

# Part K – Information

## Explanatory Note

- A. *Part K provides for the two-way flow of key information between Access Parties both on a regular and an ad-hoc basis.*
- B. *Network Rail is required to produce annual information, mirroring the business planning and stewardship obligations under its network licence, and update the annual information and report on progress against the information contained in it.*
- C. *Network Rail is entitled to request information from an Access Beneficiary, and an Access Beneficiary is similarly entitled to request information from Network Rail, where this is reasonably requested for either party to plan its business with a reasonable degree of assurance.*
- D. *Part K will have effect subject to a notice or notices served by the Office of Rail and Road concerning the types and classes of information, timeliness of provision, quality (including completeness and accuracy) and level of detail of the information.*
- E. *Save as provided in the notice or notices served by the Office of Rail and Road, the information to be provided under Part K is to be complete and accurate in all material respects to the greatest extent reasonably practicable.*
- E. *This Explanatory Note does not form part of the Network Code.*

## DEFINITIONS

In this Part K:

“Accounting Period”	means each of thirteen consecutive periods in each Relevant Year, each such period being 28 days in length, save that the length of the first and last period in the Relevant Year shall be such as shall be adopted by Network Rail;
“Information”	means Network Rail Annual Information, Network Rail Monitoring Information and Requested Information;
“Monitoring Period”	shall consist in each financial year commencing on 1 April of one of four consecutive periods, each of which shall comprise three consecutive Accounting Periods except the last which shall comprise four consecutive Accounting Periods, or such periods beginning and ending on such other dates as the Office of Rail and Road may specify in a notice;
“Network Rail Annual Information”	means the information specified in Condition K1.1;
“Network Rail Annual Report”	means the report referred to in Condition K3.1;
“Network Rail Monitoring Information”	means the information specified in Condition K1.2;
“Network Rail Monitoring Report”	means the report referred to in Condition K3.2;
“Relevant Network”	means that part of the Network comprising any Strategic Planning Route which the relevant Train Operator is permitted to use or to which the access option of an Access Option Holder

	relates;
"Relevant Year"	means each 12 month period beginning 1 April;
"Requested Information"	means the information specified in Condition K1.3; and
"Strategic Planning Route"	means a route for route planning purposes designated in the delivery plan (including its related route plans) which Network Rail is required to produce under Condition 1 of its network licence as a "strategic planning route" or "strategic route".

## **CONDITION K1 – INFORMATION COVERED BY PART K**

### **1.1 Network Rail Annual Information**

Network Rail Annual Information means, in relation to any Access Beneficiary:

- (a) projections of future network quality and capability requirements;
- (b) planned activities and volumes of work in respect of the carrying out of:
  - (i) relevant activities; and
  - (ii) network services in relation to the Relevant Network to be carried out by any other person;
- (c) the expected effect of relevant activities on the quality and capability of the Relevant Network, the quality of network services and the ability of users to provide improved services to their customers; and
- (d) the expected effect of relevant activities on the outputs required of Network Rail and established in the last access charges review.

In this Condition K1.1:

"duty"	means the duty incumbent on Network Rail to achieve the purpose to the greatest extent reasonably practicable having regard to all relevant circumstances including the ability of Network Rail to finance its licensed activities;
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- “purpose” is to secure:
- (a) the operation and maintenance of the network;
  - (b) the renewal and replacement of the network; and
  - (c) the improvement, enhancement and development of the network,
- in each case in accordance with best practice and in a timely, efficient and economical manner so as to satisfy the reasonable requirements of persons providing services relating to railways and funders, including potential providers or potential funders, in respect of:
- (i) the quality and capability of the network; and
  - (ii) the facilitation of railway service performance in respect of services for the carriage of passengers and goods by railway operating on the network;
- “relevant activities” means the activities which are necessary or expedient in order to carry out the duty;
- “relevant asset categories” means track, signalling and telecommunications, structures, electrification equipment, stations, maintenance depots, real and heritable property, information systems and such other categories of material asset as are necessary or expedient so as to facilitate compliance by Network Rail with the duty; and

terms used in Condition K1.1 shall have the same meaning as in Condition 1 of the network licence of Network Rail and in the event of any conflict terms defined in the network licence shall prevail.

## **1.2 Network Rail Monitoring Information**

Network Rail Monitoring Information means, in relation to any Access Beneficiary:

- (a) information as to any changes to the programmes of work contained in the last Network Rail Annual Report and Network Rail Monitoring Report which changes are likely materially to affect the operation of trains operated by any Access Beneficiary on the Network;

- (b) a statement of Network Rail's actual performance on the Relevant Network in the immediately preceding Monitoring Period, and its projected performance on the Relevant Network for the remainder of the Relevant Year;
- (c) information as to the addition or removal of temporary speed restrictions on the Relevant Network in the immediately preceding Monitoring Period, and any temporary speed restrictions which are likely to be added or removed in the current Monitoring Period and in the remainder of the Relevant Year;
- (d) a statement of the duration of any temporary speed restrictions on the Relevant Network in the immediately preceding Monitoring Period and the likely duration of any temporary speed restrictions in the current Monitoring Period and in the remainder of the Relevant Year; and
- (e) a statement of the efficiency of possession utilisation on the Relevant Network in the immediately preceding Monitoring Period, including the proportion of possessions cancelled or subject to late change.

### **1.3 Requested Information**

Requested Information means:

- (a) in relation to information to be provided by Network Rail, such information as an Access Beneficiary may reasonably request from time to time in order to plan its business with a reasonable degree of assurance, including information on relevant assets which Network Rail is required to maintain under Condition 1 of its network licence; and
- (b) in relation to information to be provided by an Access Beneficiary, such information as Network Rail may reasonably request from time to time in order to plan its business with a reasonable degree of assurance,

in each case

- (i) subject to the request for the information concerned being made in writing and identifying expressly that it is a request made under this Part K; and
- (ii) to the extent specified in a notice given by the Office of Rail and Road under Condition K6.1.

## **CONDITION K2 - PROVISION OF INFORMATION**

### **2.1 Provision of Information by Network Rail**

Network Rail shall, subject to Condition K3.3, make available to each Access Beneficiary:

- (a) Network Rail Annual Information;
- (b) Network Rail Monitoring Information; and
- (c) Requested Information,

in accordance with this Part K.

## **2.2 Provision of Information by each Access Beneficiary**

Each Access Beneficiary shall make available to Network Rail Requested Information in accordance with this Part K.

## **2.3 Limitation on use of Information by Network Rail**

Any Information provided to Network Rail under this Part K may only be used by Network Rail subject to the limitations in Condition 14 of its network licence and in accordance with this code.

## **2.4 Form of Information**

Any Information made available under this Part K shall be in such form and level of detail as is reasonably necessary to enable:

- (a) Network Rail to assess the effect of the matters disclosed in the Information provided to it on its provision of network services and fulfilment of its network licence obligations; and
- (b) the relevant Access Beneficiary to assess the effect of the matters disclosed in the Information provided to it on its Services.

## **2.5 Quality of information**

Subject to Condition K6, Information provided by any party under this Part K shall, to the greatest extent reasonably practicable, be complete and accurate in all material respects.

# **CONDITION K3 – PROVISION OF NETWORK RAIL ANNUAL INFORMATION AND NETWORK RAIL MONITORING INFORMATION**

## **3.1 Provision of annual report**

Subject as provided in Condition K3.3, Network Rail Annual Information shall be provided as an annual report and in form and detail consistent with that applicable to any annual update of the delivery plan (including its related route plans) mentioned in Condition 1 of the network licence of Network Rail.

## **3.2 Provision of report**

Subject as provided in Condition K3.3, Network Rail Monitoring Information shall be provided in the form of a report for each Monitoring Period.

## **3.3 Provision of information at election of Access Beneficiary**

- (a) Network Rail shall not be obliged to provide any Access Beneficiary with Network Rail Annual Information or Network Monitoring Information unless that Access Beneficiary has notified Network Rail that it elects to receive such information. Any such election shall have effect 28 days from the date it is received by Network Rail and shall continue until any date specified for its duration by the Access Beneficiary in the notice or (if no date is specified) until the election is withdrawn. An Access Beneficiary may withdraw or vary any such election made by it at any time by giving 28 days notice to Network Rail. The ability of an Access Beneficiary to seek Requested Information shall not be prejudiced by any failure by that Access Beneficiary to elect to receive information under this Condition K3.3.
- (b) Where an Access Beneficiary makes or has made an election to receive Network Rail Annual Information or Network Monitoring Information it may, either in the election or subsequently, inform Network Rail which elements of that information it wishes to receive. Network Rail shall use all reasonable endeavours, following consultation where appropriate with the Access Beneficiary, to meet the Access Beneficiary's request in respect of those elements of that information.
- (c) Where Network Rail complies with any request by an Access Beneficiary under Condition K3.3(b) regarding the elements of information required to be provided, it shall not also have to provide to that Access Beneficiary the balance of the information which is not required by that Access Beneficiary.

## **CONDITION K4 - TIMING OF PROVISION OF INFORMATION**

### **4.1 Provision of Information by Network Rail**

Network Rail shall provide to each Access Beneficiary, having elected to receive such information under Condition K3.3 and while its election remains effective:

- (a) Network Rail Annual Information by such date as shall be agreed between Network Rail and the relevant Access Beneficiary or, where the Office of Rail and Road specifies a date upon the application of any party, by the date specified;
- (b) Network Rail Monitoring Information within 28 days after the beginning of each Monitoring Period, unless the Office of Rail and Road agrees to the provision of such information on another date upon the application of any party, in which event the Network Rail Monitoring Information shall be provided on such other date; and
- (c) Requested Information in a timely manner after such information is requested, subject to Condition K4.4.

## **4.2 Updating Information by Network Rail**

If:

- (a) a proposed final Local Output is the subject of an appeal under Condition L7, or is varied under Condition L9, the relevant Network Rail Annual Information and Network Rail Monitoring Information shall be updated and reissued as soon as reasonably practicable after the date on which the Local Output or the variation is finally established (following any appeal where relevant) and has become effective; and
- (b) insofar as any Information provided by Network Rail relates to any of Network Rail's future plans, and at any time during the Relevant Year such plans alter to the extent that such alterations are likely to have a material adverse effect on achievability of Network Rail's current Local Output Commitments under Part L, then Network Rail shall promptly notify the relevant Access Beneficiary of any necessary changes to that Information.

## **4.3 Provision of Information by Access Beneficiary**

Each Access Beneficiary shall provide to Network Rail Requested Information in a timely manner after such information is requested, subject to Condition K4.4.

## **4.4 Provision of Requested Information**

A party receiving a request for Requested Information shall within 15 Working Days of receipt of that request either (i) fulfil the request or (ii) notify the requesting party of the likely timescales and extent to which it reasonably expects to be able to fulfil the request and/or (iii) identify to the requesting party any element of the request which it considers it will not be able to fulfil or is not obliged to provide.

## **CONDITION K5 – APPEAL PROCEDURE**

### **5.1 Right of appeal to senior officers or in accordance with the ADRR**

If any Access Party is dissatisfied as to:

- (a) any matter concerning the operation of the procedure set out in this Part K;
- (b) any refusal by an Access Party to provide Requested Information;
- (c) the interpretation by an Access Party of the provisions of this Part K or any notice given by the Office of Rail and Road under Condition K6.1 in relation to whether or not any information requested is Requested Information; or



- (d) the adequacy of information provided or the time taken to provide that information, in each case in response to a Request for Requested Information,

the matter shall be referred by that Access Party for review by the Access Parties concerned, with the review process to involve a senior manager of each of those Access Parties. If those Access Parties fail to reach a resolution within 28 days of the referral, either party may refer the matter for determination in accordance with the ADRR.

## **CONDITION K6 - APPLICATION OF PART K**

### **6.1 Extent and timing of information obligations**

This Part K shall have effect to the extent, including as to:

- (a) the types or classes of information to be provided;
- (b) the times within which information must be provided;
- (c) the categories of persons to whom information of different types or classes is to be provided; and
- (d) the quality of information and the level of detail with which it must be provided (including the extent to which it must be complete and accurate),

as are specified in a notice or notices given by the Office of Rail and Road.

### **6.2 Asset information**

No notice under Condition K6.1 may have effect to the extent that it requires Network Rail to provide asset information:

- (a) of a type or class;
- (b) to a quality or level of detail; or
- (c) within a time,

which is more onerous than it is required to do under Condition 1 of its network licence. In this Condition K6.2, “asset information” is information which Network Rail is required to maintain on relevant assets under that condition of its network licence.

### **6.3 Consultation**

No notice may be given by the Office of Rail and Road under Condition K6.1 unless it has first:

- (a) published the notice it intends to give and its reasons for that

intention; and

- (b) considered any representations which it has received in relation to the proposed notice and reasons.

#### **CONDITION K7 - OTHER OBLIGATIONS TO CONTINUE**

This Part K is:

- (a) without prejudice to any other obligation of any Access Party to provide information under any other provision of this code or the relevant Access Agreement; and
- (b) subject to the confidentiality provisions of this code and the relevant Access Agreement.