



OFFICE OF RAIL REGULATION

Alan Price
Director, Railway planning & performance

Paul Plummer
Group Strategy Director
Network Rail Infrastructure Limited
1 Eversholt Street
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27 August 2015

Dear Paul

Draft Penalty Notice Re: Breach 2014-15 performance (Southern and GTR) – request for extension to response deadline

Thank you for your letter of 26 August 2015 (attached). As your letter notes, the deadline for responses to this Notice was stated as **1 September 2015**. The Penalty Notice was published on our website and we also drew it to the attention of relevant parties.

We have considered your request for an extension of the deadline to enable NR to conclude its meetings and provide its formal response, including any offers of reparations. Having considered your specific request, we agree, on this occasion, to extend the deadline for representations on the Notice until close of business on **Friday 11 September 2015**.

This revised deadline date will be applicable to all representations or objections in respect of the proposed penalty, from any party. For transparency, we will publish this letter and yours of 26 August on our website and also advise relevant parties that the deadline has been extended. The Penalty Notice will remain unchanged and all aspects except for the response deadline will remain applicable.

Following receipt of any representations we will consider what recommendations to make to our Board on finalising the proposed penalty. This is likely to be at the Board's next scheduled meeting in September 2015.

I am copying this letter to Patrick McLoughlin, Claire Perry, and officials at the DfT, Derek Mackay and officials at Transport Scotland and Mark Carne and Phil Hufton at NR.

Yours sincerely


Alan Price



Alan Price
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26 August 2015

Dear Alan

Breach of Condition 1 of Network Rail's network licence with regard to Network Rail's operational performance in 2014/15

Richard Price wrote to Mark Carne on 10 August 2015 setting out the decisions made by the Board of the Office of Rail and Road ('ORR') on 20 July 2015, following its investigation into Network Rail's performance delivery in 2014/15. A formal Section 57C notice, issued at the same time, also outlined ORR's proposal to impose a penalty of £2 million on Network Rail for contraventions of Condition 1 of its network licence and provided 21 days to make representations or objections with respect to the proposed penalty. ORR's associated press release states that Network Rail has the opportunity to offer reparations for affected passengers, instead of having to pay the fine.

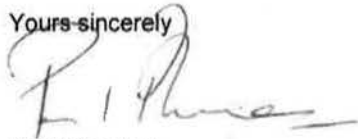
We note that ORR's existing 'Economic Enforcement Policy and Penalties Statement' (published in July 2012) states that ORR is required to 'consult on a proposed penalty and to take into account any representations that are made. Such representations may include offers of reparations'. We also note that ORR's December 2014 consultation of 'options for improving its Economic Policy and Penalties Statement' proposed that an offer of reparations should have three components in terms of being genuinely additional, appropriately targeted and proportionate to the harm done and deliverable.

On 21 August, Phil Hufton met with Nigel Fisher of ORR to discuss whether Network Rail could make an offer of reparations that satisfied these requirements. However, the meeting was curtailed due to an operational incident in the Manchester area and the meeting has therefore been rescheduled for Friday 28 August.

To allow an opportunity to conclude these ongoing discussions, and to identify potential schemes that may derive appropriate passenger benefits, Network Rail would request an extension to the deadline for making final representations or objections with respect to the proposed penalty to Friday 11 September 2015.

I would be grateful if you could confirm whether ORR is willing to grant this extension by no later than Friday 28 August 2015.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Plummer', with a long horizontal stroke extending to the right.

Paul Plummer
Group Strategy Director