

Written evidence submitted by the Department for Transport (RRB0014)

Introduction and summary

1. The publication of the draft Rail Reform Bill on 20 February 2024 is a major milestone for reform. It marks an important step forward in the plan to deliver on government's bold vision set out in the Plan for Rail – of punctual and reliable services, simpler tickets and a modern and innovative railway that meets the needs of the nation.
2. The Bill complements the many reforms that are already being delivered in advance of legislation. It will enable key further reforms by amending existing legislation, primarily the Railways Act 1993 (RA93), and will ensure the central role played by the private sector in the delivery of rail services is protected and can be enhanced going forward. A diverse and thriving private sector is critical to the success of rail and the government's plans for reform. Our railway is already privatised by law, and this legislation retains and strengthens all essential safeguards for the private sector, as well as introducing new mechanisms to target growth.
3. Primary legislation is needed to establish an integrated rail body (IRB) - Great British Railways (GBR) - which is fundamental to the reformed sector envisaged under the Plan for Rail and is essential for delivery of the full suite of benefits it outlined.
4. On 28 February 2024, the Transport Select Committee published its call for evidence on the draft Rail Reform Bill, formally beginning the pre-legislative scrutiny (PLS) process. The terms of reference set out a list of questions regarding the draft Bill, inviting Parliament, the rail industry and the public to provide evidence. The government is grateful to the Transport Select Committee for taking on this important role scrutinising the draft Bill.
5. This written evidence provides the government's response to the queries set out by the Committee. This response outlines where information previously published by government provides answers to the questions and signposts the Committee to the relevant publication. These include:
 - Williams Rail Review [call for evidence](#) and [evidence papers](#) (2019)
 - "Current railway models: Great Britain and overseas" [evidence paper](#) (2019)
 - The [Plan for Rail](#) (2021)

- [Legislation consultation](#) (2022)
 - [Government response to the legislation consultation](#) (20 February 2024)
 - [Draft Bill and accompanying documents](#) (in particular the explanatory notes and Delegated Powers Memorandum) (20 February 2024)
6. The government understands that some of the queries raised by the call for evidence are not necessarily addressed to government, rather seeking evidence from the rail industry, or other relevant stakeholders. We have been engaging closely with industry stakeholders through a series of roundtables and engagement sessions to help stakeholders better understand the draft Bill, and will continue these throughout the pre-legislative scrutiny process. We also have planned engagement with the House of Lords at Ministerial level, and will relay any key messages from this to the Transport Select Committee.

Call for Evidence Response

7. The government's response to the questions in the call for evidence is as follows:

The Integrated Rail Body

Question 1: If 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?

Government is confident that the draft Bill would provide the necessary legislative foundations for an integrated rail body with franchising powers, as envisioned in the Plan for Rail. Please refer to pages 21–26 of The Plan for Rail, a Consultation on Legislation to Implement Rail Transformation: Government Response (the government response), where this is set out. The integrated rail body's functions will derive from both legislation and the licence. The essential functions of infrastructure management and franchising continue to derive primarily from existing legislation.

The draft Bill is an overlay on the existing rail legislation - it makes the technical changes necessary for structural reform of the railways. Specifically, the Bill gives the Secretary of State the power to create an integrated rail body. It transfers franchising authority functions from the Secretary of State to the integrated rail body (to combine with the infrastructure manager function) and makes other changes to facilitate and support structural reform. To these ends, the Bill makes targeted amendments to the following legislation to create the integrated rail body and transfer franchising functions:

- the Public Records Act 1958,
- the Transport Act 1985,
- the Railways Act 1993,
- the Railway Heritage Act 1996,
- the Greater London Authority Act 1999,
- the Railways Act 2005,
- the Railway (Licensing of Railway Undertakings) Regulations 2005,
- the Transport Act 2000,
- The Public Bodies Act 2011, and
- the Railways (Access, Management and Licensing of Railways Undertakings) Regulations 2016.

By doing so, the draft Bill builds upon the privatisation regime created by the Railways Act 1993 to create a simpler system under single, national leadership - as envisioned within the Plan for Rail - while retaining the original emphasis on delivery of rail services through the private sector.

Question 2: 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?**

Government believes that the integrated rail body, as envisaged in the draft Bill, will achieve the government's aims as set out in more detail in the government response.

Better accountability:

The draft Bill enables clear lines of accountability through the updated governance framework. The framework will clarify roles and responsibilities of organisations across the rail sector and how Great British Railways, as the integrated rail body responsible for track and train, will be held to account. For example, the integrated rail body will have day-to-day operational control for the railway while the Secretary of State will set the long-term priorities and funding envelope for the railway, be accountable to Parliament and be sole shareholder for the integrated rail body.

The Office of Rail and Road will hold the integrated rail body to account against the licence, issued by the Secretary of State. The governance framework will be

underpinned by mechanisms including legislation, the licence, and Secretary of State powers to issue directions and guidance to the integrated rail body. This is set out in further detail in the government response (particularly pages 23-26 and pages 65-67) published alongside the draft Bill. This includes information on how arrangements might differ in Scotland and Wales to protect existing devolution arrangements (pages 32-34 of the government response).

More Reliable Services:

As set out on page 21 of the government response, a core function of the integrated rail body will be to manage and secure delivery of high quality, reliable passenger services.

Bringing track and train together under the integrated rail body will enable greater strategic oversight. Whole system strategic decision-making should lead to improved reliability and performance of passenger and freight services. More reliable services cannot be achieved through legislation alone; incentivising operators to run reliable services will be secured through the commissioning of passenger services undertaken by the integrated rail body. Once established, the integrated rail body will bring together decisions across the “whole rail system” – track and train, cost and revenue and build industry consensus – to make better decisions for the benefit of customers and taxpayers, as well as the wider economy, society and environment. It is intended that decisions will take place closer to the passengers they affect, and there will be a new commercial model fostering more competitive bids which would then produce better outcomes for both passengers and taxpayers.

The integrated rail body - the creation of which requires legislation - as the franchising authority and infrastructure manager, will run the network in the public interest and have a new relationship with train operators defined by new contracts incentivising punctual and reliable services. Since the pandemic, the government has already taken significant steps during this interim period to incentivise private sector operators to improve the reliability of rail services and encourage more integrated ways of working. All private sector operators have now transitioned over to National Rail Contracts, which focus on the operational performance of the railway, the passenger experience, financial performance and partnership working. Through National Rail Contracts, there is a direct link between punctuality and reliability and the fee operators receive to incentivise improved performance. Whilst a return to competition remains the long-term objective when market conditions are suitable, these contracts

provide stability in the interim. They are flexible by design, allowing service levels to be adjusted as passengers return to the railways.

More broadly, to accelerate recovery of passenger numbers and revenues, government has put in place a new incentive within the National Rail Contracts to improve train operators' focus on growing demand and revenue.

Government is now considering how to increase commerciality further in the rail contracting model moving forward, with a view to reducing taxpayer subsidy to more sustainable levels. To this end, the government is working to develop new Passenger Service Contracts to enable a return to competition in the market to drive value for money for customers and the taxpayer. We will consult with the market to develop and design the detail of these new contracts, before launching competitions in due course.

The integrated rail body will play a significant part in facilitating the shift to a 'new normal' following the pandemic, and ensuring the railway of the future is focused on its passengers and provides value for money for taxpayers. In the interim, operators will continue working with their local markets wherever possible to find the best solution to the needs of the local community.

Greater Efficiency:

The industry's fragmentation was identified in the Plan for Rail as the root cause of many of the weaknesses in the railways. Creating a single body responsible for track and train, with a governance framework setting out clear accountabilities (as detailed in the government response, particularly pages 23-36 and 65-67) will fundamentally change the structure of the sector, which in turn will enable inefficiencies to be addressed more easily.

The Plan for Rail and the government response identified a number of areas where establishing the integrated rail body would increase efficiency in a number of ways, including by creating a simpler industry structure. These are set out in the government response on pages 24 (Strategic Freight Unit), 27 (Great British Railways acting in the public interest), 38 (importance of private sector innovation to improving the efficiency and growth of the railways), 77 (ORR providing advice to funders on matters such as efficiency), and 98-101 (open data).

The governance framework is underpinned by a range of non-legislative mechanisms in addition to the legislation. In designing the integrated rail body's' governance framework, the Secretary of State wants to allow the integrated rail body to be adaptable to changing customer needs, working in close partnership with the private sector (including train operating companies,

freight operators, suppliers and innovators) to deliver a more efficient, modern rail system underpinned by better collaboration and aligned incentives, generating value and savings that will have benefits for passengers and taxpayers. The private sector has proved its ability to bring efficiency, dynamism and growth to our railways: coinciding with the privatisation of the railways, the number of rail passenger journeys doubled between 1994/95 and 2012/13, rising more quickly than most of Europe and the private sector has invested billions into new, modern trains and upgrading our stations - investment which would not have happened under nationalisation. Capitalising on this is more important than ever as the government seeks to build a customer-focused and financially sustainable railway.

Coordinated Growth:

As set out on page 29 of the government response, the government supports a diverse, thriving and competitive private sector supply chain that can meet the needs of customers and taxpayers. The integrated rail body will be tasked to support this through the Long-Term Strategy for Rail. Another key driver of private sector growth is the important relationship with the supply chain. The resilience, capability and productivity of the supply chain will be shaped by the approach the integrated rail body and its operators take to procurement and the visibility of future opportunities to bid for work. As set out on page 38 of the government response, government is committed to delivery through the private sector to maximise competition, innovation and revenue growth right across the industry. As set out on page 70, the government is unlocking the potential for green growth that rail freight can offer by setting a long-term rail freight growth target of 75% by 2050 (announced on 20 December 2023), with a dedicated Strategic Freight Unit as the guiding mind providing leadership. The Secretary of State will also be required to include condition regarding freight in the integrated rail body's licence, and the government is considering how to frame a future integrated rail body licence that promotes the growth of rail freight.

Through employing industry experts and those with the right skill sets, the integrated rail body will be a commercially-focused organisation that will contract with the private sector to deliver passenger services and maximise investment, innovation, and opportunity throughout the whole rail sector, from the supply chain to the operation of freight and passenger services. This includes improving connectivity and choice through more direct links and more options for passengers, for example by encouraging private sector open-access operators where there is suitable unused capacity on the rail network and where they add value for passengers.

Question 3: 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?

The provisions of the draft Bill will establish an integrated rail body with the appropriate independence and accountability to achieve its aims. Government's focus will be on setting requirements on the integrated rail body for the long and medium term through the licence, directions and guidance. This is important in ensuring the integrated rail body has the day-to-day autonomy and authority to make operational decisions in the public interest (see paragraph 3.11 of the legislation consultation for further detail).

As set out on pages 23-27 of the government response, clear lines of accountability between the Secretary of State and the integrated rail body will be underpinned by a strong governance framework. Government believes the use of a governance framework strikes the right balance between independence and accountability. The Secretary of State is democratically accountable to Parliament and will be sole shareholder for the integrated rail body. Therefore, as long as the railway is subsidised by taxpayers, government's view is that the Secretary of State should have a role in setting the long-term priorities and funding envelope for the railway. This should not undermine the integrated rail body's role as the guiding mind. Working closely with government, the integrated rail body will develop and implement a Long Term Strategy for Rail based on the Secretary of State's long-term priorities for the railways.

Government considers that this arrangement will provide the appropriate level of independence and clear accountability for day-to-day decisions and delivery, whilst still enabling the Secretary of State to set the policy and strategic vision.

Government is confident that the draft Bill sets the necessary foundations to secure the integrated rail body's independence and accountability. The governance framework (as set out on pages 63-67 of the government response) will set out the detailed accountabilities.

Question 4: 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?

Government believes that the arrangements for granting and amending the integrated rail body's licence and the inclusion of specific conditions are appropriate, and in keeping with the licence arrangements in the current

legislation. The modifications that government is making to grant and amend the integrated rail body's licence are explained in the Explanatory Notes for the draft Rail Reform Bill in paragraphs 57- 65. It is a legal requirement for the integrated rail body to have a licence to operate the rail network. The licence will be issued by the Secretary of State, and the Office of Rail and Road will independently monitor the integrated rail body's licence. Government will consult, as it is legally required to, on a draft integrated rail body licence. This will provide interested parties the opportunity to feed back and inform licence development. Government considers these arrangements appropriate as they ensure the integrated rail body's accountability to government, deliver independent regulation through the Office of Rail and Road, and provide the public and stakeholders with an opportunity to help shape the integrated rail body's licence.

As set out on pages 70-72 of the government response, introducing specific duties in relation to accessibility and freight, set out in the integrated rail body's licence, will ensure that accessibility on the railway is taken account of and the experience for disabled passengers is accounted for. The government has established a rail freight growth target, recognising the sector's economic benefits and potential for expansion. Placing a new environment duty on the integrated rail body will ensure that the new rail body is obliged to consider the impact on the environment in its decision-making processes.

Question 5: 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?

The government response sets out the importance of the private sector (on page 6 and throughout the document).

Government greatly values the role of the private sector in rail both in the provision of passenger and freight services and throughout the wider supply chain. Over the past quarter of a century, the private sector has played an integral role in delivering spectacular growth in passenger journeys and the number of services on offer, including via open access operators. Both the Plan for Rail and this legislation are clear that the integrated rail body will work with the private sector to deliver benefits for customers and taxpayers. By reporting annually on this, the integrated rail body will be required to show how it is working to support a diverse and competitive sector with investment and innovation at its heart.

Question 6: What arrangements should be put in place for scrutiny of the IRB's business plan?

The integrated rail body will be required by law to produce a 5-year integrated business plan and will be held to account for delivery through a combination of governance mechanisms such as the licence and framework agreement. Changes to the business plan will be managed 'in-life', following a change control process, allowing the integrated rail body to respond to changing circumstances.

The integrated rail body will be held to account through a combination of the governance framework and the Office of Rail and Road's role in monitoring the delivery of the 5-year integrated business plan. For further detail on the 5-year integrated business plan, how it will be managed 'in-life', and the Office of Rail and Road's role in monitoring the plan please refer to question 16 (pages 77–81) of the government response.

Question 7: Are there further elements of the Government's aims for the IRB that should be given a statutory footing?

The government is confident that the draft Bill includes the necessary statutory elements to enable the integrated rail body to meet government's aims, as set out in the introduction to the government response. One additional element that will need to be incorporated into the Bill will be a transfer scheme to transfer property, rights, and liabilities from the Secretary of State to an integrated rail body. Further detail can be found within delegated power 3 of the Delegated Powers Memorandum, which sets out that this provision has not yet been fully developed but will be included should this draft Bill be formally introduced in a future parliamentary session. This is also referenced in the Explanatory Notes in paragraph 2.

Other Provisions

Question 1: Are the interests of passengers and freight users sufficiently promoted by the provisions of the draft Bill?

Passengers and freight customers are at the heart of rail reform. As set out in the Plan for Rail, the government is investing to radically reform and improve passengers' experience of fares, ticketing and retailing on the railways. Many improvements do not require legislation to be taken forward. However, at the core of reform is the need to establish an integrated rail body. As discussed in the government response on page 7, the establishment of an integrated rail body will facilitate a simpler industry structure which will be adaptable to changing customer needs.

The structural reform that will be facilitated by the establishment of the integrated rail body will enable whole-system strategic decision-making and provide greater accountability, which should lead to benefits for passengers and freight customers such as improved reliability and performance of train services. It will also enable greater focus on the customer, by moving away from the current situation in which the infrastructure manager is not sufficiently customer-focussed as they are one step removed, due to the separation of track and train. Many of the future non-legislative reforms cannot be taken forward until the integrated rail body is established.

To ensure that the interests of users are considered, the draft Bill obliges the Secretary of State to further promote the interests of disabled passengers and freight users by including specific accessibility and freight duties in the integrated rail body's licence. This will ensure that accessibility on the railway can be improved and the experience for disabled passengers can be enhanced. The government has already established a rail freight target for growth, recognising the sector's economic benefits and potential for expansion. See also our response to question 4 under the integrated rail body section.

The Plan for Rail committed to enhancing Transport Focus' role to make it the passenger champion for the railways. As set out on page 90 of the government response, this can be achieved without significant changes to existing legislation. Government has made some changes to the draft Bill as it considers that the interests of passengers will be further promoted through the Bill's provisions in relation to Transport Focus (Passengers' Council) and London TravelWatch (London Transport Users' Committee). By empowering these organisations as independent watchdogs and passenger champions to refer cases directly to the relevant franchising authority as well as to the Transport Secretary and the Office of Rail and Road, the Bill provides representation to the passenger perspective in holding the integrated rail body to account. These changes are described further in the Explanatory Notes in paragraphs 30-38.

Question 2: Does the draft Bill make effective provision for the role of the Office of Rail and Road?

As expressed in the government response (question 8, pages 53-55), the government considers that the Office of Rail and Road should continue to hold the roles and functions that it holds today, which are underpinned by legislation.

The Office of Rail and Road will continue to be an economic and safety regulator and will be responsible for monitoring and enforcing the integrated rail body's licence.

The draft Rail Reform Bill will not seek to change the role, but rather update and add responsibilities, as follows:

- the Office of Rail and Road will need to have regard to any access and use policy statements published by the integrated rail body;
- the Office of Rail and Road's duty to promote competition will be amended to ensure that the promotion of competition does not result in an unreasonable increase to the cost to public funds;
- the Office of Rail and Road will be able to set different dates for each of the funders for the provision of their High-Level Output Specifications and the Statement of Funds Available;
- the Office of Rail and Road's ability to approve, establish or administer an ombudsman scheme, and provide funding to the operator of such a scheme will be put on a firm statutory footing. This currently refers to the Rail Ombudsman;
- the Office of Rail and Road's independence will be secured by a new power to raise fees to fund its activities from the integrated rail body, through a levy.

Under these provisions, the Office of Rail and Road will be able to sufficiently ensure the integrated rail body is correctly regulated and acts in accordance with its Secretary of State issued licence.

Question 3: 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?

Government has outlined in question 3 of the government response (pages 31-34) that the draft Bill does not undermine existing devolution settlements and provides the devolved administrations with additional flexibility that they do not currently have. Scottish and Welsh ministers will continue to exercise existing devolved responsibilities, but with an option to delegate contracting authority to the integrated rail body to enable the integration of track and train across Great Britain if they wish to pursue it.

Question 4: 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?

The government has outlined in the government response the benefits that the implementation of the Protocol will bring in the response to question 23 (pages 102-104). With respect to the powers to support the implementation of the Protocol, the government has outlined in delegated power 5 of the

Delegated Powers Memorandum and Annex G of the impact assessment, the rationale behind the powers granted to the Secretary of State in clause 15. Within that explanation is the justification for the powers, which outlines that before implementation further consultation and debate will take place.

General

Question 1: Are the delegated powers envisaged by the draft Bill necessary and sufficient to meet its aims?

The aim of the Bill is to allow the Secretary of State to designate an integrated rail body which will then bring together infrastructure management and franchising into a single body. The government is of the view that the delegated powers as proposed are necessary and sufficient to meet this aim.

The Delegated Powers Memorandum, sets out the five delegated powers in the draft Bill, explains that these are drawn as narrowly as possible, and sets out the purposes for which Ministers are expected to use them.

Question 2: What lessons should be learned from previous legislative changes to the institutional architecture of the rail sector?

The government has clearly set out the journey it has taken towards rail reform (previously known as ‘rail transformation’) through various publications including the Williams Rail Review call for evidence and evidence papers (2019), the Plan for Rail (2021) and the legislation consultation (2022), the response to which was published alongside the draft Bill on 20 February 2024.

The evidence paper titled “Current railway models: Great Britain and overseas” (2019) includes a review of the variations to the structure of the rail sector in Great Britain (pages 9-11) and was used as part of the evidence base for the proposals in the Plan for Rail. The Strategic Rail Authority (SRA) was established to provide a longer term and network-level view but ultimately abolished in order to better “align the responsibility for funding rail operations with the levers and accountability for decisions.” The integrated rail body, or Great British Railways, proposal brings both the longer term and network-level views together while bringing the necessary levers, alongside infrastructure, into one organisation in a way that the SRA approach did not.

The Railways Act 1993 envisaged a private sector model of infrastructure – and established Railtrack (a private sector body, listed on the Stock Exchange) – but this led to a poor safety record and did not provide sufficient government oversight given the substantial public investment in the infrastructure. Railtrack was replaced by Network Rail in 2002 and subsequent legislation in 2005 provided a clearer remit for government in the funding and specification

of infrastructure (i.e. the Statement of Funds Available and the High Level Output Specification). Over the past decade and a half, safety performance on the railways has improved considerably and Great Britain now has an enviable record when compared to its peers both in Europe and on the international stage. For example, Great Britain had the lowest average number of fatalities and weighted serious injuries for whole society in Europe in 2022.

The integrated rail body, or Great British Railways, proposal maintains existing accountabilities with respect to operations, maintenance and renewals of infrastructure, which will remain in the public sector, given the significant level of public investment and the intention to maintain the excellent safety record. Since 2010, government has spent over £100 billion running the railways.

The aforementioned publications together demonstrate how government has learned from previous changes to the rail sector and show the vision for the future including next steps to deliver a modern and innovative railway that meets the needs of the nation. Government draws attention in particular to pages 12-14 of the Plan for Rail, which sets out our learnings on how the railways improved under the legislation that enabled privatisation (e.g. increased number of services), as well as where improvements did not materialise (highlighting, for example, the level of fragmentation inherent in the current structure and how that inhibits useful collaboration).

Across the many responses received from individuals, industry and other organisations, there was broad general support for the proposed primary legislative changes set out in the Government's legislation consultation. We expect the PLS process to further highlight the level of support for the proposed changes.

Question 3: Are there further provisions within the draft Bill that the Committee should focus its scrutiny on?

The government welcomes the scrutiny of this Bill and is keen to hear the views of Parliamentarians and experts across industry.

March 2024