Rail Scotland and ScotRail, under Alex Hynes of Scotland's Railway, and so on. Have there been any discussions about how you envisage that working, or not working? If the Scottish Government are not going to enforce it with the ScotRail and Sleeper



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workforces, what will happen with the Network Rail Scotland workforce?

Jake Kelly: That will inevitably depend on what the legislation says and how it is going to work; but, as you imply, the railway in Scotland works very closely together, all the different bits of it, including Transport Scotland. I expect that to continue.

Q211 **Gavin Newlands:** Except it will put Network Rail in a bit of a difficult position, in fairness. You'll be stuck in the middle, potentially, as it will still be reserved legislation, so I suspect that will be something we push hard on, down the line.

I apologise for being late in arriving, but I heard you mention signals just as I was coming in. For confirmation, I presume it is your expectation that for some staff, given the type of work—I am not sure about ticket examiners; I am thinking of signals—almost all of them would have to work each day for minimum services to work. Would it be fair to say that?

Jake Kelly: On any given line of route, if the minimum service level were to specify that it would open, broadly speaking all the signallers would have to be available between point A and point B, to make that route work.

Q212 **Gavin Newlands:** Lastly, to come back on the previous point—it is probably unfair to ask you, but I will anyway—with the different approach to minimum service levels across the border, how do you expect cross-border operators like Avanti and TP, under whatever ownership it is at that point, to operate this? Obviously, they will have crewing, and operations from Glasgow, and what have you. How do you think they will handle it? Do you know? Have you had any discussions?

Jake Kelly: We recognised the importance of cross-border rail traffic through all the action, so I think that the same will be true. Yes, of course there are added complexities but it is something we have to work around and make work.

Q213 **Gavin Newlands:** Mr Larkinson, obviously there are separate relationships with the DFT and Transport Scotland. Do you see any issues? How do you see the issues being resolved, with the difference in approach between the Scottish Government and the operators—the rail operators in Scotland—versus down here?

John Larkinson: You are right. We certainly have very close working relationships with DFT and with Transport Scotland, with officials and politicians. This may not be helpful, but we have not done a lot of work on how it might work in practice. I am aware, as you say, of the differing views in different parts of the country. We have to work in whatever the context is on the day. That is why the crucial thing for us, whatever the wider environment, and however things are changing, is what our responsibilities are, and how we deliver them in that environment. That is what we have to stay focused on. Otherwise, I feel we will be drawn into discussions and debates when we probably have nothing to bring to



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them, as opposed to the things that we have to bring to the whole situation.

Gavin Newlands: Fair enough. Thank you.

Q214 **Paul Howell:** Moving on to a different subject—freight—we seemed to get the impression that freight would not be covered in the minimum services Bill, but where does that leave you, from the Network Rail perspective? If in one part you have the minimum service operating, and another one happening, how does that leave you in a position to consider best the needs of the freight operators in particular? That is the perspective I am looking at now.

Jake Kelly: Broadly speaking, now, as we did in the previous round of strikes, we recognise that there are a number of nationally important strategic freight flows, and we prioritise the opening of those. Being deliberate and determined was a really important part of making sure that we could unlock those flows. I think that would remain the case in any future circumstance.

Q215 **Paul Howell:** You do not see there being much change from the way you had to operate through the strikes and what would happen under minimum service, from the freight perspective.

Jake Kelly: I think that is right, but we were successful in identifying, with freight operator colleagues, which were the important strategic flows, and we made sure, in large part, that we were able to provide infrastructure over which they could operate. It was by no means ideal, but it was a success in terms of being able to run them.

Q216 **Paul Howell:** Do you have a view as to whether it would be better or easier to manage if they were both in a minimum service situation?

Jake Kelly: That is a policy choice to make. Essentially—

Q217 **Paul Howell:** That is why I asked whether you have a view.

Jake Kelly: We can find ways to run the most strategically important freight flows. It is a really important bottom line for us.

Q218 **Mike Amesbury:** John, what key features does the Office of Rail and Road want to see in relation to a minimum service level agreement, obviously with the key focus on safety? How do you think it should be determined and planned?

John Larkinson: It goes back to the point that the key features are a policy decision. As to how we would go about responding to those key features, at the moment, knowing what we know, we would take an approach similar to the one we take now. Once it was clear what the plans were, the crucial thing would be to get in early and see whether the arrangements proposed by Network Rail and the train operators—perhaps as to which staff were deployed and how contingent labour was being deployed—were being done appropriately. Before the whole thing was activated on the day, we would want conversations with the industry.



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That is what we do now, and have done, during industrial action. On the day, again focused on the safety areas, I anticipate that we would have people out doing spot checks on different parts of the network, which is what we do now during industrial action, if we think there might be issues in particular areas.

As happens now in industrial action, I expect that there would be a period of time on the day and afterwards when we followed up issues that arose. At the moment, during industrial action, we have had quite a lot of follow-up—from the unions, for example. They have given us issues and said, “We think this was a problem on the day. Do you think it is a problem? What needs to be done about it?” Before it happens it is proactive; it is on the day, and there is follow-up afterwards, if there are issues with the minimum service levels on any particular day, in terms of what lessons were learned and what we need to do differently. That is the process that we follow in industrial action now. I envisage it being very similar, although as others have said that obviously depends a little bit on how it all pans out.

Q219 Mike Amesbury: How many staff would be required? Would certain staff be told, “You must come in,” regardless of their intention to withdraw their labour, to keep things safe?

John Larkinson: We do not decide which members of staff in the train operators or Network Rail have to come in. That would be an operational decision that people like Network Rail would have to take. We would be looking at whether the plans themselves seemed to be sound from a safety perspective, but we would not get involved in the issuing of work notices, or exactly how many were needed.

Q220 Mike Amesbury: To maintain safety on what would be a strike day with a minimum service level agreement in place, what staff would be required to work, John?

John Larkinson: It would depend on the minimum service level and how it was specified.

Q221 Mike Amesbury: Is it 50%? It is a question of having to pluck it out of the air, because it is all a bit of a dog’s dinner, really.

John Larkinson: I don’t know exactly how many staff will be required across the whole network to operate if it is 50%, but I do know that the industry has built up, over the years, an awful lot of experience around staffing levels under different scenarios. The industry would do an analysis of that and we would look at it and have a conversation with the industry. I don’t think it is massively dissimilar in terms of process and setting resource levels from the decisions that are taken at the moment during industrial action. Those calls, about staffing levels and asking someone to do somebody else’s job because you do not have enough cover, have to be made now. I think they are the same issues. I am not saying that it will be simple. I am sure it is actually going to be quite difficult, but I think similar issues would apply.



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Q222 Mike Amesbury: Unions have expressed concern that with the introduction of minimum service levels passenger expectations might increase, and it could cause overcrowding at some major stations in cities, and so forth. Is that a concern that you share?

John Larkinson: It is interesting that we had a lot of conversations about that during covid with service restrictions, and during the initial phases of industrial action. Was there likely to be overcrowding, and would it be more likely to occur in certain areas than in others? The key thing that came out of all those examples, for me, was around the information that was provided. In very broad terms, looking across the experience of industrial action, I do not believe there have been any major incidents of serious, dangerous overcrowding. A lot of that has come down, I think, to pretty decent information being provided. I am not saying it was perfect on the day, but it has been pretty good information and people respond to it.

Going back to our role, one thing that we look at is the information that is provided in advance. There is only a certain time window before the day, in terms of what is said about the timetable, how much advance notice is given about it and how it is communicated. Every train operator gives the best possible information. That is the first thing but, obviously, even on non-strike days if there are potential crowding incidents, such as crowding at stations, there are procedures for handling them. The key lesson that I think we have learned is about getting good information out to people.

Q223 Mike Amesbury: Does it concern you that on strike days staff may be assigned roles that they do not normally do, as part of a minimum service level agreement? Could that compromise safety?

John Larkinson: We see at the moment, in industrial action, what is called contingent labour. Effectively, that is when somebody does somebody else's job on the day, as you say. That is one of the first things that we look at, and have looked at, during industrial action. We looked at Network Rail's contingent labour plans and where they proposed, say, to put in a manager rather than the normal person to do the job. Had there been checks of whether those people had the right competency and experience? That is what you have to do. Effectively, you need to see whether they have the right skills and competencies for the job.

As long as those processes are followed correctly—there is a lot of data around skills and competencies—the railway should be as safe as it is on a non-strike day or a non-MSL day. That is about the work that has to be done in advance. Has the competency assessment been done correctly? Unfortunately, we have the benefit of quite a bit of experience of that now, as a result of recent disputes. Indeed, a lot of analysis was done during covid when it was unclear how many people would be coming in to work on any particular day: what was the critical level of staff needed? We have a lot of experience. It is not an easy job, but there is a process



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for carrying it out, and that is what we would look at, with Network Rail and train operators.

Q224 **Mike Amesbury:** Finally, would it concern you if staff morale was so low and sickness so high, with staff absent sick on strike days with minimum service levels? Would that compromise safety and concern you as a regulator?

John Larkinson: There are probably two different issues there. If people are sick and not coming to work, they are not there. That has to be taken into account in determining what can be run. If the person who is not there is a train driver, that service is not going to run.

On the question of morale, everyone has safety responsibilities on the railway, and people work professionally on the railway. People take their safety responsibilities very seriously, so I would not see an issue about morale, in a sense, as something that should affect safety. I can see the point, which I know some people have made, about unknown sickness levels. Indeed, it is unknown. I do not know what would happen on the day, but by definition that must have an impact on what could be run. It could be quite difficult with, say, signalling control centres, or something, when there are high sickness rates.

Q225 **Chair:** I want to ask a supplementary on the point you made about giving advance information to passengers, so that they know what services may run on a strike day. Do you think we should get to a point when there is an indicative timetable ready, so that on any strike day under the minimum service level that is what the timetable will be, and people will know that is coming up and can plan their journeys accordingly?

Jake Kelly: As a general proposition it must be true that giving customers as much notice as possible in any circumstance, whether it is strikes, engineering works or whatever else, is right. You will see that in other circumstances we have been able to give some level of indication early, before we were able to publish a full timetable, and that has to be right. The detail of a full timetable is inevitably very fact-specific, so in any circumstance it is quite difficult to pull a detailed timetable off the shelf and publish it very early; but certainly, as a general proposition, whether in strikes or any other change of service, it is really important to give passengers the most notice we can to enable them to make choices.

Q226 **Chair:** Do you think, as Network Rail, you have a role to start designing that indicative timetable?

Jake Kelly: One of the things we have been doing through previous strike action is working with train operator colleagues to build those timetables as quickly as we can, so that we can publish them and make sure they are properly integrated, so that they join up as a customer proposition. I think that continues.

Q227 **Chair:** To take as an example the route between Exeter and Bristol



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where there is more than one operator and a mix of long-distance and commuter services, it would be down to you to try to blend those together, to have a workable timetable.

Jake Kelly: As we do now; we seek as far as we can to integrate the offers, where there is an overlap and choices are to be made or, indeed, where there is a gap that has been missed. We seek as far as we can to identify those and address them with operator colleagues.

Q228 **Chair:** To follow up on that, do you look more holistically at transport links? Where there might be a very good coach service between two points, would that influence what level of rail service you would wish to see?

Jake Kelly: The choices that are available to customers are absolutely part of our thinking. It varies markedly, of course, in different markets in different parts of the country. In south-west London, passengers have a number of choices; in other parts of London they fundamentally do not, by way of example.

Q229 **Jack Brereton:** We have heard about the impacts on people with a disability. What do you think the minimum service level would need to be so that people with a disability, or vulnerable passengers, could have the service levels they need? Do you want to start, John?

John Larkinson: That is a tricky question, because, effectively, in terms of the use of the network, people requiring assistance use it across the whole network. I do not think, to the best of my knowledge, that there is a clear evidence base showing that people are much more likely to require assistance here than there. That would be difficult to build in. I am not saying it is impossible, but it would be difficult.

The obligations on providing assistance remain the same. Just because it is a strike day, or a minimum service level day, does not mean that people do not have an obligation to try to provide assistance. Looking at what has happened during strike days, booked passenger assistance, when someone has booked in advance to get help, has probably fallen to about a quarter of what it is on non-strike days.

Q230 **Jack Brereton:** Are people with a disability just not travelling then?

John Larkinson: In the same way as people generally are not travelling, the people who need booked assistance are travelling less as well. You can also see a bit of a displacement effect in the data; they bring the day forward or move it a day later, to work around the effect of the strike. The only knowledge I really have is the strike days, so I would expect something similar to happen there.

Generally speaking, I think the industry has done a very good job of providing help and assistance on strike days. It is a difficult working environment. We follow up on issues that are raised. There has not been any strong evidence that the service is particularly worse on strike days.



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Most organisations—Network Rail and the train operators—have worked pretty hard to provide that assistance. I am not saying that it is perfect or that you cannot find an example where it has not been, but we would expect the same thing to happen on a strike day: the same obligations apply. Each company has a set of procedures that it still deploys.

Q231 Jack Brereton: Are there any comments from Network Rail about how we make sure that people with a disability receive the proper support?

Jake Kelly: Making sure, as far as we can, that the railway is accessible to everyone, is a really important part of us providing a service. That is true on normal days and on strike days. As Mr Larkinson said, both Network Rail and train operators were very conscious of the importance, on strike days, of making sure that the railway remained accessible. As the question relates to Network Rail, a very large number of volunteers were available to make sure that we were at least able to provide the level of service we provide on other days, because it is a really important part of what we do and absolutely should not be neglected, and wasn't.

Q232 Jack Brereton: We were interested in some of the international examples where minimum service levels currently exist. Have you had any discussions with counterparts about where this operates in other countries?

Jake Kelly: I think my colleagues are writing to you separately about that. As you say, there are different approaches in different countries. They are very fact-specific as to law and culture. Some of them work in the terms for which they were designed, and some of them appear to do that less. As I say, I think we are writing to you separately on the detail.

Q233 Jack Brereton: Has the ORR had any discussions with some of your counterparts internationally about minimum service levels?

John Larkinson: To the best of my knowledge, no, we have not.

Q234 Chair: Thank you. To conclude, we will have the Minister and DFT officials in front of us very shortly. Are there any specific questions you think we should be asking them?

Jake Kelly: Not from me, no.

John Larkinson: No, not from me, either. I just want to provide the assurance that we will continue to do our job during the minimum service levels, if and when implemented.

Chair: Thank you both very much for your time this morning.