



**Consultation on the implementation of the Railways Act  
2005 provisions on closures and minor modifications**

**A Passenger Focus response to the Department for Transport**

## 1. General comments

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Passenger Focus welcomes the opportunity to comment on the draft Closures Guidance.

Passenger Focus believes that the existing system for handling closures is fundamentally flawed in that much of the process is carried out in private. Passenger Focus' existing role (as set under the 1993 Railways Act amended by the 2000 Transport Act) centres on identifying 'hardship' arising from the closure – something notoriously difficult to define.

It has also long been suggested that this is too narrow a remit as it ignores the wider impact on such things as the environment. This view is confirmed by a report by Hillman and Whalley (*The Social Consequences of Rail Closures - 1980*) which concluded:

*"Our findings point strongly to a degree of hardship and inconvenience that does not appear to be widely appreciated by people involved in making decisions affecting rural transport, especially those whose day-to-day work involves them in considering people or problems extending beyond the communities directly affected by the closures. It is clear, though, that the term hardship needs to be more clearly defined, and that the appraisal of the consequences of closure – including any public debate, such as in the TUCC [as Passenger Focus was then called] Inquiries, and subsequent ministerial deliberations – should encompass issues wider than those relating to what has in the past been defined as hardship to former users."*

Formal written guidance that removes this narrow remit and which sets out wider criteria that must be assessed could, therefore, be an advantage; as would the requirement to conduct more of the debate in public – i.e. the disclosure of the facts and figures behind the application.

The key test for Passenger Focus is, therefore, not whether there should be guidance but whether it is fit for purpose and, crucially, whether it offers sufficient protection for passengers. Our comments on this specific issue are outlined below.

## **2. Specific comments on ‘full’ closure processes**

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Comments on the specific questions posed by the Department for Transport (DfT) and on other issues are as follows. For ease of reference, paragraph and page references refer to the original DfT consultation document.

### **2.1 Appraisal of closure proposals**

#### *a. Should the guidance use the same methodology as that used to appraise new projects?*

Passenger Focus does not believe that the guidance should use the same methodology as that used to appraise new projects. There is a strong argument that taking away something that already exists is different from deciding whether something new should be provided and that there should be a higher threshold/target where disbenefit applies. This is especially relevant when there is no hypothecated link between funds saved in closure and funds for new investment.

One way this might be addressed could be to lower the BCR threshold from 1.5 to 1. (i.e. If the benefits of continuing operation are equal to or higher than the costs of closure then the closure should automatically be rejected).

#### *b. 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 of closure exceed the quantifiable costs to a defined value?*

Passenger Focus would tend to agree with this statement – albeit with the suggestion above that the BCR threshold be reduced from 1.5 to 1 as above.

There is, however, a possible exception to the rule in cases where a station is relocated. For example, Kings Cross Thameslink is to become part of the new development at St Pancras. This will be around 300 metres from the current Kings Cross Thameslink station and will offer an all round better range of facilities as well as much better interchange. In short the new station will be better for passengers.

However, it is hard to envisage the proposed closure of Kings Cross Thameslink scoring less than 1.5 on the BCR test (according to station usage figures it is the 88<sup>th</sup> busiest out of the 2500 stations on the network). A BCR of over 1.5 would mean that the closure application automatically fails and yet – in this instance - there is a good rationale for closing it.

Hence it is felt that there is a case for an exemption in cases where a station is located – *provided that the new station is within the immediate environs of the original station and offers the same or better facilities for passengers.*

#### *c. Additional comments on the appraisal criteria set out in Annex A of the Guidance.*

##### *i) Initial review of options*

Passenger Focus welcomes the attempt to quantify some of the wider costs and benefits of proposed closure – this goes some way towards meeting the recommendations of Hillman and Whalley.

However we have concerns at the way in which some aspects of the criteria will be applied.

For instance, the guidance states that the review must include the potential to increase passenger numbers and revenues or to reduce costs. This is welcome but we are concerned that, as it stands, it is not explicit enough. The classic approach to closure is to run services down to the point at which the service ceases to be viable and then to ‘reluctantly’ propose closure. It is important, therefore, that appraisal has to specifically address options designed to invigorate the existing service and infrastructure – e.g. the scope for using fares to encourage growth, better marketing, increased service provision, reducing costs etc.

This is, of course, very similar to the aims of the Community Rail strategy. Passenger Focus is, therefore, very concerned at the comment tucked away on page 40 that casts doubt on the viability of Community Rail. It states that there is no evidence that Community Rail leads to an increase in demand and revenue. Whilst rail partnerships are not new, it is only recently that the SRA’s Community Rail initiative was started and the pilot schemes are in their infancy. So it is hard to see how there could be any long-term evidence and we believe strongly that such a statement is prejudicial and seems to contradict one of the aims outlined in the White Paper.

Moreover, there is evidence from abroad that such schemes can lead to an increase in demand/revenue ('What Use are Rural Railways? – Paul Salveson).

We would argue, therefore, that one of the closure criteria should be a thorough consideration of whether the line is suitable for Community Rail status. If so, then there should be no attempt to close it until Community Rail has been given a ‘chance’.

There is also the need to take into account the long-term opportunity cost of closure. Once a station site, yard or route is lost it is generally lost for all time. Current guidance on land disposal allows former rail land to be protected in case it is needed for future use and yet examples can be drawn from the Beeching era onwards where this was not the case. Decisions taken on a short-term basis simply may not hold water on a long-term basis because, for example:

- a change of political emphasis (e.g. fuel duty, road pricing)
- continued population growth
- technological change which reduces costs of operations
- environmental pressures which encourage fuel efficient public transport.

While Local Transport Plans and Regional Strategies can predict short to medium term trends it is very difficult to foresee these longer term developments. Hence it is important to safeguard land that could be used for the future development of the network and we believe that conditions should be attached to the use of a closed

station site, yard or route where this would render it difficult or prohibitively expensive to re-open it for rail use.

*ii) The impacts on rail passengers directly affected by the closure proposal*

Passenger Focus is pleased to see that this *could* require a survey of passengers to determine how they would change their travel patterns in the event of a closure (para 29). This is welcome but it is crucial that the survey is properly timed. For example, surveying holiday routes in the middle of winter would give a completely false impression. It should also be compulsory (i.e. ‘must’ rather than ‘should’).

One problem with assessments of passengers directly affected by closures is that they miss the many passengers who have already been forced off the route through gradual run down of services. Passenger Focus believes that any assessment must also take this into account.

*iii) Effects on rail operators’ costs*

Passenger Focus recognises that the appraisal must take into account cost savings arising from the proposed closure. However, we are concerned at the high nature of rail industry costs – a point recognised by the Office of Rail Regulation when imposing cost and efficiency targets on Network Rail. High unit costs may indeed be the reality but it is wrong that a route/station could be closed when, if the industry got its house in order over infrastructure and rolling stock charges, it might prove to be cost-effective.

One of the key themes behind Community Rail is the desire to reduce levels of bureaucracy and some technical/engineering standards which are over-prescriptive for the routes concerned – and thus save money.

Hence Passenger Focus would like the Guidance to require the proposer to consider options for cost-cutting and, if applicable, to demonstrate why these have been rejected.

Passenger Focus is also extremely concerned at the way that the appraisal allows for the potential value of the land released by the closure to be included as one of the benefits of closure (page 29 para 43). It is wrong to create a situation whereby profits from land sales could end up being more important than the provision of services. Network Rail should first and foremost be a transport infrastructure provider and not a commercial property developer and as such its decisions should be based on whether the route/station is viable, not on what the land is worth. Taken to an extreme conclusion would this mean that Liverpool Street Station should be closed and the site developed for offices?

## **2.2 Consultation procedures**

Passenger Focus believes that the following should be addressed as part of the consultation process:

- there is a need for the notices to be placed in papers and at stations to be written in plain English
- the notices at stations should be displayed *prominently*
- it is also assumed that Welsh language notices will be displayed as required
- papers available to the public must include an easy to understand version of the financial and economic appraisal.

## **2.3 References to ORR**

The consultation document specifically asks:

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

Passenger Focus believes that ORR should not just ensure that the ‘rules’ have been followed but take an active role in addressing the comments/ concerns raised through the consultation process. An inability to take into account non-monetised benefits would result in ORR making a decision based on only half the picture.

### **3. Specific comments on Minor Closure guidance**

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The Guidance raises four specific questions:

- a. 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?*

The concept of minor closure is eminently sensible. The closure procedures are far too cumbersome and expensive to be used in every instance – e.g. reducing the size of a waiting room.

However, Passenger Focus has some concerns at how minor closures will be handled and applied.

Under the 1993 Act the SRA (and before them ORR) reviewed each closure application before determining whether or not it could be dealt with as a minor closure. Following the 2000 Transport Act the SRA could – and did - attach conditions to any such approval. While not a statutory requirement both ORR and SRA consulted the then RPC and invited views on the proposal. This was genuine consultation and our intervention often led to some additional benefits/ safeguards for passengers.

The Guidance contains no commitments to any future involvement or consultation with Passenger Focus. We believe that this is a retrograde step and we would renew our calls to become a formal consultee on minor closure requests.

The Guidance is also lacking in any attempt to explain how minor closures under the general determination would be applied and handled. Under the case-by-case approach each application was read, we were consulted, and SRA/ORR could add conditions to any permission. In short there was a degree of process that gave a sense of accountability.

Under the general determination this is all lacking. As it stands, providing the closure meets certain criteria, the TOC can go ahead and close it. There is no consultation and no apparent oversight by DfT. For example:

- the TOC does not seem obliged to let anyone know about the impending closure (DfT or ORR). Hence the opportunity to attach conditions to the closure is lost.
- there is no audit procedure to check that the TOC has correctly interpreted the guidance and that it is actually covered by the general determination
- there is no planned or periodic review of the agreed general determinations to see that they are still fit for purpose.

It may be that these are covered by internal processes to be adopted by DfT. Without them, however, we feel the Guidance puts too much faith in a TOC or Network Rail.

- b. Do consultees agree with the criteria that underpin each of the proposed descriptions of closure eligible to be treated as a minor modification?*

i) *Scenario a: closing an area of land used for car parking where a new area of land for car parking is brought into use*

Providing that there is no reduction in spaces, the location is no less convenient and the new car park is compliant with accessibility and security requirements the Guidance would allow the closure of the existing car park to be closed as a minor closure.

These caveats provide some protection. However, Passenger Focus believes that two further safeguards should be provided:

- rather than just specify that there be no reduction in parking spaces there needs to be an explicit acknowledgement that there is 'no reduction in parking spaces for rail users'.

Circumstances can be envisaged whereby Network Rail attempts to sell part of a car park for office/housing development while providing a multi-storey car park in its place. This multi-story may provide for the same number of spaces but there is the chance that parking spaces in the new multi-storey car park would be shared by residents and office workers from the subsequent developments rather than used solely by rail users – resulting in a net loss in parking for rail users.

- that there be no reduction in functionality from the old car park to the new (e.g. in terms of accessibility, security [CCTV, staffing] and retailing). Merely being 'compliant with regulations' does not offer the same protection.

ii) *Scenario b: closing of temporary car park*

The Guidance appears contradictory when it comes to temporary structures. It states (both on page 74 and para 16a on page 77) that a minor modification would not be required to close a temporary facility once the original comes back into use. If so, then why propose it as one of the generic minor closure scenarios in the first place?

iii) *Scenario c: closing all or part of an approach route to a station*

The Guidance suggests that these should be classed as minor provided that:

- the new approach must not be less convenient for passengers (e.g. no significant increase in walking distance to, or from, the station);
- access to the station must be maintained at all times; and
- the approach route is fully compliant with current legislation and guidance on accessibility at railway stations.

Passenger Focus would also like a 'functionality' test to be applied – i.e. that any new approach is also at least as good in terms of security (e.g. CCTV coverage, lighting) as was the old.

iv) *Scenario d: closing part of a station where a facility is no longer needed or required in the foreseeable future in connection with the provision of railway passenger services*

Passenger Focus is concerned at the interpretation of the term 'foreseeable future' – from a TOC perspective the foreseeable future is 5-10 years at best.

We do not think that decisions based on the foreseeable future can be left to TOCs to apply. There must be some control / oversight exercised by a strategic body, which in

this case means the DfT. Hence, we feel that minor closure applications on these grounds should only be applied on a case-by-case basis rather than via the general determination route.

- v) *Scenario e: closing part of a station where that facility is replaced (in a different location) by a facility with the same or better size and the same or better function*

The key aspect for passengers here is the qualitative aspect of the functionality test – i.e. that the replacement provides at least as good a service as that being removed. It can't just be about location or whether or not something is present.

- vi) *Scenario f: Closure of a car park operated by a third party where there is no contractual relationship with the railway.*

If there is no contractual relationship with the railway it is hard to see how a minor closure certificate is required? Nonetheless, if it is to apply then Passenger Focus believes that a TOC must make reasonable efforts to secure alternative parking capacity should the third-party shut its car park.

Passenger Focus would also like to stress that this provision ought not to apply in circumstances where the land is lent to third-parties (e.g. local authorities) for car parking at stations.

- c. *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?*

Passenger Focus believes that the key measure is one of ‘functionality’. It is more important that the replacement facility offers at least as good a service than the original than whether it is 5m or 10m further away – if it is too far away then it fails the functionality test as it will offer a worse service than what was there before. Hence we would favour a ‘functionality’ test over a ‘locational’ test

Passenger Focus also feels that the wording surrounding temporary closures needs to be amended. The Guidance helpfully states that it would not expect a temporary closure to last for more than a year and that a TOC must have intent to re-open the facility. We believe that the Guidance must be explicit in stating that intent relates to ‘intent to permanently re-open the facility’. For example: taken to its extreme, a TOC could open its station toilet for 1 day each year and then close it for the rest and repeat this each year. As the Guidance stands, as long as the TOC *intends* to reopen the facility each year it can bypass the regulation. However, if the Guidance required it to have ‘intent to permanently re-open’ it would be covered.

Passenger Focus would be happy to discuss these comments in more detail.

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