



House of Commons
Transport Committee

Minimum service levels for rail

Eighth Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

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Transport Committee

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Summary

On 20 July 2023, the Strikes (Minimum Service Levels) Act received Royal Assent. The legislation was introduced in January 2023 to the House of Commons amid an ongoing period of industrial strife between the rail unions and rail industry employers. The Act makes provision for the Secretary of State for Business and Trade to make “minimum service regulations” which set required minimum service levels across a range of sectors, including transport, during strikes. The exact level of service that will be required in the rail sector during periods of industrial action is not detailed in the Act itself; this will be specified in time by the Department for Transport through regulations.

We have not sought to reach a view in this inquiry on the principle of the introduction of minimum service levels, but to provide advice about what would be needed in order to make this policy workable and effective for the rail industry. Repeatedly we heard from stakeholders that they were looking to the Government to provide more detail about its intentions. In the absence of that detail, they have found it understandably difficult to give reasoned views on the practicality of the proposals. We have, however, heard about a wide range of factors that will need to be taken into account, and on this basis, we believe there are key criteria that a minimum service level for rail services will need to fulfil:

- a) Limited services do already run on days when strike action takes place; up to an average of around 40 per cent of services in some instances. A minimum service level provided on strike days should therefore be at least as good as that typically provided on previous strike days.
- b) Safety on the network for staff and the travelling public must be the primary consideration.
- c) The ability of train companies to run services on strike days is dependent on the specific circumstances of the strike action—in particular, which staff, in which roles, are participating in industrial action—and operators’ ability to make contingency arrangements. The minimum service level must be flexible enough to be applied to different patterns of industrial action affecting different employers.
- d) Under a minimum service level there will likely be groups of specialised staff who are required to work more than others because of their job role. The greater responsibilities placed on those who must work on strike days to provide a minimum service must be reflected in pay and conditions. Resilience in staffing must be improved so that there are trained alternatives able to cover for specialised staff who may want to exercise their right to strike.
- e) There is considerable nuance in local travel patterns; a localised approach to specifying a minimum service level will be required in order to provide for passengers who use rail services to get to school, work or hospital appointments. Regulations must be specified in a way which enables knowledge about travel patterns in particular regions and localities, including access to employment, education, and essential services, to be taken into account.

- f) The service available on recent strike days has varied considerably across the country, with some areas having little or no service. During disruption, passengers have turned to alternative modes of travel to complete journeys, but there is also variation in the availability of alternative options. Rail services—or credible alternatives—should be available to passengers in all areas of the country normally served by the network.
- g) Passengers with access needs must receive the same support as they are entitled to on regular travel days.
- h) Rail disruption impacts the wider economy, preventing travel to social plans and having a disproportionate impact on consumer confidence to travel on strike days. A minimum service level for rail should protect industries, such as the night-time economy, that cannot adopt flexible and remote working patterns on strike days.
- i) Although the freight sector is excluded from the Act, it is heavily affected by the legislation, not least because it has little recourse to alternative modes of transportation when strikes impact the wider rail network. When strikes span multiple days in particular, the impact on freight can be hard to mitigate, which can have a longer-term impact on consumer confidence in the sector. There must be clarity about the access that freight services can expect to have to the network, and Government and the freight industry must collaborate on determining what routes should be prioritised.

Once the Department has determined which model of minimum service level it plans to implement through regulations, it must consult on it. It must also consider ways in which a set minimum service level for rail could be piloted.

Looking to the future, we recommend the Department use three criteria for assessing the success of a minimum service level for rail:

- a) We heard that there was a risk that the introduction of minimum service regulations in the rail industry could lead to the proliferation of action short of striking or novel industrial action. It is essential that when a minimum service level for rail is implemented, industrial disputes are neither prolonged nor increased, and novel industrial action does not proliferate.
- b) We heard that the key passenger requirement from the railways is reliability. Minimum service regulations must result in greater passenger satisfaction on strike days than at present, with access to clearly communicated information, and greater certainty, further in advance than at present about travel on strike days.
- c) Longer term, a minimum service level can only be successful if it results in more effective cooperation and better working relationships between rail unions, the industry and government.

We, along with stakeholders, await with interest further information about how minimum service levels will be implemented within the rail industry.

Introduction

1. The Strikes (Minimum Service Levels) Act received Royal Assent on 20 July 2023. The Act empowers the Secretary of State for Business and Trade to make regulations that set a required minimum level of service during periods of industrial action within six sectors, including passenger rail.¹ The Act was introduced in the House of Commons during a period of industrial strife between the rail unions and rail industry employers, which is ongoing at the time of writing.²

2. We launched an inquiry into minimum service levels for rail in February 2023 as the Bill was progressing through Parliament. We asked how a minimum service level for rail could be set, what process should be followed to arrive at a defined minimum service level and how the views of rail passengers, workers and freight customers could be taken into account. Throughout our inquiry, we have not sought to reach a view on the principle of the introduction of minimum service levels, nor comment on the arguments for and against industrial action or the issues under dispute. Instead, we have sought to provide advice about the practical implementation of the Act in the context of the rail industry, considering what would be needed to make this policy workable and effective.

3. Huw Merriman MP, Minister of State for Rail, told us that the Department for Transport welcomed recommendations from us to help deliver a “good minimum service level for rail”.³ Much of the detail on minimum service levels for rail is yet to be fleshed out, as it will be contained in regulations to be brought forward following a consultation. This report culminates in three simple recommendations to the Department for Transport. We set out nine criteria which must be met when the Government defines its expectation for a minimum service level for rail on strike days, and three criteria for assessing the success of the policy when implemented. We, along with stakeholders in the rail industry, await with interest further detail on what a minimum service level for rail will look like.

1 [Strikes \(Minimum Service Levels\) Act 2023](#)

2 [RMT, Railway Workers in the national dispute to take strike action on June 2, 18 May 2023](#)

3 Q236

1 Background and Government proposals

Industrial disputes

4. The Strikes (Minimum Service Levels) Bill was introduced during a period of ongoing industrial dispute between the rail unions and rail industry employers, which began in June 2022. The main parties in the dispute have been Network Rail, the train operating companies (TOCs) represented by the Rail Delivery Group (RDG), and three rail unions:

- the National Union of Rail, Maritime and Transport Workers (RMT) which has approximately 80,000 members, representing signallers, maintenance workers, ticket collectors, cleaners and some train drivers;
- the Associated Society of Locomotive Engineers and Firemen (ASLEF) which has approximately 21,000 members, representing most train drivers; and
- the Transport Salaried Staffs' Association (TSSA) which has approximately 17,000 members comprising control centre staff, engineers, ticket office and gate staff.

5. All three rail unions outlined their demands in the dispute as broadly comprising three issues: a negotiated pay increase that addresses the rising cost of living, job security with a guarantee of no compulsory redundancies and guarantees that any change to working structures or practices must be meaningfully negotiated with the recognised trade unions.⁴

6. In May 2022, 89 per cent of RMT members (of the 71 per cent balloted) voted in favour of strikes, resulting in an initial three days of industrial action.⁵ Following ballots of their members, ASLEF and the TSSA joined RMT in subsequent strike dates in July, August, October, November and December 2022, and January, February, March, May, June, July, August and September 2023.⁶

7. Disputes between Network Rail and the unions have been resolved; the TSSA accepted a revised pay offer in December 2022, and RMT accepted in March 2023.⁷ At the time of writing both the RMT and ASLEF remain in dispute with the train operating companies. In May 2023 the RMT reaffirmed its mandate for a further six months of strike action.⁸

Previous legislation

8. The Conservative Party's manifesto for the December 2019 general election pledged to introduce legislation that would "require that a minimum service operates during

4 RMT, [Update on National Rail Dispute](#), 31 May 2022, TSSA, [Our Rail Our Future](#), accessed 23 June 2023, ASLEF, [Fair Pay: Stand with Train Drivers](#), accessed 23 June 2023

5 RMT, [RMT declares overwhelming mandate for national strike action on railways](#), 24 May 2022

6 National Rail, [Industrial Action](#), accessed 23 June 2023

7 The Guardian, [TSSA members at Network Rail vote to accept improved pay deal](#), 15 December 2022, BBC, [RMT members at Network Rail vote to accept pay deal](#), 20 March 2023

8 RMT, [Railway Workers in the national dispute to take strike action on June 2](#), 18 May 2023

transport strikes”.⁹ A Bill to this effect was listed in the December 2019 Queen’s Speech but was not introduced in the 2019–21 Session nor repeated in the 2021 or 2022 Queen’s Speeches.

9. On 20 October 2022, the Government introduced a Transport Strikes (Minimum Service Levels) Bill to the House of Commons. This Bill would allow minimum service levels to be introduced during strikes in certain transport services to be specified by the Secretary of State. The Bill did not receive a Second Reading and is assumed to have been superseded by the Strikes (Minimum Service Levels) Bill.¹⁰

The Strikes (Minimum Service Levels) Act 2023

10. The Strikes (Minimum Service Levels) Bill was introduced in the House of Commons on 10 January 2023 and completed its Commons stages later that month. After three rounds of consideration of Lords Amendments, the Bill received Royal Assent on 20 July 2023.¹¹

11. The Act makes provision for the Secretary of State for Business and Trade to make “minimum service regulations” which set required minimum service levels across a range of sectors, including transport, during strikes. Unions and workers given “work notices” applying these service levels will have to comply or face losing protections against being sued or dismissed. Previously in the UK, there were no other general restrictions on public sector workers striking, although the Trade Union Act 2016 did introduce for the first time a concept of “important public services”, where the support of 40 per cent of eligible voters is required to strike.¹² In addition, section 240 of the Trade Union and Labour Relations (Consolidation) Act 1992 made it an offence to take industrial action constituting a breach of contract in the knowledge or belief that human life will be endangered, or serious bodily injury caused.¹³ As a result, many unions such as in the NHS agree to provide so-called ‘life and limb’ cover during strikes.

12. When introducing the Bill in January 2023, Rt Hon Grant Shapps MP, the then Secretary of State for Business, Energy and Industrial Strategy, told the House of Commons that, while the Government believed that the ability to strike is an “important element” of industrial relations in the United Kingdom, a “reasonable balance” was needed between the rights of workers and the rights of the public.¹⁴ He argued that the purpose of the legislation was to provide a “safety net” to ensure that when strikes take place “people’s lives and livelihoods are not put at undue risk”.¹⁵ The Minister argued that the purpose of this legislation was to address the lack of certainty afforded to the public when trying to use services impacted by strikes:

9 Conservative Party, [Conservative Party Manifesto 2019](#), 24 November 2019 p.27

10 [Transport Strikes \(Minimum Service Levels\) Bill](#)

11 Department for Transport, [Strikes Bill becomes Law](#), 20 July 2023

12 [Trade Union Act 2016](#)

13 Trade Union and Labour Relations (Consolidation) Act 1992, [section 240](#)

14 HC Deb, 16 January 2023, [col 54](#)

15 HC Deb, 16 January 2023, [col 54](#)

Millions of people who rely on essential transport to get to work or to family commitments now every day have the extra stress of worrying about making alternative, sometimes costly, arrangements because of the forever strikes.¹⁶

13. In an impact assessment published alongside a consultation on minimum service levels in February 2023, the Department for Transport described its objective for the legislation as maintaining “a fair balance between the ability of workers to take strike action and the needs of others to use transport services to attend work and access other essential services.”¹⁷ The Department outlined its concerns that a “substantial number of users [...] bear the impact of strike action” when they are neither party to industrial disputes nor have “any avenue to have their interests represented”.¹⁸ The Department described what it argued was a disproportionate “negative externality” in the rail sector, whereby the role of passenger rail in enabling a wide range of economic and social activities means that the impact of disruption in services will extend beyond parties directly involved in industrial disputes.¹⁹ In the context of the passenger rail sector, the Government argued that the Strikes (Minimum Service Levels) Act was seeking to “address the negative externality [...] by fairly balancing the adverse impacts of strike action on users and the wider economy, with the ability to take strike action.”²⁰

14. The Department for Transport told us that passenger rail was a “key priority” for the introduction of minimum service levels, indicative of “the important role railways play in ensuring people can access key services, such as healthcare and education”.²¹ The Minister of State for Rail, Huw Merriman MP, told us that the purpose of the legislation was its provision for rail passengers:

Rail is essential for people to go about their business—to go to school, college and hospital appointments, as well as work. It is a key part of our infrastructure. That is why I believe it is right that we balance the operation of that key infrastructure during strike days with the right to strike.²²

What does the Strikes (Minimum Service Levels) Act do?

15. The Act grants the Secretary of State powers to make “minimum service regulations” that apply to any or all of six sectors, including transport services, which set minimum service levels during periods of industrial action.²³ The exact level of service that will be required in each sector is not detailed in the Act itself; these will be specified in time by

16 HC Deb, 16 January 2023, [col 55](#)

17 Department for Transport, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.13

18 Department for Transport, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.9

19 Department for Transport, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.10

20 Department for Transport, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.13

21 Department for Transport ([MSL0012](#))

22 Q238

23 [Strikes \(Minimum Service Levels\) Act 2023](#)

the relevant government departments through regulations that are still being designed.²⁴ The Rail Minister told us that the Department for Transport aims to have the regulations laid in Parliament “during the course of this year”.²⁵

16. The Act enables an employer to give a “work notice” to a trade union. These notices specify which workers are required by their employer to work on a strike day to ensure the service levels required by the minimum service regulations are delivered. In most cases employers will be required to give their workers this notice at least seven days before the earliest strike date and would not be permitted to request more workers than “reasonably necessary” to meet the minimum levels of service under the regulations.²⁶ Where a union fails to “take reasonable steps” to ensure that all workers requested to work by a work notice comply with that notice, it will lose its protection from liability for inducing workers to take part in the strike.²⁷ Since the Act received Royal Assent in July 2023, the Department for Business and Trade has launched a public consultation in relation to the Government’s commitment to bring forward a Code of Practice that provides more detail on the “reasonable steps” a union must take to ensure their members identified in a work notice comply.²⁸

Reaction to the Act

17. The rail unions have been strongly critical of the principle of the Act, and a range of arguments were made against the principle and about potential adverse consequences of the legislation during its passage through Parliament. Concerns were expressed during debates on the Bill that the measures would be unworkable in practice, that work notices provisions could be misused by “unscrupulous” employers, that the legislation would make a resolution of the current disputes more difficult, and that it could increase the frequency of industrial action in future.²⁹ The Government’s reliance on future regulations to set out the detail of minimum services levels in each of the affected sectors has also been criticised, including by the House of Lords Delegated Powers and Regulatory Reform Committee.³⁰

18. Most prominently, critics have argued that the Act’s provisions interfere with the right to strike.³¹ Rob Jenks, Policy Officer at the TSSA argued that the implementation of a minimum service level would always require certain groups of staff within the rail industry to work on strike days, and that these groups therefore would, in effect, “have the right to strike withdrawn”.³² Mick Lynch, General Secretary of the RMT, argued that there will always be some who are compelled to work in order to operate any service:

24 Q238

25 Q239

26 [Strikes \(Minimum Service Levels\) Act 2023](#)

27 [Strikes \(Minimum Service Levels\) Act 2023](#)

28 Department for Business and Trade “[Minimum service levels: Code of Practice on reasonable steps](#)”, 25 August 2023

29 HC Deb, 16 January 2023, [col 60](#), [col 68](#), [col 70](#)

30 House of Lords Delegated Powers and Regulatory Reform Committee, [27th Report of Session 2022–23](#), 2 March 2023

31 HC Deb, 16 January 2023, [col 68](#)

32 Q128

You cannot run an 80 per cent or 90 per cent, or even a 50 per cent, railway service without conscripting all of the signallers and all of the controllers to operate that network.³³

Mr Jenks said that “On that basis, we see [the Bill] as completely undemocratic and a breach of their civil liberties and human rights.”³⁴ In March 2023 the Joint Committee on Human Rights concluded that the Government had “not made a compelling case” that measures such as work notices and the loss of legal protection against dismissal if not complied with were “necessary”. The Committee’s report said that “the Government has not proven that existing strike laws and voluntary minimum service levels are insufficient across all the sectors identified in the Bill.”³⁵

19. We asked witnesses to our inquiry whether they believed this legislation was necessary. Reflecting on conversations held between train operating companies (TOCs) and rail unions, Mick Lynch, General Secretary of RMT told us that “not one” of the TOCs had said they want this legislation: “I do not think anyone wants to be in this position”.³⁶ Jamie Burles, Managing Director of Greater Anglia, and Tom Joyner, Managing Director of CrossCountry, told us that they were not aware of any lobbying for legislation that had been undertaken by operators.³⁷

20. When pressed on whether they were in favour of the Government’s plans to legislate, both the ORR and Network Rail were careful to emphasise that they saw legislation as a “policy question” for the Department.³⁸ John Larkinson, Chief Executive of the ORR, told us that they did not see his organisation “as having a role in determining minimum service levels.”³⁹ Jamie Burles told us that the question of whether the legislation was necessary was “for the Government”. He added, “for the industry, our lens, so to speak, is the implications of such legislation. If it is forthcoming, how is it going to work? Do we have clarity? Is there flexibility in its implementation?”⁴⁰

International comparisons

21. The Government has regularly cited the operation of minimum service levels in other countries as justification for the introduction of similar legislation in Great Britain.⁴¹ When introducing the then Bill, Rt Hon Grant Shapps told the House that the legislation “simply brings us into line [...] with many other modern European nations.”⁴² He argued that minimum service levels are used in a “common sense way” across Europe to reduce the impact of strikes, citing the International Labour Organisation as saying that a minimum service level model offers a “proportionate” way of balancing the right to strike with the need to protect the wider public.⁴³

33 Q131, Q133

34 Q128

35 Joint Committee on Human Rights, [Strikes Bill fails to meet human rights obligations](#), 6 March 2023

36 Q147

37 Q80, Q81

38 Q181

39 Q180

40 Q78

41 The territorial extent of the Act applies to England, Scotland and Wales.

42 HC Deb, 16 January 2023, [col 63](#)

43 HC Deb, 16 January 2023, [col 63](#)

22. The general right to freedom of assembly is guaranteed by Article 11 of the European Convention on Human Rights, to which almost all European countries are parties. Many countries, including France and Italy, have further embedded the right to strike in their national constitutions. Most European countries have prohibitions on at least some public sector workers striking altogether, although the list of professions covered differs from country to country. Where minimum service levels exist their breadth and extent vary; some countries draw the restriction to strike narrowly around the protection of lives, whereas others prioritise serving of a broader public interest.⁴⁴

23. The Department for Transport drew on several examples of how minimum service levels are deployed to manage periods of industrial action in other countries in Europe:

In Italy, the focus is on ensuring people can get to and from work during strikes. In Spain a variety of factors are taken into account when setting [minimum service levels] on a strike-by-strike basis for both heavy and light rail. These include the availability of alternative transport options, duration of strike, number of people who will be impacted, requirements for different lines, types of services and times of day, and whether strikes coincide with festivals and events.⁴⁵

In September 2023, the Department wrote to us providing more detail about the operation of minimum service laws in different countries across Europe. In respect of Italy, for example, the Department told us that, “The agreement between the national rail company and the unions always includes a full service during the weekday peaks on commuter lines” and said that the “guaranteed” rail service is typically delivered during strikes.⁴⁶

24. There is significant variation in the maintenance of transport services during periods of industrial action across Europe. Transport Focus told us that Belgian legislation on the continuity of rail passenger transport services in the event of a strike imposes certain conditions, including agreement in advance about which staff are considered essential, and the requirement for these staff to indicate no later than 72 hours before the start of the strike that they intend to participate. Depending on staff availability, an alternative transport plan may be drawn up and communicated to rail passengers 24 hours in advance of the strike.⁴⁷

25. By contrast, in the Netherlands there are no specific laws about minimum service levels, though courts can impose some restrictions in practice. Employers, passenger groups or other consumer organisations can seek an injunction against a strike. A judge will then make a decision subject to a “reasonableness test”, balancing the interests of the employers or of the passengers or other groups of consumers.⁴⁸

26. Rail Partners told us that “differing networks, populations, workers’ rights and railway geography”, and the variation in approaches taken to minimum service levels, means that “direct comparison is difficult”.⁴⁹ Jake Kelly, Group Director for System Operation at Network Rail, told us that, from their perspective, international comparisons were “very

44 Strikes and minimum service laws in Europe, [CBP 9751](#), House of Commons Library, 27 March 2023

45 Department for Transport ([MSL0012](#))

46 [Correspondence from Department for Transport](#), 15 September 2023

47 [Correspondence from Transport Focus](#), 3 April 2023

48 Strikes and minimum service laws in Europe, [CBP 9751](#), House of Commons Library, 27 March 2023

49 Rail Partners ([MSL0009](#))

fact-specific” thanks to different “law and culture” in each individual country: “Some of them work in the terms for which they were designed, and some of them appear to do that less.”⁵⁰

27. While the Department told us that it found international comparators to be “helpful” in illustrating approaches used elsewhere, it also noted that employment and industrial relations systems that apply across different countries “vary considerably”:

What works in one country will not necessarily work in another. It is therefore important that the design of the regulations for rail considers the unique features of our railways, as well as the wider employment legislative context.⁵¹

28. ASLEF told us that “like for like comparisons cannot be drawn” between the UK and other European countries due to what they deemed “highly restrictive” trade union legislation in the United Kingdom, where the “right to strike itself is not entrenched” in law.⁵² ASLEF General Secretary Mick Whelan told us that minimum service legislation “does not operate” in Europe, and the RMT told us that, where it does exist, it has been “unenforceable”: “In those European countries that already have some minimum service levels, the legislation has been [...] unworkable and certainly does not minimise disruption.”⁵³

29. When asked what assessment had been made of the effectiveness of minimum service legislation in European countries, Kate Nicholls OBE, Chief Executive of UK Hospitality, told us that “it tends not to be used in reality”. She explained that, from speaking to European counterparts, it appears that in practice a negotiated settlement happens before legislation is required to come into force:

You either have collective bargaining to prevent a strike or, if strike action is taken, you have negotiation before you have to use a legal and legislative lever to ensure that there are minimum standards. We spoke to our colleagues in Germany, who said that that was certainly the case [...] When strike action is taken, the two sides come together, negotiate and reach an agreed solution on minimum service so that the legislation does not have to be applied.⁵⁴

50 Q232

51 DfT ([MSL0012](#))

52 ASLEF ([MSL0013](#))

53 RMT Union ([MSL0004](#))

54 Q63

2 Setting a minimum service level

30. In February 2023, the Department for Transport published a consultation on ‘Implementing Minimum Service Levels for Passenger Rail’.⁵⁵ The Department told us that the exact way in which minimum service levels will be set, including how routes and hours of operation will be prioritised on strike days, will be determined “using evidence provided by responses to the consultation.”⁵⁶ This evidence will be used to enable government departments to design regulations that will apply during periods of industrial action. Up to now, any details provided by the Government on how a minimum service level will be set and what it will do have been at a high level only.

31. The consultation ran for twelve weeks, closing on 15 May 2023, and received 78 responses.⁵⁷ Huw Merriman MP, Minister of State for Rail told us that the Department had “worked very hard” on the consultation:

I spent a lot of time on the wording, ensuring that it was right, making sure that the options that were there set ambition. We want to encourage people to be ambitious with us, but at the same time it is a realistic challenge. I assure you that it was a good, solid consultation, out for three months.⁵⁸

Ben Smith, Director for Industrial Action in the Rail Strategy and Services Group in the Department for Transport told us that the Department was “pleased” to have received a “very good mix of responses from individuals and important organisations closely impacted by rail strikes and by the minimum service level legislation.”⁵⁹ At the time of writing, these responses have not yet been published.

32. In its consultation document, the Department for Transport identified two options for the delivery of minimum service levels in passenger rail:

- **Option 1:** Design a minimum service level framework based on existing timetable arrangements. The Department describes this as follows: “the pre-existing timetable for the named strike day would be adjusted down to an appropriate minimum service level which would be set based on evidence from consultation and other appropriate sources, such as corridors that are used by high volumes of people to get to work or access key services. This approach would allow the [minimum service level] to take account of different travel patterns and passenger needs across different days of the week and in different parts of the country [...] as these considerations can be captured in the way in which timetables are currently prepared.”⁶⁰
- **Option 2:** Design a priority route map of the heavy and light rail network across Great Britain upon which minimum levels of service must be provided. The route map would be determined following consideration of evidence on a range of issues including which routes should be prioritised, which stations should be open, and the level of service that should be delivered on each route.

55 DfT, [Minimum service levels for passenger rail during strike action](#), 20 February 2023

56 Department for Transport ([MSL0012](#))

57 Q244

58 Q244

59 Q244

60 DfT, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.14

Option 1 would see the delivery of a rail service on strike days based on the pre-existing expected timetable for the named strike day. For example, if the strike was taking place on a Wednesday, the existing planned timetable for that day would provide the basis, and the minimum service level would be set as a level of that planned service. By contrast, Option 2 would require a new route map to be determined following consideration of evidence (received, in part, from consultation responses) which would specify which routes should be prioritised, which stations should be open, and what level of service should be delivered on each route.

33. The Minister described the consultation as a means for the Department to explore “two loose options”:

One was, effectively, just a reduction of the existing timetable; it would look as it does right now, but with a certain operating percentage. Whether that could operate across the entire network would need to be worked out. The other option was to build on the key route strategy that we have at the moment. As a rough figure we are able to operate about 20 per cent of the network on RMT Network Rail strike days, as they used to be. One option would be to build on that. Another concept is about whether you look at certain windows, in terms of the time when you operate, or take a wider geographical view.⁶¹

34. In its consultation Impact Assessment, the Department for Transport said that Option 2 was its “preferred option”.⁶² Within Option 2, the Department for Transport presented two sub-options for how a route map could be designed:

- **Option 2a:** this is described as “developing a priority route map focused on increased hours of service [...] Under this option, the minimum service level would be designed to operate for as long a period as reasonably possible, recognising that this would likely result in less geographical coverage” compared to Option 2b;⁶³
- **Option 2b:** this is described as “developing a priority route map focused on increased geographical coverage of service [...] recognising that this would likely result in reduced hours of service or levels of service” compared to Option 2a.⁶⁴ This option could, for example, prioritise maximising the number of stations across Great Britain that have services running.⁶⁵

35. We sought in our evidence-gathering to learn from industry stakeholders more about how they hoped the operational details of minimum service levels would be fleshed out, and what basis might be adopted for the specification: whether map-based, timetable-based or involving core hours of operation, for example. In the absence of a detailed proposal from the Government, however, concrete views on this were not forthcoming. Jake Kelly, Group Director for System Operation at Network Rail, told us that “very specific choices” about which routes run on strike days will need to be taken, but that ultimately these were “a

61 Q239

62 DfT, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023

63 DfT, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.14

64 DfT, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.14

65 DfT, [A consultation on implementing minimum service levels for passenger rail](#), 20 February 2023

policy choice rather than an operational railway matter.”⁶⁶ When asked whether the rail unions had a preference between the two options for how a minimum service level might operate, Mick Whelan of ASLEF told us “no”. He said, “we do not see, practically and objectively, how it can operate [...] in either scenario.”⁶⁷ He cited the nature of the rail network where “the domino effect of one part not running impacts the other” as evidence for why ASLEF did not believe that either of the Department’s proposed scenarios had a better chance than the other of being effective. Mr Whelan also highlighted further factors which would complicate an assessment of either option for how minimum service levels might be set:

When you introduce legislation like this, the expectation of the travelling public dramatically increases. You have the same amount of capacity trying to use fewer services, [...] not everybody plans their journeys in the way we would like.⁶⁸

36. Ben Smith, Director for Industrial Action in the Rail Strategy and Services Group, told us that the Department was consulting with trade unions, amongst others, as part of the process of setting a workable minimum service level for rail: “it is important to take all that into account in designing the regulations”.⁶⁹ The Department told us that, once minimum service levels were introduced, it will be “essential that we monitor and assess their effectiveness, including their impact on passengers, workers, public services and employers.”⁷⁰ The consultation’s impact assessment stated that the policy will be evaluated within the first five years of the secondary legislation coming into force.⁷¹

Service provision on strike days at present

37. Limited train services do already run on days when strike action takes place. We have sought to consider what this level of service and how it is planned tells us about how a minimum service level might be designed. A report published by the Office of Rail and Road (ORR) in May 2023 found that there were 29 days of national strike action by the rail unions in the period between 1 April 2022 and 31 March 2023.⁷² By comparing the number of trains planned on the day affected by strike action with the same day either the week before or the week after that had a fully planned service, the ORR estimated that 450,000 trains did not run as result of strike action in this period. This is equivalent to six per cent of the annual trains planned.⁷³

38. The Minister told us that the “rough figure” of services that are able to operate on RMT Network Rail strike days is “about 20 per cent”.⁷⁴ London TravelWatch told us that, while disruption during rail strikes had been substantial, TOCs have been able to run “a not insignificant number of services during rail strikes”.⁷⁵ Similarly, Kate Nicholls OBE, CEO at UK Hospitality, told us in March 2023 that there had been “quite a good level of

66 Q189

67 Q136

68 Q136

69 Q238

70 Department for Transport ([MSL0012](#))

71 Department for Transport, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023

72 Office of Rail and Road, [Passenger rail performance January to March 2023](#), 25 May 2023

73 Office of Rail and Road, [Passenger rail performance January to March 2023](#), 25 May 2023

74 Q238

75 London TravelWatch ([MSL0008](#))

service” during the recent strike action.⁷⁶ Research commissioned by the Department found that, of all 17,383 passengers surveyed between July and October 2022, 45 per cent explicitly reported having experienced no impact from strikes on their work, social and home lives. Of those who had planned to travel during the assessed strike week, just under a quarter (24 per cent) did not experience any impact on their work, social and home lives.⁷⁷

39. The ability of train operating companies to run rail services during strike days is dependent on the specific circumstances of the strike action—in particular which staff, in which roles, are participating in industrial action—and their ability to make contingency arrangements. The Department told us that:

The ability to run services and the volume to which they operate is dependent on the specifics of the strike action. In some cases, strike action has seen services completely unable to run, or significantly reduced services, having big impacts on the parts of the country where this occurs.⁷⁸

40. A case study included in the Department for Transport’s consultation for 4 January 2023, when RMT strike action affected both Network Rail and train operating companies, shows that approximately 20 per cent of the regular number of services were able to operate nationally within a reduced timetable operated over a 12-hour period (7am to 7pm). However, there was significant variation in service provision of individual TOCs.⁷⁹ For example, while Greater Anglia was only able to operate 12 per cent of the typical number of services it might run, South Western Railway was able to operate 32 per cent and CrossCountry 20 per cent.⁸⁰ A further case study of an ASLEF strike which took place on 1 February 2023 illustrates the impact of a different strike pattern. The Department notes that the timetable ran that day sought to “optimise the use of resources to offer as many services as possible, safely and reliably”.⁸¹ This resulted in a national average of around 40 per cent of services running, but again with significant variation: 12 per cent of Greater Anglia services and 88 per cent of South Western Railway services ran, but there were no services at all on CrossCountry.⁸² Tom Joyner, Managing Director at CrossCountry Trains, and Jamie Burles, Managing Director at Greater Anglia, both told us that the service they were able to run on strike days “differed quite significantly” depending on the nature of the strike action.⁸³

41. The Department for Transport told us how service provision on strike days is planned:

76 Q35

77 Department for Transport, [Rail strikes: understanding the impact on passengers - summary findings](#), 14 April 2023

78 Department for Transport ([MSL0012](#))

79 Department for Transport, [Minimum Service Levels for Passenger Rail: A Consultation on Implementing Minimum Service Levels for Passenger Rail](#) February 2023

80 Department for Transport, [Minimum Service Levels for Passenger Rail: A Consultation on Implementing Minimum Service Levels for Passenger Rail](#) February 2023 (Figure 1)

81 Department for Transport, [Minimum Service Levels for Passenger Rail: A Consultation on Implementing Minimum Service Levels for Passenger Rail](#) February 2023 (Figure 1)

82 Department for Transport, [Minimum Service Levels for Passenger Rail: A Consultation on Implementing Minimum Service Levels for Passenger Rail](#) February 2023 (Figure 2)

83 Q70

When presented with the threat of strike action, Network Rail and train operators will create contingency plans, reducing services significantly, and publishing a timetable they can run, attempting to deliver a reliable, albeit much reduced service.⁸⁴

When asked how they determine which services to operate on a strike day, both Greater Anglia and CrossCountry told us that meeting “passenger need” was their main priority.⁸⁵ In the context of meeting competing passenger needs, Jamie Burles told us that Greater Anglia’s approach was to “concentrate your staff, your rolling stock and the finite number of services that you are allowed to operate by Network Rail on key routes to provide a credible frequency and capacity.”⁸⁶

Impact on different parts of the rail industry

42. The Department told us that, during strikes by RMT members where the striking staff were predominately signallers and electrical control room operators, contingent labour could be deployed to provide a limited level of service.⁸⁷ By contrast, if members of ASLEF, who represent most train drivers, were striking, “the contingent labour pool is not sufficiently large to cover these specialist roles, meaning some areas have no train services at all throughout the duration of the strike.”⁸⁸ For example, during the RMT strike on 4 January 2023, some level of service was provided by all 22 of the operators analysed. By contrast, on the ASLEF strike on 1 February, while six operators provided 100 per cent of their regular service, eight provided no service at all.⁸⁹ Jamie Burles, Managing Director at Greater Anglia, told us that they had operated around 12 per cent of services when strikes have spanned both the train operator and Network Rail, and at CrossCountry Tom Joyner said that in these circumstances “often we have been able to operate only from the hours of about 7.30 am through to 6.30 in the evening.”⁹⁰

43. ASLEF told us that the variations in strike action make it difficult to have a clear idea of what the service provision on a given strike day might be. They urged the Department to consider the impact of strikes “taking place across grades and unions” and argued that analysing data from three strike days is not of “much use”, suggesting the Department provides “more data and highlights the grades of those on strike.”⁹¹

44. Tom Joyner told us about the complexities in allocating contingent labour, highlighting how different train operating companies are resourced in different ways meaning “different train operators have a different level of contingent managers who are able to undertake duties”.⁹² In practice, this could mean that for some TOCs under a minimum service level there could be groups of staff who are required to work more than

84 Department for Transport ([MSL0012](#))

85 Q72

86 Q72

87 Department for Transport ([MSL0012](#))

88 DfT ([MSL0012](#))

89 Department for Transport, [Minimum Service Levels for Passenger Rail: A Consultation on Implementing Minimum Service Levels for Passenger Rail](#) February 2023

90 Q70

91 ASLEF ([MSL0013](#))

92 Q98

others because of their specialist job role. Rob Jenks, policy officer for TSSA, told us that the level of demands during periods of strike action on some staff within the rail industry was “completely undemocratic”:

One of the main things we see from this legislation is that there will be some groups of staff who will never be able to strike. There are some groups of staff who are so key to the industry, with the way they work and the way strikes can take place, that they will have the right to strike withdrawn.⁹³

Mr Jenks argued that greater responsibilities are placed on those staffing groups within the rail industry with “highly specialist knowledge” on strike days.⁹⁴

45. Anthony Smith of Transport Focus told us that, unlike with passenger surveys, understanding the impact of strikes on the staff within the industry itself is “much harder to quantify”:

Running services on strike days puts a much higher onus on managers and managerial staff to step in, step up and run services, perform signalling duties, and so on. It can be done on a one-off basis, but I think the amount of strike action we have seen must have had a very undermining effect on the ability of the industry to concentrate on the day to day, outside the strike days. People were just tired, and it is stressful. While the industry, I think, has slightly surprised itself by how much it has been able to run on strike days, it is not something that you can do on a very long-term basis.⁹⁵

Ensuring safety

46. The Department for Transport told us that one of the “overarching principles” guiding its plans to set a minimum service level for rail was “that any [minimum service level] set pays due consideration to safety and security considerations and prioritises passengers’ safety.”⁹⁶ Transport Focus, amongst several “general principles” it proposed the Government take into account when defining a minimum service level for rail, argued that “the safety of passengers and staff must continue to be of paramount importance.”⁹⁷ ASLEF told us that safety concerns would be “critical” in determining the number and nature of staff required to operate a minimum service level for rail:

The importance of safety would need to factor in the potential safety concerns for passengers and staff if for example, 60 per cent of passengers attempt to board 30 per cent of services due to the potential for overcrowding on platforms and on passenger services this would cause.⁹⁸

47. When asked about the ORR’s assessment of the safety implications of minimum service level regulations, its Chief Executive, John Larkinson, told us that it was hard

93 Q128

94 Q138

95 Q31

96 DfT ([MSL0012](#))

97 Transport Focus ([MSL0007](#))

98 ASLEF ([MSL0013](#))

to comment without further information from the Government about what minimum service level regulations would look like. He said, however, that the recent period of strikes had been informative:

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.⁹⁹

Impact of industrial action

48. Disruption caused by industrial disputes has a substantial impact on passengers. Research commissioned by the Department for Transport found that, of 17,383 passengers surveyed between July and October 2022, 42 per cent of all respondents and 81 per cent of those who had intended to travel by rail during a strike week had their journeys impacted in some way.¹⁰⁰ The most commonly reported impacts were on work and working arrangements (29 per cent of all respondents and 47 per cent of those who had planned to travel during a strike week), followed by disruption to social plans or time with family (17 per cent of all respondents and 27 per cent of those who had planned to travel during a strike week).¹⁰¹

49. Transport Focus told us that, of those they surveyed who used or would have used a train in the period from September 2022 to February 2023, 43 per cent said that their social and personal life had been negatively affected by the strikes, with 23 per cent saying it had a negative impact on personal finance and 21 per cent on health and wellbeing.¹⁰² Anthony Smith, Chief Executive of Transport Focus, told us:

There are an awful lot of human stories underneath the statistics [...] What is quite clear from the research is that by far the biggest impact has been on social and leisure trips. [...] That impact has had two effects, one of which is cancelling or rearranging plans, taking other modes of transport or taking more time travelling and, as I said, it has had some financial impact. There is a very strong short-term impact.¹⁰³

50. Mr Smith said that the long-term impact on usage was “harder to pull together”.¹⁰⁴ Amongst those who used or would have used rail services in this period, 67 per cent said that using trains was “stressful”. As a result, nearly half of respondents said they “were avoiding using trains as much as possible”, with 28 per cent saying that they would “still be reluctant to use trains once things are back to normal.”¹⁰⁵ Anthony Smith told us that all Transport Focus’s research shows that the key passenger requirement from the railways is

99 Q221

100 Department for Transport, [Rail strikes: understanding the impact on passengers - summary findings](#), 14 April 2023

101 Department for Transport, [Rail strikes: understanding the impact on passengers - summary findings](#), 14 April 2023

102 Transport Focus ([MSL0007](#))

103 Q31

104 Q31

105 Transport Focus ([MSL0007](#))

“reliability”.¹⁰⁶ While recognising that in practice there had often been quite a good level of service on strike days, Kate Nicholls, OBE, Chief Executive of UK Hospitality, argued that “unpredictability” had meant that there was a disproportionate “knock-on effect on consumer confidence to travel.”¹⁰⁷

51. There is considerable geographic variation in the provision of rail services on strike days. Jamie Burles, Managing Director of Greater Anglia, told us that this is due in part to “operational and Network Rail complexities”, with much of Greater Anglia’s rural network being signalled in a different way to the main lines. While main lines are “often operated remotely from one big super control centre”, Greater Anglia’s rural network “operates on an older-fashioned signalling system, which requires a lot more people and requires them to be geographically located in those regions”.¹⁰⁸ The Department for Transport highlighted areas of the country—parts of Cornwall, the north of England, Wales and Scotland—where little to no passenger service is provided on strike days.¹⁰⁹

Impact of strikes on the economy

52. Kate Nicholls of UK Hospitality told us that the impact of strikes on her sector had been threefold: firstly, staffing issues arising when workers are unable to get to work (which also serves to exacerbate existing vacancy rates); secondly, the impact on “everyday customers” coming into city and town centres for standard trips; and, thirdly, the impact on visitors coming in for “major sporting events, theatres, and so on”.¹¹⁰ She described the economic impact of travel disruption on the hospitality sector:

Since the strikes have been in place, we estimate that the loss of income to the sector as a whole—how it is felt varies across the country—has been £3 billion of revenue that we would otherwise have earned as a sector since the strikes first began just under a year ago.¹¹¹

53. Strikes also affect the wider transport sector; Heathrow Airport told us that would be able to “better address the significant uncertainties” in train frequency and window of service hours on strike days by minimum service level legislation.¹¹²

54. Local travel patterns, including how passengers use transport to access key services, need to be understood in order to set a minimum service level framework that meets the Government’s priority, as expressed by the Minister, to ensure “that when there are strikes people will still have the ability to get about”.¹¹³ Jamie Burles told us that, for Greater Anglia, knowledge about how passengers use the railways they operate comes predominantly from their customer service teams “who are on the ground 365 days a year [...] dealing with school kids, key workers and every flavour of our passenger base”.¹¹⁴ Anthony Smith highlighted the knowledge rail operators had of local travel patterns. When asked who should be consulted when making decisions on what minimum service level should operate, he argued that consultation needed to be as “broad as possible” in

106 Q31

107 Q35

108 <https://committees.parliament.uk/oralevidence/13069/pdf/> Q95

109 DfT ([MSL0012](#))

110 Q33

111 Q33

112 Heathrow Airport ([MSL0011](#))

113 Q237

114 Q92

order to capture “local service patterns, local travel patterns and the fact that those travel patterns change in terms of work, work sites, work habits or whatever”. He told us that train companies should be encouraged to “display that they have understood what the patterns of travel are in their area” in order to get minimum service legislation “as right as possible”.¹¹⁵

55. When asked how they currently determine which services to operate on a strike day, both Greater Anglia and CrossCountry told us that they worked with educational establishments and hospitals, amongst other users:

The strikes quite adversely affect students and scholars who are attending their place of education or who might need to attend an exam, so we work directly with educational establishments—schools, colleges, universities—to understand what their needs might be at that particular time and have dialogue with them. The same would be the case for hospitals, where we know and are aware that our customers are travelling for hospital appointments. We also have links with rail user groups and other such fora.¹¹⁶

Anthony Smith, Chief Executive of Transport Focus, told us that the Department must take the “local nuance of travel patterns” into account when developing a minimum service level, factoring in journeys taken to schools and hospitals. He argued that, while it would consist of a “series of really messy compromises”, this approach would lead to a more “reliable” rail service than a “greatest good and the greatest number” approach.¹¹⁷

Alternatives to rail on strike days

56. We heard anecdotal evidence that passengers would often independently turn to alternative modes of travel on strike days. Mr Smith told us that, rather than opting to “not to travel at all”, passengers would use alternative means of travel:

Quite a large number of people were able to [make journeys] by other means, whether that was taking taxis or flights or actually using some of the rail services that were running on those days. We haven’t been able to put a figure on that, unfortunately, but clearly quite a number of people managed to rearrange, especially for some social and leisure stuff.¹¹⁸

57. Jake Kelly, Group Director for System Operation at Network Rail, told us that, when planning for strike days, the multi-modal choices that are available to customers are “absolutely part of our thinking”; however, the availability of alternatives to rail “varies markedly” in different markets and different parts of the country.¹¹⁹ This was echoed in evidence we heard from train operators. Jamie Burles, Managing Director at Greater Anglia, told us that his company bears in mind the availability of alternatives to rail in certain areas:

A bus network might run in parallel with the rail line and provide a frequent service with decent capacity [...] If you are spending that precious 12 per

115 Q49

116 Q74

117 Q44

118 Q32

119 Q228

cent of capacity and a customer already has choice and an alternative, that will not be top of your list when providing essential travel opportunities for customers who simply must travel.¹²⁰

Tom Joyner, Managing Director of CrossCountry, told us that working across the industry, not only with other train operating companies but also with other transport providers, was “part of our mantra, part of the way that we do things all the time”.¹²¹

58. With regards to formally factoring in alternatives to rail on strike days within a minimum service level framework, Transport Focus told us that the Department will be “very much relying” on those in the rail industry to put forward a workable timetable that reflects the options available to passengers across transport modes:

The only people who can set those timetables are the train companies and Network Rail because they are the only people who have the skills and the knowledge to do it.¹²²

59. The Minister told us that the Department will look at the entire transport network across different modes when setting a minimum service level:

I want to look holistically and with practical imagination at what the transport map looks like to ensure, on strike days, that we can give passengers better options than they have right now.¹²³

Ensuring accessibility

60. We also heard evidence about what the implications of a minimum service level framework could be for passengers with accessibility needs. Tom Joyner of CrossCountry highlighted how, during periods of industrial action, “customers with accessibility needs are probably less likely to be able to take other forms of transport”.¹²⁴ Because of this, ensuring they were provided for on strike days was a “key focus” for CrossCountry.¹²⁵ Jamie Burles of Greater Anglia told us that minimum service levels would have “direct implications” for accessibility.¹²⁶ He told us that Greater Anglia understood one of their key roles during periods of industrial action was to “effectively serve and provide for the needs of disabled travellers”.¹²⁷ He raised the issue of third-party train maintenance providers:

If there were minimum service levels, would they apply to those suppliers as well, for example? If they did not, everything, such as servicing of universal disabled toilets, would come into question. If this is to come in, its scope being wide enough to ensure all of those critical components is important, including for accessibility.¹²⁸

120 Q77
 121 Q76
 122 Q46
 123 Q240
 124 Q112
 125 Q112
 126 Q111
 127 Q109
 128 Q111

The Minister told us that “there will be no compromise when it comes to the safety and accessibility requirements” for rail services.¹²⁹

3 Rail freight

61. While rail freight operating companies are not themselves in dispute with any of the trade unions, having successfully concluded negotiations in 2022, industrial action has also had an impact on the sector. When outlining how services are managed, the Department for Transport told us that a “prioritisation strategy” is deployed on strike days in relation to freight services:

This strategy concentrates on enabling critical freight movements, including biofuel (for example, biomass for Drax, the UK’s biggest power station) and waste, and on keeping open key passenger routes, within the limits of existing staffing levels.¹³⁰

62. That said, the Department calculated that staff limits can mean that a few as one fifth of the usual heavy-rail timetable is available on strike days which “significantly constricts” the number of services that can run and the volume of freight that can be transported.¹³¹ The trade body Logistics UK told us about the “detrimental effect” industrial action is having on rail freight:

The total rail freight moved between 1 July and 30 September 2022 was 4 billion net tonne kilometres—6.4 per cent lower when compared with the same time period in 2021. Around 30 per cent of all freight movement has been cancelled on strike days, whilst the proportion of freight trains arriving within 15 minutes of scheduled arrival time, as measured by the ORR’s (Office for Rail and Road) own metric, was 84.9 per cent—the lowest level of freight performance since the time series began in 2013.¹³²

The Rail Freight Group told us that freight as a sector has “little recourse to alternative modes”:

Although road haulage remains an option for some products, supply chains which are configured to be efficient will often not have spare road capacity to cover for rail strikes, and where they do will often be at significant additional costs.¹³³

63. The two weeks’ notice of industrial action provided by rail unions means that a degree of forward planning is possible. Phil Smart, Assistant Policy Manager of the Rail Freight Group, told us that once the pattern of strike action is known disruption can be “worked around”.¹³⁴ He noted the importance of “buffer resilience” measures such as the availability of warehouses to store goods transported by freight, something which has been bolstered in recent years due to the proliferation of home shopping.¹³⁵ Moreover, the Mineral Products Association told us that, while disruption caused by industrial action had been “significant and disruptive”, it had also appeared to “[improve] the prioritisation of freight somewhat in [the Department for Transport’s] thinking”.¹³⁶

130 Department for Transport ([MSL0012](#))

131 Department for Transport ([MSL0012](#))

132 Logistics UK ([MSL0003](#))

133 Rail Freight Group ([MSL0002](#))

134 Q3

135 Q3

136 Mineral Products Association ([MSL0006](#))

64. However, when strikes span multiple days, the impact on the freight sector can be harder to mitigate. The Chartered Institute of Logistics and Transport (CILT) described “significant collateral damage” inflicted on the rail freight sector in the instance of multiple strike days.¹³⁷ CILT told us that some freight operating companies can work around occasional strike days, but that:

When a strike continues for several days [...] it is impossible to work around the problem and supply chains of key strategic products such as construction materials, fuel, steel and supermarket goods are severely disrupted.¹³⁸

65. This has had longer term consequences for the wider sector. CILT described a “loss of consumer confidence” in rail freight and the wider impact this was having on the transport sector:

It is understood that several large potential customers who were on the verge of starting to use rail for their trunk haulage, in lieu of HGVs, have shied away on the understandable grounds that they do not consider rail to be resilient from ‘third party’ action. It is too early to establish how much lasting damage has been done, but it seems likely that the RMT strikes have acted as a brake on modal shift and decarbonisation.¹³⁹

Similarly, Rail Partners told us that the introduction of a minimum service level that did not support the continuation of freight services not only risks “undermining the long-term confidence of freight customers” but also threatens “efforts to achieve modal shift to rail and the government’s commitment to freight growth”.¹⁴⁰

66. Moreover, the Rail Freight Group told us that the impact of industrial action on the freight sector was exacerbated by its geographical spread. The freight terminals in more remote areas were “particularly affected” by strikes where contingent labour was not available to cover staffing gaps in smaller signalling centres. However, as is the case for passenger services, the Rail Freight Group told us that ultimately the ability to run freight services during periods of industrial action “depends on the pattern of strike action”.¹⁴¹

137 Chartered Institute of Logistics and Transport ([MSL0005](#))

138 Chartered Institute of Logistics and Transport ([MSL0005](#))

139 Chartered Institute of Logistics and Transport ([MSL0005](#))

140 Rail Partners ([MSL0009](#))

141 Q3

4 Criteria for successful implementation

67. We have not sought to reach a view in this inquiry on the principle of the introduction of minimum service levels, but to provide advice about its practical implementation and what would be needed in order to make this policy workable and effective. The Department told us that it would welcome our recommendations for what a minimum service framework might look like. The evidence we heard shows that stakeholders are unsure how a minimum service level will affect them, or what shape they would like it to take, until they have more detail from the Government about its intentions: in the absence of that detail, they have found it understandably difficult to give reasoned views on the practicality of the proposals.

68. Our evidence has, however, given us an overview of the wide range of factors that will need to be taken into account, and of where risks to achieving the desired benefits may lie. On the basis of this evidence we believe there are some key criteria that the Government will need to fulfil when defining and setting out in regulations an appropriate minimum service level for rail services.

69. ***The Department's proposed minimum service level for rail must meet the following criteria:***

- a) ***A minimum service level provided on strike days should be at least as good as typically provided on previous strike days;***
- b) ***Safety on the network for staff and the travelling public must be the primary consideration;***
- c) ***The minimum service level must be flexible enough to be applied to different patterns of industrial action affecting different employers;***
- d) ***Regulations should reflect the differential impacts on staff operating rail services on strike days. The greater responsibilities placed on those who must work on strike days to provide a minimum service must be reflected in pay and conditions. Resilience in staffing must be improved so that there are trained alternatives able to cover for specialised staff who may want to exercise their right to strike;***
- e) ***The minimum service level must be specified in a way which enables knowledge about travel patterns in particular regions and localities, including access to employment, education and essential services, to be taken into account;***
- f) ***Rail services—or credible alternatives—should be available to passengers in all areas of the country normally served by the network;***
- g) ***Passengers with access needs must receive the same support as they are entitled to on regular travel days;***
- h) ***A minimum service level for rail should protect industries, such as the night-time economy, that cannot adopt flexible and remote working patterns on strike days;***

- i) *There must be clarity about the access that freight services can expect to have to the network, and Government and the freight industry must collaborate on determining what routes should be prioritised.*

70. *At present, the lack of detail from the Department about what a minimum service level specification might look like is preventing stakeholders from being able to assess how it will affect them or those they represent. Once the Department has determined which model of minimum service level it plans to implement through regulations, it must consult on it. The Department should set out an implementation plan and consult with a wide group of stakeholders including unions, passengers and operators. The Department should also consider ways in which a set minimum service level for rail could be piloted.*

Unintended consequences?

71. We have heard some concerns that any benefits to passengers of this legislation in terms of greater certainty of travel on strike days could be undermined if its introduction were to lead to poorer or prolonged industrial action, or to more frequent action short of strike. London TravelWatch, an independent watchdog for people travelling in and around London, told us that it feared the introduction of minimum service levels could serve to “worsen” industrial relations between train operators and their staff.¹⁴² They also argued that there is a risk that, if minimum service levels were set “unrealistically high”, train operators would find it difficult to meet their obligations, creating “uncertainty”. Overall, therefore, the Act might “have the unintended consequence of more disruption and a worse service for passengers”.¹⁴³

72. Mick Lynch, General Secretary of the RMT predicted that:

There will be novel forms of action, and there will be wildcat action, which is what happens in France, Italy, Spain and elsewhere. In Stockholm last week, there were walk-outs all over the Stockholm tube network outside the [minimum service] legislation.¹⁴⁴

Mr Lynch cited “occupations” and blocking tracks” as examples of potential means of taking action that would not be covered by the framework of minimum service levels.

73. In its own Impact Assessment of the legislation, the Department noted that “according to the unions” a consequence of the introduction of minimum service levels could be an “increase in staff taking action short of striking which is not prohibited by this legislation”.¹⁴⁵ The impact assessment noted that such action is not only “difficult to mitigate” but can require “extensive planning, placing significant strain on the rail industry”, which in turn could lead to a “change in relations” between unions and employers, alongside “more adverse impacts in the long term, such as an increased frequency of strikes for each dispute”.¹⁴⁶ The assessment concluded, however, that this risk was “speculative”. When

142 London TravelWatch ([MSL0008](#))

143 London TravelWatch ([MSL0008](#))

144 Q131

145 DfT, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.30

146 DfT, [Minimum Service Levels for Passenger Rail Consultation Impact Assessment](#), 21 February 2023 p.30

asked whether the proliferation of “novel” strike action was a concern, the Minister told us: “We have to think not just of the workforce and the unions but of all the passengers and, indeed, the taxpayers who help fund rail.”¹⁴⁷

74. Looking to the future, the following criteria should be used by the Department to assess the success of a minimum service level for rail:

- a) ***Industrial disputes have neither been prolonged nor increased. Novel industrial action has not proliferated;***
- b) ***Passenger satisfaction on strike days is greater than at present. Passengers have access to clearly communicated information in relation to service operation, and greater certainty, further in advance than at present, about travel on strike days.***
- c) ***Long term, there is more effective cooperation and better working relationships between rail unions, the industry and government.***

Conclusions and recommendations

1. *The Department's proposed minimum service level for rail must meet the following criteria: (Paragraph 69)*
 - a) *A minimum service level provided on strike days should be at least as good as typically provided on previous strike days;*
 - b) *Safety on the network for staff and the travelling public must be the primary consideration;*
 - c) *The minimum service level must be flexible enough to be applied to different patterns of industrial action affecting different employers;*
 - d) *Regulations should reflect the differential impacts on staff operating rail services on strike days. The greater responsibilities placed on those who must work on strike days to provide a minimum service must be reflected in pay and conditions. Resilience in staffing must be improved so that there are trained alternatives able to cover for specialised staff who may want to exercise their right to strike;*
 - e) *The minimum service level must be specified in a way which enables knowledge about travel patterns in particular regions and localities, including access to employment, education and essential services, to be taken into account;*
 - f) *Rail services—or credible alternatives—should be available to passengers in all areas of the country normally served by the network;*
 - g) *Passengers with access needs must receive the same support as they are entitled to on regular travel days;*
 - h) *A minimum service level for rail should protect industries, such as the night-time economy, that cannot adopt flexible and remote working patterns on strike days;*
 - i) *There must be clarity about the access that freight services can expect to have to the network, and Government and the freight industry must collaborate on determining what routes should be prioritised.*
2. *At present, the lack of detail from the Department about what a minimum service level specification might look like is preventing stakeholders from being able to assess how it will affect them or those they represent. Once the Department has determined which model of minimum service level it plans to implement through regulations, it must consult on it. The Department should set out an implementation plan and consult with a wide group of stakeholders including unions, passengers and operators. The Department should also consider ways in which a set minimum service level for rail could be piloted. (Paragraph 70)*
3. *Looking to the future, the following criteria should be used by the Department to assess the success of a minimum service level for rail (Paragraph 74):*

- j) *Industrial disputes have neither been prolonged nor increased. Novel industrial action has not proliferated;*
- k) *Passenger satisfaction on strike days is greater than at present. Passengers have access to clearly communicated information in relation to service operation, and greater certainty, further in advance than at present, about travel on strike days.*
- l) *Long term, there is more effective cooperation and better working relationships between rail unions, the industry and government. (Paragraph 74)*

Formal minutes

Tuesday 19 September 2023

Members present:

Iain Stewart, in the Chair

Paul Howell

Greg Smith

Minimum service levels for rail

Draft Report (*Minimum service levels for rail*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 74 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Eighth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Adjournment

Adjourned till Tuesday 17 October at 3.00 pm.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 22 March 2023

Phil Smart, Assistant Policy Manager, Rail Freight Group [Q1–29](#)

Anthony Smith, Chief Executive, Transport Focus; **Kate Nicholls OBE**, Chief Executive Officer, UK Hospitality [Q30–68](#)

Wednesday 26 April 2023

Tom Joyner, Managing Director, Cross Country Trains; **Jamie Burles**, Managing Director, Abellio Greater Anglia [Q69–125](#)

Mick Lynch, General Secretary, National Union of Rail, Maritime & Transport Workers (RMT); **Mick Whelan**, General Secretary, ASLEF; **Rob Jenks**, Policy Officer, TSSA [Q126–177](#)

Wednesday 24 May 2023

Jake Kelly, Group Director for System Operator, Network Rail; **John Larkinson**, Chief Executive, Office of Rail and Road [Q178–234](#)

Huw Merriman MP, Minister of State, Department for Transport; **Ben Smith**, Director for Industrial Action in the Rail Strategy and Services Group, Department for Transport [Q235–280](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

MSL numbers are generated by the evidence processing system and so may not be complete.

- 1 ASLEF ([MSL0013](#))
- 2 CEMEX ([MSL0001](#))
- 3 Department for Transport ([MSL0012](#))
- 4 Heathrow Airport ([MSL0011](#))
- 5 Logistics UK ([MSL0003](#))
- 6 London TravelWatch ([MSL0008](#))
- 7 Mineral Products Association ([MSL0006](#))
- 8 National Union of Rail, Maritime and Transport Workers (RMT Union) ([MSL0004](#))
- 9 Rail Freight Group ([MSL0002](#))
- 10 Rail Partners ([MSL0009](#))
- 11 The Chartered Institute of Logistics and Transport ([MSL0005](#))
- 12 The Royal School, Haslemere ([MSL0010](#))
- 13 Transport Focus ([MSL0007](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

Session 2022–23

Number	Title	Reference
1st	Road freight supply chain	HC 162
2nd	The Integrated Rail Plan for the North and Midlands	HC 292
3rd	Fuelling the future: motive power and connectivity	HC 159
4th	Implementation of the National Bus Strategy	HC 161
5th	Maritime 2050	HC 160
6th	Strategic road investment	HC 904
7th	Self-driving vehicles	HC 519
1st Special	UK aviation: reform for take-off: Government response to the Committee's Fifth Report of Session 2021–22	HC 542
2nd Special	Road freight supply chain: Government response to the Committee's First Report	HC 701
3rd Special	Road Pricing: Government Response to the Committee's Fourth Report of Session 2021–22	HC 1178
4th Special	Fuelling the future: motive power and connectivity: Government response to the Committee's Third Report	HC 1382
5th Special	Maritime 2050: Government Response to the Committee's Fifth Report	HC 1420
6th Special	Implementation of the National Bus Strategy: Government response to the Committee's Fourth Report	HC 1431
7th Special	The Integrated Rail Plan for the North and Midlands: Government response to the Committee's Second Report	HC 1729

Session 2021–22

Number	Title	Reference
1st	Zero emission vehicles	HC 27
2nd	Major transport infrastructure projects	HC 24
3rd	Rollout and safety of smart motorways	HC 26
4th	Road pricing	HC 789
5th	UK aviation: reform for take-off	HC 683
1st Special	The impact of the coronavirus pandemic on the aviation sector: Interim report: Government Response to the Committee's Fifth Report of Session 2019–21	HC 28

Number	Title	Reference
2nd Special	Road safety: young and novice drivers: Government Response to Committee's Fourth Report of Session 2019–21	HC 29
3rd Special	Trains Fit for the Future? Government Response to the Committee's Sixth Report of Session 2019–21	HC 249
4th Special	Safe return of international travel? Government Response to the Committee's Seventh Report of Session 2019–21	HC 489
5th Special	Zero emission vehicles: Government Response to the Committee's First Report	HC 759
6th Special	Rollout and safety of smart motorways: Government Response to the Committee's Third Report	HC 1020
7th Special	Major transport infrastructure projects: Government Response to the Committee's Second Report	HC 938

Session 2019–21

Number	Title	Reference
1st	Appointment of the Chair of the Civil Aviation Authority	HC 354
2nd	The impact of the coronavirus pandemic on the aviation sector	HC 268
3rd	E-scooters: pavement nuisance or transport innovation?	HC 255
4th	Road safety: young and novice drivers	HC 169
5th	The impact of the coronavirus pandemic on the aviation sector: Interim report	HC 1257
6th	Trains fit for the future?	HC 876
7th	Safe return of international travel?	HC 1341