

Carl Hetherington
Deputy director, Railway markets and economics



29 March 2019

Serco Caledonian Sleepers Limited
c/o Ross Moran

Network Rail Infrastructure Limited
c/o Nicolas Prag

Dear Ross and Nicolas

Our determination of the Schedule 4 Sustained Planned Disruption cost thresholds for Serco Caledonian Sleepers Limited

1. This letter sets out our determination of the Sustained Planned Disruption cost thresholds for the track access agreement between Network Rail Infrastructure Limited ('Network Rail') and Serco Caledonian Sleepers Limited ('Caledonian Sleepers') (together 'the parties') for the next control period (CP6¹).

Background

2. Under the Schedule 4 possessions regime, all passenger operators can enter into negotiations with Network Rail to claim actual cost compensation for the most disruptive possessions, known as Sustained Planned Disruption (SPD).
3. SPD claims are triggered, where the level of costs faced by train operators due to possessions, exceed pre-determined thresholds. SPD cost thresholds represent the minimum difference between Schedule 4 formulaic cost compensation and reasonably incurred costs over a number of consecutive railway periods.
4. In order for a claim to be triggered, the "SPD cost threshold 1" needs to be exceeded for at least 3 consecutive periods and the "SPD cost threshold 2" needs to be exceeded for at least 7 consecutive periods.
5. In our 2018 periodic review (PR18) Final Determination, we decided that SPD cost thresholds in CP6 (as set out in Table 1 below), should be the CP5 cost thresholds uplifted for the RPI measure of inflation.
6. There are two SPD cost threshold rates that apply for passenger operators, a higher and lower rate. In CP5, the higher rate threshold applied to Caledonian Sleepers.
7. We wrote to Network Rail and Caledonian Sleepers on 20 December 2018, saying that we would defer our decision on which rate should apply to Caledonian Sleepers in CP6, as we wished to review whether the higher rate should apply. Accordingly, the review notice that we issued on 20 December 2018 to initiate the

¹ CP6 will run from 1 April 2019 to 31 March 2024.

process of implementing PR18, provided for us to determine the SPD cost thresholds for the Caledonian Sleepers track access agreement at a later date².

Our decision

8. We have decided, for the reason set out below that the lower rate SPD cost threshold should apply to Caledonian Sleepers in CP6.
9. At the start of CP5, the Caledonian Sleepers services were part of the larger ScotRail franchise and so were on the higher rate threshold. During CP5, these services were separated out to form the separate Serco Caledonian Sleepers Limited franchise but the CP5 track access contract continued to include the higher rate threshold.
10. However, because its annual revenues are now in line with passenger operators on the lower rate SPD cost threshold, we have decided that the lower rate threshold (as per Table 1 below) should apply to Caledonian Sleepers in CP6.

Table 1: SPD Cost Thresholds (per railway period)

SPD cost threshold rate	CP5 SPD Cost Threshold 1 (2012 -13 prices)	CP5 SPD Cost Threshold 2 (2012-13 prices)	CP6 SPD Cost Threshold 1 (2017-18 prices)	CP6 SPD Cost Threshold 2 (2017-18 prices)
<u>Lower rate</u>	£304,750	£609,500	£342,223	£684,447
<u>Higher Rate</u>	£609,500	£1,219,00	£684,447	£1,368,893

4. Accordingly, through this letter we determine that, in paragraph 1.1 of Part 3 to Schedule 4 of the track access agreement between the parties that will apply on and from 1 April 2019:

- (a) the “SPD Cost Threshold No.1” shall be £342,223 (in 2017-18 prices); and
- (b) the “SPD Cost Threshold No.2” shall be £684,447 (in 2017-18 prices).

² See paragraph 2 of Appendix 1 to Part 1 of Annex 3 of ‘Review notice: Franchised Passenger Track Access Agreements’, available here: https://orr.gov.uk/__data/assets/pdf_file/0007/40012/pr18-review-notice-franchised-passenger.pdf.



5. We will place a copy of this letter on our website and on our public register, in line with section 72(5) of the Railways Act 1993.

Yours sincerely,

A handwritten signature in black ink, which reads 'Carl Hetherington'. The signature is written in a cursive style.

Carl Hetherington