

DfT Consultation on Closures and Minor Modifications

1. INTRODUCTION

- 1.1 PTEG welcomes the opportunity to contribute to defining the process for Closures and Minor Modifications. PTEG recognises the Railways Act has largely determined the outline procedure for dealing with closure and supports the thrust of the process which is intended to give local transport authorities such as PTAs greater flexibility in adapting their transport networks. As however, with many other parties commenting on the guidance we have reservations about the implications of a threshold BCR ratio of 1.5. We also feel that the guidance is in places unclear and imprecise and would therefore benefit from further review. Our detailed comments are set out below.

2. Closure Definition

- 2.1 The Act defines closure as follows:

- (a) the discontinuance of a railway passenger service or of railway passenger services;
- (b) the discontinuance of the operation of the whole or a part of a network; or
- (c) the discontinuance of the use or operation of the whole or a part of a station;

In practice, this definition leaves considerable room for debate, and it would be helpful if the consultation document could give a fuller discussion on the types of scenarios covered by the above. Examples of issues arising are as follows:

- a. Under previous legislation, the minimum service level that has generally been accepted as representing a railway passenger service has been one per week. There are therefore a number of services operating at this frequency (e.g. Stockport to Stalybridge) in order to avoid the closure process being enacted. Is the DfT proposing to review this? If this is still the minimum, then the proposed guidance would appear to offer no protection to services being reduced to this minimum level, which in most instances would be an effective closure.
- b. Conversely, on some routes where there is a minimum service operating to avoid a technical closure (e.g. Galton Junction to Smethwick Junction in the West Midlands), the service is afforded full protection under the Act, even though there may be more than adequate alternative rail services available for passengers and there would be no intention of closing the route if the service did not run (as it would still be needed for freight, empty stock and diversions)

- c. There are many other potential service changes that could constitute an effective closure for some passengers. For example a timetable change could sever a previously through service or a new skip-stopping pattern could prevent travel between adjacent stations. In both these instances it is arguable that a railway passenger service has been withdrawn. Similarly, if a Sunday service is withdrawn this would effectively prevent travel completely on that day.

2.2 While it is clearly not reasonable for every timetable change to be subject to a closure process, it is not sensible to have an extremely onerous closure process attached to some services where the impact on passengers is minimal (e.g. Galton Jn to Smethwick Jn), when far more substantial changes can be made without any such protection. This would mean that, in the Centro area, the guidance as drafted would allow the DfT to propose the reduction of the Walsall to Wolverhampton service to one per week without needing to go through the formal closure process, despite this being an effective closure. In the case of the route between Galton Junction and Smethwick Junction, Centro would not be concerned if regular passenger services ceased over this stretch of line, but we would not want the route to close due to its importance for empty stock, diversions and freight. The closure process needs to make it possible to withdraw residual passenger services relatively straightforwardly, but offer full closure protection to the physical route which may have an important continued strategic role, or future development potential despite not currently having any passenger service. Similarly, a funding authority may have an aspiration to develop passenger services over a currently freight-only route, and there ought to be some closure protection should Network Rail wish to rationalise or close infrastructure on such a route.

2.3 Closure also results in severance from the network. This is an inconvenience to passengers not always given a value in closure proceedings. It can also result in lost revenue to the immediate network as passengers may find alternative modes better than change of mode to regain the rail network.

3. **ORR PROPOSALS**

3.1 Section 11 refers to ORR proposing to publish its own procedures it would seem sensible to have co-ordinated publication of both the DfT guidance and the ORR proposals in similar timescales.

4. **CLOSURES AND OBJECTIVE TEST**

The guidance rightly does not prescribe all of the considerations that a rail funding authority should take in to account in deciding on closures. This should be a process that reflects local accountability and priorities. However it is also right that given the consequences of rail closure that there are criteria that can be independently checked, especially when the DfT can be a rail funding authority. PTEG's concerns therefore are not in

the nature of the process but in the potential for over reliance on the cost benefit threshold. Cost benefit analysis is a tool to aid decision making and can be used to assist in prioritisation of options.

The DfT uses 1.5 as a 'preliminary sift', but then as the guidance itself observes in paragraph 14 takes wider issues in to account and sometimes carries out set schemes with BCRs of less than 1.5. By adhering to the threshold in this guidance the DfT risks:

- Closures not happening that on wider grounds and with a BCR of 1.45 are the best option.
- Closures that have a BCR of 1.55 and have substantial wider disbenefits being pursued by a rail funding authority with ORR 'support' if all of the other guidance elements have been taken in to account.

Would it not be better for the threshold to be removed and for the ORR to be allowed to take in to account non quantifiable benefits particularly in a post Eddington era.

In answer therefore to the specific questions.

Do you agree that the objective test to be contained in the guidance should relate only to the finding of the funding authority's calculation of the quantifiable benefits and costs of closure? The ORR would review this assessment only.

We do not agree. It should include non quantifiable benefits. This is particularly so if the ORR is to be able to attach closure requirements

Do you agree that the funding authority should retain a broad discretion not to pursue a closure, but should only be permitted to make a closure where the quantifiable benefits exceed the costs to a defined value?

Yes, but as set out above the threshold could lead to erroneous choices.

Do you agree that the guidance should be based on the same methodology and same monetary values that are used to appraise new projects ? If not, what changes would you suggest ? And what would you see as the justification for these.

We do not object to assessing new projects and closures on a comparable basis and using the same values. It has however to be recognised that there are other issues to take in to account that distinguish closure or removal of investment from new investment. These include:-

- The value or opportunity placed on continued existence by users and it's reflection in social and economic terms.

- While considering an individual line may appear reasonable there is concern that in closing one line due to it not achieving a specific BCR then there is the potential for lines it feeds yielding reduced revenue and thus undermining their existence.
- The transfer from car to train focuses on quantifiable benefits. Considering that the Government has specific aims for increasing air quality it is surprising that the loss of fuel duty to the Treasury is counted against the rail option.

5. **PROCESS**

The consultation document does not make the process clear for either closures or minor modifications. A flow chart explaining the various steps that need to be undertaken for both processes would have been extremely helpful in understanding the guidance. As currently drafted it seems that any funding authority can decide to proceed with a closure if the vfm conditions are met, a consultation process is followed and the ORR ratifies the decision – even if there are objections. For minor modifications it is not clear how the decision is made as in some instances they need referring to the Secretary of State, but for others where they are covered by a generic description it seems that all that is required is a notification to the ORR. There is also the issue of how the Network and Station Change processes fit into the closure and minor modification process, as these will still be required and would also need ORR approval.

6. **MINOR MODIFICATIONS**

- 6.1 As sponsors of station upgrade schemes, PTEG supports the concept of Minor Modifications having a less onerous approval process, but is not clear how the process will work. We would, for example, not expect Network Rail to propose the removal of a redundant platform, or reduce platform lengths without requiring some form of consultation and agreement with funding authorities. In most instances funding authorities are unlikely to object to a minor modification as they are generally accompanied by overall improvements, however it is suggested that if a funding authority does object to a minor modification, then this should lead to it being treated as a formal closure. On this basis it should not be necessary to develop rigid rules relating to, for example, what is an acceptable distance facilities are moved, but each authority can take a view on a case-by-case basis. For PTEs, minor modifications should be consulted up to 25 miles from the boundary in line with our powers under the 1968 Transport Act.
- 6.2 Many PTEs also operate station car parks which would potentially fall under this legislation. It is not clear whether the closure obligations fall to the station operator (i.e. the TOC) or the facility operator (i.e. Centro). Under scenario (f) relating to third party provision of car parking, if Centro is responsible under the legislation they would have concern as the drafting suggests that, even though we have no control over the third party, we would still have to develop viable proposals to replace any lost parking capacity at any locations where

this is an issue. If the TOC retains the obligation for closure then it would seem unreasonable for them be held responsible and liable for actions taken by Centro. Centro suggests that third party provision of car parking should not fall under the definition of being used “in connection with the provision of railway passenger services” unless it is a specific facility provided for that purpose, in which case the provider needs to be aware that closure legislation applies to them.

In response to the specific questions.

Do consultees agree in principle with any or all of the proposed descriptions of closures eligible to be treated as a minor modification, or do you have any other comments

Areas of concern

- The loss of an approach which is under the control of a third party. A train operator or PTE has no powers to stop closure and the change means that the three criteria listed are not met.
- The closure of a third party car park which is used as a station car park. There are a number of local authority car parks in PTE areas which are adjacent to stations. If these are closed and there is no land for a new car park, how is the operator supposed to resolve this.
- Part closure of a station needs to be more tightly defined (say) to exclude footbridges and lifts, waiting rooms etc, except where it can be shown they are no longer needed.

Do consultees agree with the criteria that underpin each of the proposed descriptions of closure eligible to be treated as a minor closure

Yes subject to further clarification

Consultees are invited to consider if the Secretary of State and Scottish Ministers should set down measures to define whether the closure of a facility may be progressed as a minor modification? For example, should there be maximum distances that facilities such as waiting rooms, footbridges or ticket offices may be moved? What other, or Alternative measures might be specified?

Specifying distances starts to get too proscriptive In place of defining distances, a test of “(the) alternative facility will not be much less convenient to the public” may be more appropriate and avoid the problems that absolute values cause (Highways Act 1980 Section 119 has adopted this approach for footpath diversions and provided a helpful precedent). Movement of facilities should normally be a minor modification where they are being replaced.

CONCLUSION

7. PTEG suggests that the closure guidance needs considerable further thought in order to develop different processes which can be applied to different sorts of closures, recognising, for example, that a closure which will physically lead to the removal of assets, would generally be far more serious than the removal of a single daily service which resulted in no network or station alterations. The guidance also needs to give wider thought to:
 - a. service alterations which might be considered closures,
 - b. non-passenger closures
 - c. consultation process for minor modifications
 - d. appraisal processes and developing an overall closure case

finally it needs to ensure that the process of accountable decision making by rail funding authorities ensures quantifiable and non quantifiable benefits are included in the process and the role of a threshold BCR is reviewed.