

Written evidence submitted by ASLEF (RRB0001)

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing just under 22,000 members in train operating companies, freight companies as well as London Underground and light rail systems.
2. We welcome the opportunity to submit written evidence to assist the committee's scrutiny of the draft Rail Reform Bill. It should be noted that the 'Plan for Rail' was published in May 2021 and almost three years later, under the third Prime Minister, third Transport Secretary and sixth Rail Minister since its publication, we now have sight of the draft Rail Reform Bill, although it looks incredibly unlikely that there will be any legislative time for the Bill to progress into legislation. The recent NAO report has shed some light on why we have seen such slow movement from the DfT on rail reform and has also highlighted their cavalier approach to workforce reform which has caused further damage to the industry¹.
3. Even though there will likely be no legislative time for the reform as outlined in this draft Bill under this current government we do see some value in responding to the draft Bill to assist the committee and to highlight areas of concern that we have with the current draft Bill. This we hope will allow a future government to move forward with legislative changes that will be required to deliver a unified and strategically planned railway.
4. We are disappointed with the proposed continued involvement and even growth of the private sector's involvement to run services when we see greater value in the running of services being under public ownership. In our view this would be in the shape of public ownership with the government viewing the railways as an essential public service run on a non-commercial basis with the aim of furthering the social economic and environmental good that public transport and the railways provide. This model would ensure that there is a joined-up approach to the running of services with no need to cancel contracts when there are failures and reduced the wastage of money and time on

legal agreements with the private sector, it would also ensure that all the revenue is reinvested back into the railways and not paid out in dividends to shareholders.

5. With the draft Bill in its current form and with the continued involvement of the private sector we hold concerns with Network Rail becoming the guiding mind when transitioning to GBR due to the pressures that the infrastructure manager would have with regards to access and operator contracts when they are obliged to also grow the private sector's involvement on the railways. There is also still a lack of a clear long-term plan which should be in place before GBR looks to develop its business plan.
6. Ultimately, we do hold some suspicion that this draft Bill has been published to shape discussion and push for an increase in private sector involvement ahead of the next general election rather than to deliver the change that was outlined in the Conservative's 2019 manifesto and envisioned in the Plan for Rail. We will work through the committee's questions in further detail to outline our concerns.

The Integrated Rail Body

Of enacted, would the draft Bill provide the necessary legislative foundations for an integrated rail body with franchising powers (Great British Railways), as envisioned in the Plan for Rail?

7. With regards to providing a legislative foundation, the draft Bill delivers on the vision of the Plan for Rail by combining track and train, bringing both together within an integrated rail body (IRB). The removal of the franchising authority from the Secretary of State to the IRB also delivers on the Plan for Rail.
8. The Plan for Rail highlighted the failings of the franchising model and envisioned a movement to a concession model with the use of Passenger Service Contracts. Due to the wording of the Railways Act 1993 there needs to be amendments to and reference to 'franchising' to

ensure that the IRB has the appropriate powers to issues Passenger Service Contracts however we do not expect a continuation or return to the franchising of passenger services. Our preference however would be for these services to be run entirely by the IRB without the need to involve a third party private sector body, we have already seen the performance targets lowered by the DfT² to enable private operators to still make a profit whilst the public suffer a declining service and take on all the revenue and cost risk. We are concerned that the targets could be changed in the future in a similar manner to allow the private sector to profit whilst the service fails.

9. The inclusion of a business plan under 4B of the draft Bill will ensure that there is a legislative requirement for greater long-term planning, this will enable the public to scrutinise the planning of the IRB and have a greater understanding of how the IRB will help to deliver the railways in their area. Whilst we welcome its inclusion, we would also like to see a wider strategic plan for transport across England as well as the whole of the UK which this business plan could then work alongside as we outlined to the committee in August 2023³. The Plan for Rail calls for a 30-year strategy which was to be produced by the Whole Industry Strategic Plan and Great British Railways Transition Team is now working on the strategy however, the first version of the strategy was due to be ready at the end of 2022⁴, we are yet to see this published. We hope that the 'business plan' when it is published will be planned and read alongside a long-term strategic plan for the railways.

10. We do hold concerns with 4B (3) focusing on the private sector's involvement with the provision of railway services, first and foremost the plan should be focused on how the IRB will operate to grow and maintain the railways without the legislation requiring a further focus on how this plan would impact on the private sector. If as the current administration believes, the private sector is absolutely necessary for the running of passenger services then any business plan would of course outline this and the requirement of such a provision in legislation, seems a tad over the top.

11. Further to our concerns around 4B (3) we do not see how 4C is required in legislation and could lead to further fragmentation which is in contradiction of the recommendations of the Plan for Rail. We will go into further detail on this under the specific question on this section of the draft Bill.

12. As outlined above and in a previous evidence submission to the committee, we believe that there is a lack of a coherent transport strategy for England as well as a lack of a UK wide strategy. We would have greater comfort in section 4D of the draft Bill being written with a strategy in operation alongside it as this would ensure that the public has greater scrutiny and businesses have greater certainty around the future plans for the railways and will no longer see a Prime Minister announce the cut to a cross party supported, transformative and generational transport project at a party conference. It may be that this section is intended to allow for the 30-year plan to be in place as the Plan for Rail intended with the plan being produced by Ministers, we would hope that the committee is able to garner greater clarity around the intention of this section.

13. 4D (4) states that the directions and guidance given by the Secretary of State must be published in such a manner as the Secretary of State considers appropriate. As the IRB will be a public body it is our assumption that any such publication will be publicly available, perhaps an amendment to the wording of the draft Bill could ensure that any such guidance or direction was always published for scrutiny.

Will the integrated rail body (IRB), as proposed in the draft Bill, achieve the Government's aim of a 'guiding mind', providing: (i) better accountability, (ii) more reliable services, (iii) greater efficiency, and (iv) coordinated growth, across both passenger and freight sectors?

14. The draft Bill should achieve the aim of a guiding mind, however as noted above we have some concerns around the structure of the guiding mind with the current draft Bill encouraging the continuation and growth of private sector involved. The draft Bill should enable better accountability however, when it comes to more reliable services and

greater efficiency, we are not able to extract much information on these points from the draft Bill. Ultimately reliability and efficiency will predominantly be down to the infrastructure and we know that there is an inadequate level of funding for CP7 to ensure that we have a truly reliable and efficient railway. With speed restrictions already planned to be implemented in CP7 we will need to see increases in the infrastructure budgets as the current agreed level of funding equates to a cut of £1.2 billion in England and Wales and £315 million in Scotland over the control period⁵.

15. Efficiencies could however be stifled by the draft Bill, whilst it would unify the railways which could reduce duplication, as envisioned in the Plan for Rail. We believe efficiencies could be achieved with large amount of insourcing of work at the operators and Network Rail which would become GBR. Network Rail is currently utilising over 4,000 suppliers, there could be scope to insource much of this work however the over focus on the private sector in this draft Bill could create a barrier for achieving these efficiencies and lead to even greater levels of outsourcing.

16. We welcomed the publication of the growth target for rail freight in December 2024 whilst we believe it could be more ambitious, the fact that there is a commitment from government to aim to grow rail freight allows businesses to plan and shift to rail. The cutting back of HS2 has hurt the freight sector⁶ and frankly the sooner we have a long-term strategy which businesses and passengers can point to with a pipeline of infrastructure works the sooner faith can be restored in the railways for passengers and freight users. The draft Bill itself will only impact on co-ordinated growth through section 4B and 4D the rest of the work to achieve this will be carried out by GBR, guided by a long term strategy and delivered through a committed government investing the in the railways.

Would the provisions of the draft Bill establish an IRB with the independence and accountability to achieve its aims? If not, what amendments would be needed?

17. The draft Bill keeps the regulator as well as passenger representative bodies, this coupled with the IRB being a public body should enable

better accountability as well as transparency and allow greater public and parliamentary scrutiny than we currently see with private operators. Although the continuation of private sector's involvement could restrict disclosure of certain information which would assist the industry if it is deemed commercially sensitive.

Are the arrangements set out for the granting and amendment of the IRB's licence and the inclusion of specific conditions within that licence appropriate?

18. The draft Bill contains the technical changes required to grant and amend the IRB's license. The inclusion of conditions to have regard for accessibility requirements, the effect on the environment and to maximise social and economic benefits are a welcome addition. Having these conditions should help keep the IRB focused and enable scrutiny of whether the IRB is meeting the conditions of license. Furthermore, having these conditions of license should help to grow the railways ensuring that it is accessible and having a maximal impact on social and economic benefits with £2.50 of income generated elsewhere in the economy for ever £1 worth of work on the railway system itself⁷. We also know that rail will help us tackle climate change and reduce our greenhouse gas emissions. Therefore, including the environmental effect in the license is a sensible inclusion to help keep minds focused on how best to grow the railways to tackle the UK's emissions.

19. With the process for amending the license there could be scope for greater scrutiny of the Secretary of State's intentions. The current wording states that any intention to modify the license must simply be published with the Secretary of State having to allow at least 28 days for representations or objections to the proposed modifications to be made. It also allows the Secretary of State to ignore objections and merely show that they have considered them.

What will be the effect of the requirement on the IRB to prepare an annual report setting out what it has done to increase private sector involvement in the running of railway services?

20. The requirement as outlined under 4C is baffling and seems to be in contradiction of the findings of the Plan for Rail. Whilst we understand

the current government's dogmatic insistence on mentioning private sector as many times as possible in the draft Bill, this whole requirement will, in our view, be counterintuitive of the aims of the IRB and should be withdrawn.

21. The way this clause is worded will force the IRB to be constantly looking to increase private sector involvement in the provision of railway services, once the passenger service contracts have been awarded, this will be the bulk of the private sector involvement so having to increase the involvement will force the IRB to be constantly looking at other areas of the provision of railway services which can be privatised, this could lead to the IRB pushing to maximise as much open access as possible which seems to be a focus at present from the Rail Minister. It is not clear though how competitive this process would be and could lead to FirstGroup and Arriva being the main open access operators. Further to this open access is intended to be utilising spare capacity and should only really be a small part of the rail network, this clause could force the IRB to allow the reduction in its own services to increase the involvement of open access operators.

22. The plan for rail, quite rightly highlighted the failings which have been brought about through the involvement of the private sector fragmenting the railways. We are concerned that this section of the draft Bill will lead to fragmentation through the continued use and increase in outsourcing of work for the sake of involving the private sector.

23. We also have concerns that it is overkill to legislate for an annual report which must outline what has been done to increase private sector involvement, this could lead to a situation where the IRB is finding itself forced to find ways to shoehorn in as much private sector involvement as possible rather than focusing on ensuring that its work delivers the best railway possible. As the way the section is worded it is not about utilising the private sector to improve the railways or to save taxpayer money, it is purely for the sake of involving the private sector with no legislative regard for what happens when yet again, the over involvement of the private sector is causing issues for the railways.

What arrangements should be put in place for scrutiny of the IRB's business plan?

24. The business plan should receive scrutiny whilst in development via consultation with the relevant stakeholders inclusive of the workers and their recognised trade unions to ensure that there is sufficient oversight of the business plan before its publication. The plan itself should be published publicly to allow wide scrutiny, it should also receive direct scrutiny from the ORR, the relevant trade unions, the Passengers' Council, London Transport Users' Committee and the Disabled Persons Transport Advisory Committee, regional transport bodies, devolved transport authorities in Great Britain and Westminster through the DfT.

25. It is essential that the plan is published publicly as this will allow passengers and freight users to hold the IRB to account if it deviates from the published plan. Being published publicly will also allow businesses to plan their investments in areas around the railways and could further encourage them to make a modal shift of freight from road to rail if they can see a clear plan that the IRB is expected to stick to and can be held accountable to.

Are there further elements of the Government's aims for the IRB that should be given a statutory footing?

26. We do not see anything further which should be given a statutory footing to achieve the government's aims for the IRB.

Other provisions

Are the interests of passengers and freight users sufficiently promoted by the provisions of the draft Bill?

27. The interest of passengers should be captured via the inclusion of a business plan and the inclusion of clauses 9, 10 and 11 in the draft Bill. However, the inclusion of clause 4C could work against the interest of

passengers if the focus becomes on increasing the private sector's involvement and not on improving the railway service.

28. The inclusion of the network license to include specific conditions in relation to accessibility, the environment and social and economic benefits should further help to capture the interest of passengers.

29. There is little in the draft Bill which would promote the interest of freight users although there may not be too much which can be set out in legislation to create the IRB which would promote the interest of freight users. Some of the main concerns for freight users centre on access charges, traction electricity charges, planning for freight and logistics and freight grants most of these would fall outside of the scope of this draft Bill. However, beyond section 5 / schedule 3 in the draft Bill there is not much which could be seen to be promoting the interest of freight users.

Does the draft Bill make effective provision for the role of the Office of Rail and Road?

30. The draft Bill makes effective provision for the role of the Office of Rail and Road. The draft Bill intends to keep the ORR in place as the independent regulator and makes some minor amendments needed to update the Railways Act 1993 to keep the ORR's functions up to date with the introduction of the IRB.

31. The inclusion of the amendment to subsection (1)(d) could help to temper the damage which clause 4C itself could create, however, we would see more sense in 4C being removed completely. There is also the question as to how this amendment would work in a situation where 4C is forcing the IRB to look to increase private sector involvement whilst the ORR is unable to promote the competition due to a negative impact it could have to the cost to public funds.

What assessment should be made of the draft Bill's provision that the Scottish and Welsh governments may arrange for the IRB to exercise their devolved franchising powers?

32. We think that it is appropriate that the IRB does not look to impose any restrictions on the Scottish and Welsh Ministers' ability to carry out their devolved functions.

33. We understand the inclusion of 71C which would allow the Scottish and Welsh governments to arrange for the IRB to exercise the franchising function to enable the IRB to cover Great Britain if deemed appropriate by the respective governments. We would however then expect these ministers / their governments to be able to have scrutiny of the IRB's business plan and for the agreements to be published publicly to enable scrutiny of the franchising agreements. This transparency should help to avoid any situation where a Minister may wish to revoke or amend their agreement but the Secretary of State or the IRB puts a stop to this as afforded under 71C (3) and passengers and freight users are left in the dark around decision making.

What will be the effect of the implementation in UK law of the Luxembourg Rail Protocol? Is the range of powers granted to the Secretary of State in clause 15 necessary to achieve the aims of the Protocol?

34. We fundamentally believe that the rolling stock should be in public hands with as much as possible built in the UK following a rolling stock procurement plan which provides a pipeline of work for the UK, we currently however do not see this forward planning and with the cuts to HS2 are facing the loss of work at Alstom in Derby. Further to this, we believe the rolling stock should be seen as a public asset in the same way as the track and other infrastructure is viewed and it should be of concern to the committee and the public that we currently see large sums of money escape the railway through dividend payment to shareholders at ROSCOS with their profits recently trebling in a year⁸ and more than £400m being pay in dividends.

35. Whilst the Plan for Rail consultation did not ask specifically about the Cape Town Convention we understand its inclusion due to the fact that the UK government ratified this convention on matters specific to aircraft whilst the Convention itself does carry mention of railway rolling stock.

36. The introduction of wording on the Luxembourg Rail Protocol was mentioned in the DfT's consultation around legislative changes needed and the UK Government is a signatory to the Protocol. The draft Bill covers the necessary powers required to achieve the aims of the Protocol although there are some uncertainties as the Protocol itself is not yet in force globally. We do however hold concerns section 2 (j) allowing "...different provisions for different purposes" we do not find this lack of clarity helpful. We would also suggest that the committee interrogates 2 (f) to see if there should be any role for the IRB to carry out functions as the intention is for track and train to be brought together under the IRB, the current wording of the draft Bill could essentially give the Secretary of State and the ORR further say over train.

General

Are the delegated powers envisaged by the draft Bill necessary and sufficient to meet its aims?

37. The delegated powers seem sufficient in meeting the draft Bill's aims however as stated above the inclusion of 4C would, in our view, work against the aims of the government to bring together track and train and inhibit the IRB's ability to focus purely on providing the best service possible for passengers and freight users.

What lessons should be learned from previous legislative changes to the institutional architecture of the rail sector?

38. Lessons should be learnt from the damage done by the privatisation of the railways and whilst this is a step in the right direction to bring back together track and train it does not go far enough and will look to push for greater private sector involvement, which as we have seen from

previous changes, has led to a lowering of safety, a loss of finances for the industry and a reduction in the quality of service.

39. Lessons should also be learned from the DfT's recent approach to industrial relations which has contributed to a worsening of the service and a waste of taxpayer money as they look to unnecessarily prolong disputes. The current paralysis that we see is due to the operators losing control over the industrial relations they have with their workers. It is essential that the workers and their respective trade union are properly engaged with in any legislative changes to the industry as these workers are on the frontline and can often offer insight which may be overlooked from a ministerial level.

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Endnotes

¹ <https://www.nao.org.uk/reports/rail-reform-the-rail-transformation-programme/>

² <https://www.ft.com/content/16011adf-94a6-415b-8d3a-78f4cbbddc58>

³ <https://aslef.org.uk/publications/aslef-evidence-submission-transport-select-committee-strategic-transport-objectives>

⁴ <https://media.gbrtt.co.uk/news/publication-of-key-report-vital-step-in-creation-of-30-year-rail-strategy>

⁵ <https://www.rmt.org.uk/campaigns/rail/rail-cuts-cost-lives/>

⁶ <https://rfg.org.uk/hs2-decision-is-deeply-disappointing-for-rail-freight/>

⁷ <https://www.oxfordeconomics.com/resource/the-economic-contribution-of-uk-rail/>

⁸ <https://www.theguardian.com/business/2024/feb/18/profits-of-uks-private-train-leasing-firms-treble-in-a-year>