



Department  
for Transport

# **Minimum Service Levels for Passenger Rail**

## **A Consultation on Implementing Minimum Service Levels for Passenger Rail**

February 2023

Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR



© Crown copyright 2023

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit

<https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or contact, The National Archives at [www.nationalarchives.gov.uk/contact-us](http://www.nationalarchives.gov.uk/contact-us)

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is also available on our website at

<https://www.gov.uk/government/consultations/minimum-service-levels-for-passenger-rail-during-strike-action>. Any enquiries regarding this publication should be sent to us at [RailMinimumServiceLevels@dft.gov.uk](mailto:RailMinimumServiceLevels@dft.gov.uk).

# Contents

The Case for MSLs in Rail	5
Approach to developing MSLs	6
Responding	8
Freedom of Information	9
Confidentiality and data protection	9
Respondent information	10
1. Introducing Minimum Service Levels for Rail	14
Overview of the Bill	14
The role of the work notice	15
Meaning of Heavy and Light Rail in this consultation	16
The current process for industrial action in rail	16
Building on how rail services are currently managed during strike action	18
The prioritisation strategy deployed during previous national strikes	19
History of previous strikes in rail	19
Why the UK government has chosen to consult on MSLs in rail	20
Impact on Passengers	20
Financial and economic impacts	22
Freight impacts	22
Principles for designing MSLs	23
Proposed services MSLs should apply to	23
Factors to consider when designing MSLs	25
Metric for setting the MSL	26
2. Gathering Evidence to Develop MSLs	27
Impacts of rail strike action on rail users	27
Evidence required from employers in the rail sector	29
Impacts of MSL legislation on rail workers and organisations representing rail workers e.g. trade unions	30
Projected financial implications of delivering MSL legislation	30
Impacts on employers outside of the rail industry, businesses and organisations representing businesses	30
Case study: Delivery of rail services on previous strike days	31
3. Options for Setting MSLs for Passenger Rail	36
Proposed options for setting MSLs	36
Options for setting MSLs for passenger rail	37
Other options	41
4. Where Would Minimum Service Levels Apply?	42
Geographical scope of MSL legislation	42
Local Transport Considerations	43

5. What will happen next	44
6. Annex A: Impact assessment	45
7. Annex B: Key Route Strategy Map	46
8. Annex C: Full list of consultation questions	47
9. Annex D: Consultation principles	56

## Executive summary

On 10<sup>th</sup> January 2023 the UK government introduced the Strikes (Minimum Service Levels) Bill, which brings forward multi-sectoral legislation designed to enable minimum service levels (MSLs) to be introduced across a range of key sectors, including transport, subject to consultation. This follows the Conservative Manifesto 2019 Commitment, including that we will require that a minimum service operates during certain transport strikes, ensuring that rail workers continue to get a fair deal, but equally that passengers' livelihoods and wellbeing are protected. The government has a clear commitment to rail in the UK. According to the Office for Rail and Road, the taxpayer has funded the operation of the rail industry to the tune of £31bn in the past two years – just over £1,000 per household and over £300,000 per rail worker. This includes £16bn of emergency support that the government earmarked to keep the railways running during Covid 19. The government also remains committed to investing in our railways through the Integrated Rail Plan as set out in November 2021. This is the single biggest government investment in Britain's rail network, a £96bn strategy for the Midlands and the North to be delivered over next 30 years.

This Government has identified passenger rail as a key priority for the introduction of MSLs, taking into account the important role railways play in ensuring people can access key services, such as healthcare and education, as well as being able to get to work.. The Bill establishes a clear framework for setting MSLs, recognising the importance of ensuring workers are able to take strike action, whilst balancing the needs of the public to get to work and access key services. The legislation equally ensures that any regulations, which would implement these changes, are subject to consultation, and takes account of the views of stakeholders. The Bill also provides that the requirement to consult may be satisfied by consultation before the passing of the Strikes (Minimum Service Levels) Act 2023 (as well as by consultation after that time). The proposals in this consultation document are therefore subject to final parliamentary approval of the Bill before Parliament.

Through this consultation we are seeking input from the public and a wide range of stakeholders to ensure that, where MSLs are applied, they are able to ensure a more consistent and adequate level of service for the public during strike action. This will help protect the public and guard against disproportionate risks to lives and livelihoods.

### The Case for MSLs in Rail

Our railways are at the heart of our public transport system, and when they do not function to full capacity, passengers across England, Scotland and Wales can face significant disruption to their daily lives and threats to their livelihoods. Coupled with wider impacts, such as in certain cases not being able to get to school, to access medical appointments, or to visit friends and family, it is clear the impact of strike activity on the railways can be very challenging for passengers.

One of the biggest challenges includes people not being able to get to work, with commuting still the most common use of surface rail in England (49% of journeys in 2021).<sup>1</sup> Similarly, people have had to work different hours to align with a reduced timetable. The DfT's research, 'Rail strikes: Understanding the Impact on Rail' found that 29% of all respondents, and 70% of those who had planned to commute to/ from work (by rail) during a strike week, reported at least one impact on their work or working arrangements (including being unable to get to their place of work, having to change their working hours, having to work less than they planned, having to change their working days or being unable to work at all)<sup>2,3</sup>. These issues can be particularly felt in the context of certain workers striking, such as train drivers. For example, during train driver strikes, including recent strikes on 1<sup>st</sup> and 3<sup>rd</sup> February, affected train operating companies ran very few services, and some operators were not able to run any services at all.

There are also broader implications of strikes on the railways, including some businesses not being able to operate effectively due to impact on employees getting to work, or sectors of the economy, such as leisure and hospitality, reporting that they face high volumes of cancellations as people can no longer travel. In addition to this, there has been disruption to sports events, including the Commonwealth Games, concerts and major events such as Glastonbury Festival. This results in stark impacts for both the economy, and the individuals affected. In December, the Centre for Economics and Business Research (CEBR)<sup>4</sup> estimated that rail strikes between June 2022 and January 2023 would result in a loss of UK economic output of around £500 million due to people not being able to work. This does not include other economic impacts, such as reductions in spending on retail, hospitality, and leisure activities.

This Government is committed to taking steps to address these impacts and introducing MSLs can play an important role. MSLs will not prevent strike action, but will seek to ensure improved consistency for passengers, allowing them to make essential journeys on strike days with more certainty.

### Approach to developing MSLs

The use of MSLs for rail is not novel, and there are a wide range of examples, including in countries such as Spain and Italy, where MSLs are already in use across strike days. Some countries go further and use legislation to prevent strikes altogether, with the US President and Congress recently passing legislation to prevent a rail strike from being carried out. However, the operation of the railway, and the associated employment legislation that interacts with how MSLs are delivered, are unique across countries, which

---

<sup>1</sup> 2021 National Travel Survey (2022). NTS0409: Average number of trips (trip rates) by purpose and main mode: England, from 2002. <https://www.gov.uk/government/statistics/national-travel-survey-2021><https://www.gov.uk/government/statistics/national-travel-survey-2021>.

<sup>2</sup> Department for Transport (2023) Rail strikes: Understanding the impact on passengers (summary) <https://www.gov.uk/government/publications/rail-strikes-understanding-the-impact-on-passengers>

<sup>3</sup> Fieldwork for Rail strikes: Understanding the impact on passengers took place between July and October 2022 in four phases. Passengers were intercepted on journeys across the network in the weeks following strike action and asked about the most recent week of strikes. 17,383 passengers completed a questionnaire. This survey does not include Light Rail

<sup>4</sup> CEBR (2022). <https://cebr.com/reports/eight-months-of-strike-action-to-have-cost-the-uk-economy-at-least-1-7bn-adding-to-existing-recessionary-pressure/>

makes it imperative that the implementation of the legislation is designed to work for Great Britain.

The design of the implementation process needs to be collaborative and consultative, to ensure we can develop a system that works well and is understood by industry, workers, passengers and all relevant stakeholders. We are therefore consulting widely and will consider all responses carefully in designing the final product.

Building on the evidence from our recent survey on the impact of rail strike action on passengers, this includes asking questions to better understand how strikes impact on people's day to day lives and their ability to attend work, access key public services, and engage in leisure activities such as visiting family and friends or attending events. In addition, we want to better understand, where people have been impacted by strikes, what this has meant for them, including any financial impacts caused by not being able to attend work, or having to cancel plans, or decisions to travel in a different way.

We are also interested in working with industry to understand their experiences of recent strike action, and how the sector has managed the impacts on passengers and workers. This operational expertise and evidence will play an important role in informing considerations about what can be achieved through the introduction of MSLs for rail, including any existing good practices that should be factored into the design process.

We are seeking input from rail workers and trade union members around the expected potential impacts of the legislation, and key considerations they would like us to take into account when considering how an MSL system might operate.

We would also like to hear from businesses, who may not be directly involved in the running of the rail sector, but who are impacted by strike action. This could include considerations such as the impact of employees not being able to attend work, reduced footfall in certain areas as a result of strikes, or changes to plans, such as cancelled bookings due to strike activity. Similarly, we want to hear from hospital trusts, schools and other public services who can be impacted.

Through this consultation we are testing the key principles of how MSLs for rail could be designed, as well as proposed options on how MSLs could work in practice for rail. This includes fundamental questions, such as the geographical scope of MSLs, and we will continue to engage with the devolved governments and welcome input from operators running services between England, Scotland and Wales, including infrastructure and third-party infrastructure input, to help inform these considerations. We also welcome views and input from Mayoral Combined Authorities (MCAs) and Local Transport Authorities (LTAs) in the context of their transport strategy roles, and on how considerations related to those roles interact with the establishment of rail MSLs.

We are seeking views on areas such as which rail services, and which workers, should be in scope of MSLs. In addition, we want to better understand from respondents what factors they believe should be taken into account when setting MSLs for rail, for example route coverage depending on location and time of day. Further to this, we also want to better understand how existing systems, such as the prioritisation strategy that is currently deployed during heavy rail strike activity, could be utilised to inform the design of MSLs.

Once MSLs are introduced, it is also essential that we monitor and assess their effectiveness, including the way they are impacting passengers, workers, public services and employers. We are therefore seeking input on potential approaches to review, the evidence base for conducting such reviews, and how guidance may support the operationalisation of MSLs for industry.

We welcome all input to the consultation to help inform the design of MSLs for rail, and to provide key evidence to support our understanding of these important questions.

## How to respond

The consultation period began on 20<sup>th</sup> February and will run until 15<sup>th</sup> May. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/government/consultations/minimum-service-levels-for-passenger-rail-during-strike-action>. If you use assistive technology (such as a screen reader) and need a version of this document in a more accessible format, please email [RailMinimumServiceLevels@dft.gov.uk](mailto:RailMinimumServiceLevels@dft.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.

Please send consultation responses to:  
[RailMinimumServiceLevels@dft.gov.uk](mailto:RailMinimumServiceLevels@dft.gov.uk).

If you are not able to send your response via email, responses can also be posted to:  
Minimum Service Levels Rail Consultation

Great Minster House

33 Horseferry Road

London

SW1P 4DR

## Responding

We encourage all those individuals with an interest in the railways to respond as we recognise individuals in particular provide the most direct evidence. The first question will ask if you are responding on behalf of a group or independently.

We welcome representations made on behalf of a group from all stakeholders with an interest. We encourage the following groups to engage with this process:



- Passenger Representative Groups
- Devolved Administrations
- Trade unions
- Health institutions and care providers
- Chambers of Commerce, Federations, Consortia and Associations on behalf of passengers and businesses
- Local Authorities
- Education institutions (schools, academies, Higher and Further Education providers, etc.)
- Train operating companies who engage with their customers
- Infrastructure providers
- Rail experts and rail enthusiasts
- Rail publications
- Academics, think tanks and other researchers
- Industry bodies

Depending on your needs, you may choose to run virtual workshops. When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

### **Freedom of Information**

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

### **Confidentiality and data protection**

The Department for Transport is carrying out this consultation to gather views on our proposals around the delivery of MSLs. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information which allows you to be identified, the

Department for Transport will, under data protection law, be the Controller for this information.

As part of this consultation, we are asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

The Department for Transport's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

To receive this information by telephone or post, contact us on 0300 330 3000 or write to Data Protection Officer, 3rd Floor, One Priory Square, Hastings, TN34 1EA. Your information will be kept securely on the IT system within the Department for Transport and destroyed within 12 months after the consultation has been completed.

## Respondent information

To help inform the consultation please provide information on the following:

### Capacity in which you are responding to this consultation

- 1) Are you responding:
  - a) On behalf of an organisation
  - b) As an individual

### Responses on behalf of organisations

- 2) Please state whether your organisation is:
  - a) A passenger train operator
  - b) A freight train operator
  - c) A railway infrastructure manager
  - d) Another business within the railway sector
  - e) A business in a sector outside the rail industry
  - f) An employer of key workers
    - i. School
    - ii. Hospital
    - iii. Other (please specify)
  - g) A railway trade union
  - h) A passenger representative group
  - i) A national, regional or local governmental authority
  - j) Other (please specify)
- 3) How many employees does your organisation have? (Please state number of total employees)
  - a) 1-10
  - b) 11-50

- c) 51-250
  - d) Over 250
  - e) I don't know
  - f) Not applicable
- 4) Where is your organisation based? (Please tick all that apply)
- a) England
    - i. East of England
    - ii. East Midlands
    - iii. London
    - iv. North East
    - v. North West
    - vi. South East
    - vii. South West
    - viii. West Midlands
    - ix. Yorkshire and the Humber
  - b) Scotland
  - c) Wales
  - d) GB Wide
  - e) Other (Please specify)
  - f) Prefer not to say
- 5) Please state:
- a) The name of the organisation you represent
  - b) Any further details of your organisation you consider relevant to the consultation and wish us to be aware of

### **Responses on behalf of individuals**

- 6) Please state whether you are: (Please tick all that apply)
- a) A worker at a passenger train operator
  - b) A worker at a railway infrastructure manager
  - c) Other rail sector worker
  - d) A rail passenger
  - e) Other respondent (please specify)
- 7) If you are a railway worker please state your role (e.g. driver, signaller, manager)
- 8) If you are a passenger please state:
- a) If you are employed and if so, the sector you work in and your role at work
  - b) Whether you need assistance when travelling by rail for accessibility reasons
- 9) Which area of the UK do you live in?
- a) England
    - i. East of England
    - ii. East Midlands
    - iii. London
    - iv. North East
    - v. North West
    - vi. South East

- vii. South West
- viii. West Midlands
- ix. Yorkshire and the Humber
- b) Scotland
- c) Wales
- d) Northern Ireland
- e) I live outside the UK
- f) Prefer not to answer

10) Which train station do you most commonly access from your home address?

### **Equality monitoring questions**

*The following optional questions will help us check we have reached a representative section of society and help us monitor equality between different groups, including protected characteristics. The information you provide is kept anonymous and will not be used to identify any individual.*

*Equality monitoring helps make sure that everyone is treated fairly.*

11) How old are you?

- a) Under 16
- b) 16-17
- c) 18-24
- d) 25-34
- e) 35-44
- f) 45-54
- g) 55-64
- h) 65-74
- i) 75+
- j) Prefer not to answer

12) Please indicate your gender

- a) Male
- b) Female
- c) I identify another way
- d) Prefer not to answer

13) What is your ethnic group

*Choose one option that best describes your ethnic group or background*

#### **White**

- a) English/Welsh/Scottish/Northern Irish/British
- b) Irish
- c) Gypsy or Irish Traveller
- d) Any other White background, please describe

#### **Mixed/Multiple ethnic groups**

- a) White and Black Caribbean
- b) White and Black African
- c) White and Asian

- d) Any other Mixed/Multiple ethnic background, please describe

**Asian/Asian British**

- a) Indian
- b) Pakistani
- c) Bangladeshi
- d) Chinese
- e) Any other Asian background, please describe

**Black/ African/Caribbean/Black British**

- a) African
- b) Caribbean
- c) Any other Black/African/Caribbean background

**Other ethnic group**

- a) Arab
- b) Any other ethnic group
- c) Prefer not to answer

- 14) Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more
- a) Yes
  - b) No
  - c) Prefer not to answer

# 1. Introducing Minimum Service Levels for Rail

- 1.1 The introduction of the multi-sectoral MSL legislation is designed to enable people to continue to make essential journeys, for example, to access healthcare facilities, whilst ensuring workers' ability to take strike action is safeguarded. We envisage the application of MSLs will enable the public to plan their journeys with confidence, reduce the number of areas left with no service during strike action, and ensure that the timetables which operators can run can be resourced more reliably. This will help protect the public and guard against disproportionate risks to lives and livelihoods.

## Overview of the Bill

- 1.2 The Strikes (Minimum Service Levels) Bill amends the Trade Union and Labour Relations (Consolidation) Act 1992 to:
- impose conditions on the protection of trade unions from legal action in respect of strikes relating to services where provision has been made for MSLs. The services will be prescribed by regulations, following consultation;
  - impose obligations on trade unions and individuals to comply with MSLs and enabling employers within specified services to issue work notices to roster the workforce required to secure the minimum service level on a strike day;
- 1.3 The Bill includes powers for the Secretary of State to set MSLs, for services within specified key sectors (categories), through regulations. The key sectors (categories), which are specified within the Bill, are:
- health services
  - fire and rescue services
  - education services
  - transport services
  - decommissioning of nuclear installations and management of radioactive waste and spent fuel
  - border security

- 1.4 The Secretary of State must consult such persons as they consider appropriate on the proposed regulations and the regulations must be approved by both Houses of Parliament before they are made. The consultation requirements may be fulfilled before and after the Bill receives Royal Assent.
- 1.5 The Bill will come into force on Royal Assent but will not take effect until the regulations which specify the services MSLs will apply to and what the minimum services levels will be, come into force. Once implemented, MSLs may be applied in relation to any strike in the specified services which take place after regulations come into force.

### The role of the work notice

- 1.6 Where a trade union gives notice of strike action to an employer, the employer may decide to issue a work notice ahead of the strike day(s) to specify the persons required to work and the work they must carry out to secure that the MSL for that strike period is provided. The employer must consult the union about the number of persons identified and the work specified in the notice and have regard for their views before issuing the work notice. In deciding to identify a person in a work notice, the employer must not have regard to whether a person is a union member.
- 1.7 As is currently the case with 'wildcat' strikes, in unionised work places if an employee identified in a valid work notice for a strike day takes strike action on that day contrary to the work notice, the employee will lose automatic protection from unfair dismissal. This includes an employee who actively participates in the strike as a member of the relevant union who is striking, as well as an employee who is named on the work notice and refuses to cross the picket line.
- 1.8 The Bill also sets out that a union can lose its protection from damages claims by the employer if it does not take reasonable steps to ensure that members of the union named on the work notice comply with the work notice. Such compliance by union members would mean not participating in the strike on days when those members are required by the work notice to work. Separate from the Bill provisions, an employer might also be able to obtain an injunction in such circumstances to prevent the strike taking place.
- 1.9 If a work notice is unreasonable or does not comply with the requirements set out in the Bill, a union or employee may be able to seek an injunction to prevent it applying (this is also separate from the Bill provisions) or may simply refuse to comply with it and participate in the strike as originally intended.
- 1.10 We know that currently some rail service providers have their own internal arrangements which can sometimes mean a basic train service still operates during strikes. This is achieved by training up staff members in other positions as a contingency workforce, to perform some tasks necessary for the running of train services. In considering a work notice, employers will consider a wide range of factors, including the availability of staff to support the delivery of services.

## Meaning of Heavy and Light Rail in this consultation

- 1.11 For the purposes of this consultation, when referring to how MSLs are intended to apply to 'passenger rail services', there is reference in some places to 'heavy rail' and 'light rail' where there are considered to be differences between these two types of rail services that could impact options and responses provided.
- 1.12 'Heavy rail' and 'light rail' do not have a single agreed definition but are used to refer to the services that operate over certain types of railways. For example, heavy rail is commonly understood as meaning the national rail network and light rail is generally understood to refer to tram services and light metro systems that operate across the United Kingdom, although some Underground systems can sometimes be categorised differently.
- 1.13 To ensure use of the descriptors "light rail" and "heavy rail" are clear for the purposes of this document, categorisation of the networks used on the Office of Road and Rail (ORR) website has been referred to – [Railway networks | Office of Rail and Road \(orr.gov.uk\)](https://www.orr.gov.uk/railway-networks) and we have grouped heavy rail and light rail as follows:
- 1.14 Heavy Rail includes the Mainline Network (as referred to on the ORR website) and all services that operate over it.
- 1.15 Light Rail includes Underground Railways, Light Rail and Tramways (as referred to on the ORR website) and all services that operate over them.
- 1.16 Minor and heritage railways, which include museum railways or tourist railways, (as referred to on the ORR website) and all services that operate over them are proposed to be excluded from the scope of services included in this consultation – see section 1.50. These are therefore not included in the meaning of Heavy Rail or Light Rail where these are used.

## The current process for industrial action in rail

- 1.17 A trade dispute is defined as 'a dispute between workers and their employer which relates wholly or mainly' to one or more of several specified matters in section 244(1) of the Trade Union and Labour Relations (Consolidation) Act 1992. Where a dispute cannot be solved through negotiations, this can lead to 'industrial action' including in the form of strike action.
- 1.18 There are four trade unions who are recognised to represent material groups of employees in the rail sector. These are as follows:
- ASLEF (The Associated Society of Locomotive Engineers and Firemen): Represent train drivers across the sector and across the UK
  - RMT (The National Union of Rail, Maritime and Transport Workers): Represent the majority of operational staff (general grades) in both train operating companies and Network Rail



- TSSA (The Transport Salaried Staffs' Association): Membership in management and administration in both Network Rail and train operating companies and some membership amongst operational grades, including in station and ticket offices
- Unite (Unite the Union): Membership in several niche areas, for instance in Network Rail.

- 1.19 Industrial action can happen when trade union members are in a dispute with their employers. A strike is where workers refuse to perform work for the employer. For industrial action to be legal, the trade union must decide which members affected by a dispute it wants to ask to take industrial action. It then needs to 'ballot' these members by posing a question which can be answered with either a 'Yes' or a 'No'.
- 1.20 The ballot paper must include a summary of the matter or matters in issue in the trade dispute to which the proposed industrial action relates. Following the closure of the ballot period, the trade union must inform employers of key outcomes, such as the number of people entitled to vote, the number of votes cast, and the number of individuals who answered, 'yes' or 'no'. In addition, unions must be clear whether the number of votes cast is at least 50% of the number of people who were entitled to vote, and if it relates to an important public service (which passenger rail is) whether or not at least 40% of members entitled to vote voted yes in the ballot.
- 1.21 As an important public service, ballots for passenger rail services, must achieve at least a 50% turnout of eligible trade union members, with a majority of the total votes returned voting in favour of strike action and an additional threshold of 40% of support from all eligible members must be met for action to be legal. If the ballot is successful, the trade union will obtain a 'mandate' for industrial action which is generally live for six months, beginning the date the ballot closes.
- 1.22 A trade union can then call industrial action by telling members and the employer when and how this action will be taken, giving employers a minimum of 14 days' notice. In the proposed legislation MSLs would apply only to strikes (which does not include overtime bans or call-out bans), not to other types of industrial action short of a strike.
- 1.23 Workers are lawfully permitted to take strike action and cannot be compelled to stay at, or go back to, work (although strike action would not be permitted if for example a mandate has not been lawfully secured).
- 1.24 When setting an MSL, the interference with Article 11 of the European Convention on Human Rights, which is the freedom of assembly and association<sup>5</sup>, must be justified, by having a legitimate aim and being necessary to ensure certain interests are protected or goals achieved. We believe the MSLs are justified as they seek to achieve the legitimate aim of limiting the disproportionately disruptive and harmful impact that strike action has on the public, on their lives and on the national economy. They are considered to be necessary to protect the rights and freedoms of others, including the public. This is set out within the memorandum on the European Convention on Human Rights<sup>6</sup>, which accompanied the Strikes (Minimum

---

<sup>5</sup> [Guide on Article 11 - Freedom of assembly and association \(coe.int\)](#)

<sup>6</sup> [Strikes bill ECHR memo \(parliament.uk\)](#)

Service Levels) Bill at its introduction to the House of Commons on the 10 January 2023.

1.25 The International Labour Organisation, which is an agency of the United Nations, has stated that minimum service levels are justifiable for the following services<sup>7</sup>.

- Services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term);
- Services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population; and
- Public services of fundamental importance.

1.26 Rail strikes are specifically aimed to cause disruption to services and achieve their leverage from having an impact upon people's daily lives along with wider and often significant economic consequences. Due to the number of people who rely on rail every day, both direct passengers and wider business, strikes can have a wide ranging and very disruptive affect. This can be further exaggerated when unions coordinate plans and announce industrial action at the same time to deliberately maximise the scale of disruption. Equally, industrial action is used as legitimate leverage to pressure employers, to resolve disputes to the union's favour. As such we are keen to preserve worker's ability to take strike action.

## **Building on how rail services are currently managed during strike action**

1.27 During national strikes, industry seeks to mitigate the impact of industrial action on passengers and businesses by implementing reduced, yet reliable timetables that can be staffed within operational constraints. Operators and Network Rail work to resource key passenger services and ensure critical freight, such as fuel and waste, can still travel across the country, this can lead to a 12 hour network operated between 7am and 7pm with regional variances. The ability of the employer to react to strikes on train services is dependent on the type of staff participating in the strike action. For example, during strikes by RMT members where the striking staff are signallers and electrical control room operatives at Network Rail, contingent labour can be deployed to provide a limited level of service; however if members of ASLEF, who represent the majority of train drivers, are striking, the contingent labour pool is not sufficiently large to cover these specialist roles, meaning some areas have no train services at all throughout the duration of the strike. It is worth noting that the labour pool with the skills to operate strike timetables (to which we may refer as "contingent labour") is very small and uncertain and is part of the existing labour force – they are members of staff trained to perform duties in addition to their usual ones. This group's support is essential during short-term disruption, but the nature of this labour pool itself makes the timetable susceptible to last-minute changes – for example, due to staff sickness.

---

<sup>7</sup> [Compilation of decisions of the CFA content \(ilo.org\)](https://ilo.org)

1.28 When presented with the threat of strike action, Network Rail and train operators will create contingency plans, reducing services significantly, and publishing a timetable they can run, attempting to deliver a reliable, albeit much reduced service. The ability to run services and the volume to which they operate is dependent on the specifics of the strike action. In some cases, strike action has seen services completely unable to run, or significantly reduced services, having big impacts on the parts of the country where this occurs.

## The prioritisation strategy deployed during previous national strikes

1.29 During recent RMT national rail strikes that involve Network Rail and most train operators, the heavy rail industry implements a prioritisation strategy that protects critical flows. The strategy relies on a small pool of contingent staff, tends to operate as a 12 hour railway between 7am and 7pm and enables approximately 20% of passenger services to run.

1.30 This strategy concentrates on enabling critical freight movements, including biofuel (e.g. DRAX facility) and waste, and on keeping open key passenger routes, within the limits of existing staffing levels. Some areas of the country, such as certain areas in Cornwall, the north of England, Wales and Scotland see little to no passenger service on strike days, which impacts lives and livelihoods. In setting legislation that imposes a minimum level of service, we envisage we will be able to rely on a higher level of staffing and operate a timetable more reflective of passenger needs. While the timetable the industry can operate on strike days and the routes it retains open cannot be that of a normal day's service, we hope to be able to build on the principles of the prioritisation strategy and improve the level of service passengers receive across Great Britain, where needed.

1.31 The prioritisation strategy has been deployed during all the national level strikes that involved RMT members at Network Rail since June 2022. See a map of the routes prioritised during the June 2022 strikes [here](#), as an example.

## History of previous strikes in rail

1.32 DfT's records<sup>8</sup> show that between June 2022 and January 2023, there have been 25 days of strike action that have led to widespread disruption on the rail network. Since 2019 there has not been a single day where there has not been either a strike happening on our railways or mandates for strikes outstanding. In fact, excluding a brief period during the height of the COVID-19 pandemic, the sector has been significantly impacted by the ongoing threat of strike action, for a variety of reasons – predominantly pay and benefits, and proposed changes to working practices.

1.33 The result has been many periods of disruptive strike action, in some cases resulting in the suspension of all rail services on affected routes, which can have wide reaching consequences for those passengers and communities affected.

---

<sup>8</sup> Internal unpublished Department for Transport data.

Whilst the UK government remains committed to supporting employers and unions within the rail sector to address ongoing disputes, and important progress has been made on live disputes in recent months, the UK government also wants to go further to protect passengers from the harmful impacts of sustained industrial action on the railways.

- 1.34 Strikes to date have included action by a relatively small number of certain types of key workers in the sector, such as drivers or signallers, which has had a serious effect on far larger numbers of passengers, including impacting livelihoods. The extent of strike action in the rail sector may disproportionately inhibit the ability of passengers to go about their daily lives, with strike action sometimes leading to the complete closure of the network in some geographies.
- 1.35 There have been examples of industrial action on the London Underground, and when they take place typically the entire network is severely disrupted. For example, the strike action which took place on 1st March, 21st June and 19th August 2022. Historically, there has been less industrial action within the light rail sector outside of London, and the impact of strike action is more localised than compared to heavy rail. However, other metropolitan areas have also experienced strike action on light rail services, including Nottingham Express Transit and West Midlands Metro.

### Why the UK government has chosen to consult on MSLs in rail

- 1.36 Transport is a vital part of British life, and crucial to supporting a thriving, modern, flexible economy. When public transport does not function to full capacity, millions of passengers have their journeys disrupted each day. This can impact getting to places of work, having to change working hours, working fewer hours than planned or being unable to work at all. It further disrupts being able to spend time with friends and family, could mean missing an exam or even having to postpone an important medical appointment.
- 1.37 Rail strikes have become wide reaching, have increased in frequency, and this is likely to have significantly increased disruption to people's everyday lives and impacted livelihoods. We are seeking further evidence on this impact and how it affects the travelling public, employees, institutions, and businesses.

### Impact on Passengers

- 1.38 Of all travel, in England, in 2019,<sup>9</sup> surface rail accounted for 2% of trips and 10% of distance travelled and London Underground accounted for 1% of trips and 2% of

---

<sup>9</sup> Data from 2019 and earlier has been used here to describe key elements of the transport sector. More recent data has been heavily affected by the COVID pandemic, which led to substantial impacts on the transport sector, particularly through a reduction in usage. Post-COVID data reflects a short-term recovery position of the sector, and therefore it is expected that pre-COVID data will provide a better description of the transport sector over the longer-term, for which the proposed legislation is expected to apply. It should be noted that there are limitations to this approach because the impacts of the pandemic on the transport sector are not expected to be limited only to the short-term.

distance travelled.<sup>10</sup> On average between 2012 and 2019, in areas where a system operates, light rail and tram use accounts for around 1% of stages on all modes per year. However, these impacts underplay how important rail and light rail are in some parts of the country. For example, prior to the pandemic 17% of London commuters used heavy rail as their usual method of travel to work and 25% used London Underground, light rail and tram.<sup>11</sup>

- 1.39 The DfT commissioned a survey of passengers travelling on the rail network in England to understand the impact of the strikes. The survey was undertaken in the weeks following heavy rail strike action and found that two fifths (42%) of passengers that responded to the survey, and four fifths (81%) of those that had intended to travel by rail during a strike week, had their rail travel plans directly impacted by the strikes in some way<sup>12</sup>. The most commonly reported impacts were on travel to work (29% of all respondents), which reflects the larger share of journeys made for this purpose.
- 1.40 Rail is used for multiple purposes, with the primary uses being for commuting to work or education and leisure. In 2019, 47% of surface rail journeys in England were made for commuting purposes, while 26% of journeys were made for leisure purposes. The remainder of journeys were made for education, business, shopping, or other purposes. Although the pandemic has affected travel patterns and led to increases in homeworking, commuting remains the most common use of surface rail (49% of journeys in England in 2021).<sup>13</sup>
- 1.41 Where workers are unable to commute to their place of work due to rail strikes, there is a risk to the worker of lost income, and in the case of sustained strike action, a risk to the viability of the businesses that employ them. This can also have a significant financial impact, both directly on workers, employers and ancillary businesses in case of lost footfall, ultimately impacting livelihoods.
- 1.42 The DfT 'Rail Strikes: Understanding the impact on passengers'<sup>2</sup> found that 17% of passengers experienced at least one form of negative financial impact as a result of the strikes (personal loss of earnings, loss of business earnings, increased travel costs, additional childcare costs, other). In contrast, the main positive financial impact came from savings to travel costs, which was reported by 8% of respondents. A higher percentage of rail passengers with a disability (at 8%) than those with no disability (at 6%) reported a loss of personal earnings due to the strikes.

---

<sup>10</sup> 2021 National Travel Survey (2022). NTS0303: Average number of trips and distance travelled by main mode: England, from 2002. <https://www.gov.uk/government/statistics/national-travel-survey-2021>

<sup>11</sup> Labour Force Survey (2019). Usual method of travel to work by travel to work area UK: October to December 2019. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhoc/s/11694usualmethodoftraveltoworkbyregiontraveltoworkareaoccupationandindustryukoctobertodecember2019>

<sup>12</sup> Department for Transport (2023) Rail strikes: Understanding the impact on passengers (summary) <https://www.gov.uk/government/publications/rail-strikes-understanding-the-impact-on-passengers>

<sup>13</sup> National Travel Survey (2022). Average number of trips (trip rates) by purpose and main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>. Figures from 2019 are included here due to the impact of recovery from COVID-19 on data that is available for 2020 and 2021.

1.43 For light rail, the impact of strikes will depend in part on the purpose of travel and the availability of other forms of transport. In instances where alternative forms of transport are easily available this will reduce the overall impact. For England as a whole the most common purpose of travel by light rail (excluding the London Underground) is commuting (42%) followed by leisure (23%), shopping (16%) and education (9%). However, the split for purpose of travel differs for London, and the rest of England. A higher proportion of light rail travel in London (excluding London underground) is for commuting purposes (54%), followed by leisure (17%) and shopping (10%). In contrast, for the rest of England commuting only accounts for 30% of light rail travel, followed by leisure (29%) and shopping (21%).<sup>14</sup>

### Financial and economic impacts

1.44 Widespread strike action on the rail network has significant financial impacts for businesses within the rail sector and beyond. The ORR reported that the rail industry collected around £10.4bn from passenger fares in 2019-20, equivalent to roughly £28m a day<sup>15</sup>. Additionally, impacts of strikes are also felt on days adjacent to strike days, due to the time it takes for services to stop and restart.

1.45 As well as direct impacts on passengers and the rail sector, the effects of strike action also have wider detrimental impacts on the economy. In December 2022, the Centre for Economics and Business Research (CEBR) estimated that rail strikes between June 2022 and January 2023 would result in a loss of UK economic output of around £500 million<sup>16</sup>. This estimate relates only to the loss of output from those unable to work due to industrial action during national-level rail strikes and is attributable to non-rail workers unable to work due to rail industrial action. It does not include other economic impacts of rail strikes, such as reductions in spending on retail, hospitality, and leisure activities due to rail strikes.

1.46 At the start of this year, the Prime Minister set out his top five priorities for 2023, which included halving inflation, growing the economy, and decreasing debt. As we emerge from the pandemic and tackle profound economic challenges, it is vital that transport plays a central role in economic resilience and recovery. A reliable and consistent level of service is needed to enable transport to continue to be the backbone of economic stability and growth.

### Freight impacts

1.47 Significant volumes of certain key critical goods are moved by rail freight including fuel, biomass and household waste. The movement of these goods is key to maintaining essential services such as collection of household waste and energy production. When setting minimum service levels, considerations will need to be given to the continued movement of these critical goods by rail freight.

---

<sup>14</sup> [National Travel Survey: Light rail and tram statistics \(LRT\), Table LRT0401a, based on number of stages travelled per person.](#) Due to a small sample size figures are based on an 8 year average (2012 – 2019)

<sup>15</sup> Office of Rail and Road (2020). [Rail Industry Finance \(UK\) - 2019-20 \(orr.gov.uk\)](#). Figures from 2019-20 are included here due to the impact of recovery from COVID-19 on more recent data.

<sup>16</sup> CEBR (2022). <https://cebr.com/reports/eight-months-of-strike-action-to-have-cost-the-uk-economy-at-least-1-7bn-adding-to-existing-recessionary-pressures/>

## Principles for designing MSLs

1.48 The UK government remains fully committed to protecting workers' rights and will ensure that any proposal for new legislation respects human rights, and ensures workers are still able to take lawful strike action. For this reason, this consultation seeks to assess the potential impact of proposals for Minimum Service regulations on rail workers, rail unions, train operating companies, other employers in the rail industry, passengers and other key stakeholders. We are consulting widely to consider how this legislation can best work in practice, and to gather proposals from those who are impacted by strikes and could be impacted by minimum service levels.

1.49 Defining what a minimum level of service entails is a complex, multi-faceted operational task, on which industry expertise is required. We want to develop practical and effective measures to deliver in passengers' and taxpayers' best interests, which is why it is only right that we engage widely, both with industry and other stakeholders (including business leaders, wider employers and passengers) to seek their views on how this legislation should be implemented. We envisage that, in setting a minimum level of service, we should be guided by a set of overarching principles, including:

- That the service that does run during strike action is safe and reliable and allows passengers to travel where possible;
- That it prioritises certainty of service, so passengers know what to expect
- That any MSL set pays due consideration to safety and security considerations and prioritises passengers' safety.
- That the needs of passengers and the public to access work and public services are balanced with ability of rail workers to take strike action.

**Question 1** – Do you agree or disagree with our assessment of the principles that should underpin a minimum level of service? Please provide your assessment for each of the principles set out above, and the rationale for your reasoning.

### Proposed services MSLs should apply to

1.50 The Bill makes clear that MSLs will only apply to services specified within regulations, within the key categories which include transport services. This government has identified rail as a priority for the introduction of MSLs, and Section 1 of this consultation document sets out the case for MSLs in passenger rail. It is intended that all passenger railway services which are essential to enable passenger trains to operate to meet minimum service levels would be specified in the regulations. There are various definitions of "passenger railway services" and "railway services" used in different rail related legislation (such as the Important Public Services (Transport) Regulations 2017 and in the Railways Act 1993 (such as in s82)) and it will be important for all stakeholders to be clear on what passenger rail services, and which workers who deliver those services, are within scope in order for the MSLs to be applied as practically and reasonably as possible.

**Question 2** – Subject to the exemptions described in Question 3 below, we propose that the following passenger railway services will be within scope for MSLs. Please indicate whether you agree or disagree if each of these services are essential to enable passenger trains to meet minimum service levels. If you disagree, please explain why.

- Services provided by passenger train operating companies who operate services under agreements with the Secretary of State, Welsh Ministers or Scottish Ministers, including public sector owned operators
- Services provided by other passenger train operating companies who operate under other arrangements with the public sector (these include London Underground, certain light rail and London overground services)
- Services provided by open access train operating companies – i.e., those who operate commercially, independent of any agreement with public sector bodies
- Services provided by operators of passenger trams
- Services provided by operators of network infrastructure over which the passenger trains and trams above operate (e.g., Network Rail), including the following services:
  - a) the construction, maintenance, re-alignment, re-configuration or renewal of track,
  - b) the installation, operation, maintenance or renewal of a railway signalling system or of any other railway communication equipment,
  - c) the construction, control, maintenance or renewal of electrical conductor rails or overhead lines, of any supports for such rails or lines, and of any electrical substations or power connections used or to be used in connection therewith, and the provision of electrical power by means thereof,
  - d) the provision and operation of services for the recovery or repair of locomotives or other rolling stock in connection with any accident, malfunction or mechanical or electrical failure,
  - e) the provision and operation of services for keeping track free from, or serviceable notwithstanding, obstruction (whether by snow, ice, water, fallen leaves or any other natural or artificial obstacle or hindrance) or for removing any such obstruction,
  - f) the provision, operation, maintenance and renewal of any plant, equipment or machinery used in carrying on any of the activities specified in paragraphs (a) to (e) above,
  - g) the exercise of day-to-day control over train movements over or along any track comprised in the network,
  - h) the preparation of a timetable for the purposes of such control as is referred to in paragraph (g) above
- Light maintenance services of passenger trains and trams (including the refuelling or the cleaning of the exterior of passenger trains and trams and maintenance of those trains or trams normally carried at regular intervals of twelve months or less to prepare the passenger trains or trams for service)
- Any services at stations that are essential to enable passenger trains or trams to operate safely and securely
- Other – please explain



- 1.51 The services that we propose are not captured by MSL legislation are rail freight operating companies (which are excluded because they do not relate to passenger rail services); international rail (i.e., services which commence or terminate outside Great Britain, including the Channel Tunnel services); private charter passenger train operators; and heritage, museum and tourist rail services.
- 1.52 Significant volumes of key critical goods essential to the daily life of the public move by rail freight including fuel, biomass and household waste. The movement of these goods is key to maintaining essential services such as disposal of household waste and energy production. We therefore recognise that when setting any minimum service level for the network, this should take into consideration other uses of the network including freight.
- 1.53 International rail services are not within the scope of this legislation as the infrastructure and services are by their very nature cross border and this legislation applies to services provided in England, Scotland and Wales only, with no territorial scope outside GB. For the avoidance of doubt, however, the services on the HS1 infrastructure, which are within GB only, would be within the scope of this legislation.

**Question 3** – We propose that the following passenger railway services will be excluded from scope for MSLs to apply to. Please indicate whether you agree or disagree that these services should be excluded. You should note that the scope of the legislation is Great Britain only and cannot include services provided outside of this jurisdiction. If you disagree, please explain why.

- International passenger rail services – i.e., where services start or terminates outside Great Britain
- Services using a heritage vehicle or on a railway which is a heritage, museum or tourist railway that operates on its own network
- Services provided by private charter passenger train operators
- Other – please explain

### Factors to consider when designing MSLs

When designing MSLs, there are several different factors that could be considered to balance the ability to take strike action with the impact of those strikes on others.

**Question 4** – Please indicate whether you agree or disagree that each of the factors below should be used to inform the minimum level of service delivered, and rank them in order of priority. Please set out the rationale behind your choices.

- The need to travel by rail for health purposes or for the purpose of seeking medical attention / treatment
- The need to travel by rail to access education
- The need to travel by rail to earn a living
- The need to earn livelihoods from those travelling by rail
- The need to travel by rail to enjoy private, or family time
- The need to travel by rail for leisure or tourism reasons
- The need to avoid damage to the economy

- Other relevant factors – please set out

### **Metric for setting the MSL**

There are a number of different approaches that could be explored when considering how to set MSLs for rail, including against which metric MSLs should be established.

**Question 5** – When setting the minimum service level, what do you think would be the most appropriate metric?

- % of services running compared to a similar non-strike day
- % of services running at peak times compared to similar services on a non-strike day
- Volume of passengers able to travel
- Another metric (please say)
- Do not know

Please explain why you believe this.

## 2. Gathering Evidence to Develop MSLs

- 2.1 To balance the differing interests of the parties involved in strike action, we need to expand our understanding of the extent of the impacts of current strike action on people, businesses, and industry throughout Great Britain. As part of this, we also need to understand how rail is used to access key services, and the availability of alternative modes of transportation. The evidence will be used to assess how MSLs could play a role in addressing these challenges and determining an appropriate balance when setting MSLs for passenger rail.
- 2.2 Employers who deliver services that are proposed to be in scope for application of MSLs should provide evidence from their areas of operation. We also encourage Trade Unions and workers to submit their own evidence, including the potential impacts they believe MSLs could have on strike action, and ways in which MSLs could be set to mitigate this impact, whilst still protecting the essential needs of passengers. We are also seeking evidence from passengers on personal impacts on their daily lives.
- 2.3 We recognise that the impacts of strikes vary according to their profile, including time of the week, time of the day, and the route that is impacted. For example, a strike on a heavily used commuter line during the weekend may inconvenience passengers less than during the working week.
- 2.4 We invite views from rail users, employers in the rail sector, rail workers and organisations representing rail workers and businesses outside the rail sector. We have indicated the questions below which we consider to be particularly relevant to each of these groups, but this is only by way of guidance, and we invite evidence from respondents in all groups.

### Impacts of rail strike action on rail users

We are interested in understanding, where passengers have chosen to travel on strike days, or have planned to travel, what impact strikes have had on the passenger experience. We are also looking to understand how strikes might interfere with people's ability to go about their daily lives.

**Question 6** – From the following options, please select what you mostly use rail for:

- To access a place of work / other work purposes
- To access a place of education / other educational purposes
- To access medical or health facilities
- To participate in personal or family life
- For leisure or tourism
- If other, please state

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please provide two separate responses for these.

**Question 7** – Which of the following reasons best describe why you use rail? Please identify all that apply.

- Closest transport service to where you are starting
- Closest transport service to your destination
- Frequency
- Hours of operation
- Cost
- Convenience or personal choice
- No viable alternative form of transport available
- If other, please state.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please provide two separate responses for these.

**Question 8** – How far do you travel to get to the station you most commonly use on a regular day? How much further are you reasonably able to travel to access a train station that has service on a strike day?

**Question 9** – Which of the following impacts, if any, have you experienced due to rail strikes? Please tick all that apply.

- Impacts on travel plans to work
- Impacts on travel plans to healthcare providers
- Impact on travel plans to educational institutions
- Impact on travel plans for participation in personal or family life
- Loss of earnings or additional travel costs caused by strikes.
- Other impacts or experience of travelling during strike action (e.g., use of alternative transport).

Please tell us more about this. You may wish to include:

- Whether the strike took place on heavy or light rail.
- Experience of information provided around strikes, including examples such as level of advance notice and clarity around timetables, or ability to access refunds.

**Question 10** – Where you have chosen to travel on strike days, or have planned to travel, what impact have strikes had on your experience? Please tick all that apply.

- Changes to frequency of service
- Changes to routes and connections available
- Changes to service hours
- Any experience of over-crowding which has impacted whether you could travel, or your travel experience
- Availability of staff to provide help and assistance
- Other (please specify).

Please specify whether your response relates to heavy or light rail, or both including more detail on the impact you experienced. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 11** – At what point would you decide to cancel your plans to travel on a strike day? Please explain your answer. You may wish to consider factors such as distance to your nearest station with service, frequency of service or hours service is operating.

### Evidence required from employers in the rail sector

#### Impacts of strike action on the rail sector

**Question 12** – We invite evidence from employers in the rail sector on:

- How the number and proportion of passenger services operated varies depending on the number and type of workers on strike.
- Please include a breakdown of this information by type of service, line and region for both strike days and the day immediately after a strike compared to a normal timetabled day.
- The staff categories you require to run services on strike days. This could include examples from recent strike activity on how many FTE staff a day have been needed to run strike day services.
- The impact of strike action on customer experience. This could be based on information such as survey responses, customer feedback, and your assessment of the impacts.
- The impact of strike action on planned railway projects, including maintenance and engineering works.
- Any safety considerations that are unique to strike days.

Please specify whether your response relates to heavy or light rail or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

#### Resourcing a reliable timetable

We are aware that delivering a specific percentage level of service does not mean that the corresponding percentage of staff have to work to deliver it. With this in mind, we would like to gather evidence from operators specifically on how these two factors interact in

order to inform potential planning implications for strike days. For example, to provide us with more detail on the number of workers that might be required to deliver a certain level of service, taking into account the different types of workers involved.

**Question 13** – Please provide an estimate of percentage staff required to operate differing levels of service. For example, the percentage of staff that may be required to deliver 20% service, 30% service, 40% service and 60% service. Please make clear what parameters these percentages are based on (e.g., types of workers, times of service provision etc).

Please also provide detail on how you have reached this estimate, and a breakdown of what proportion of each role you would need for your timetable to be viable.

### Impacts of MSL legislation on rail workers and organisations representing rail workers e.g. trade unions

**Question 14** – We invite respondents to set out how they think MSLs could be set in a way that mitigates impacts on strike action, whilst still protecting the essential needs of passengers.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

### Projected financial implications of delivering MSL legislation

We recognise that proposals for these regulations could have financial implications both in terms of implementation costs and ongoing operation costs in the event of strikes. Similarly, benefits may accrue to employers impacted by the strikes who will receive income otherwise foregone.

**Question 15** – We would like to invite respondents to provide us with an assessment of potential costs and benefits, including from an implementation and ongoing operation perspective, and propose, where appropriate, ways to offset them without recourse to public funds.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

### Impacts on employers outside of the rail industry, businesses and organisations representing businesses

**Question 16** – Have recent rail strikes had an impact on your business or organisation?

- Yes
- No

**Question 17 (Please only respond if you answered Yes to Question 16)** – Which of the following impacts has your business or organisation experienced? Please identify all that apply.

- Loss of revenue
- Staff absences
- Impacts on business viability
- Increase in home working directly associated with a decrease in revenue/productivity
- If other please state

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 18** – If applicable, please provide evidence for the following:

- Longer-term impacts of strikes on your business, including potential lost customers who have chosen other ways to do business as a result of disruption, or any longer-term impacts on reputation.
- The impact of rail industrial action on the availability of workers, such as (but not limited to) health, education, and blue light services workers.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 19** – If applicable, what contingency plans have you put in place for strike action? For example, organising special transport arrangements for staff, covering hotel costs so staff can stay closer to work, changing working hours or shift patterns, or changing the way in which you move goods, such as from rail to road freight.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please provide two separate responses for these.

### Case study: Delivery of rail services on previous strike days

We would like to gather evidence on what level of minimum service is appropriate on a strike day. It may therefore be helpful to consider some factual case studies explaining what levels of service have been provided on previous strike days, and the context surrounding them.

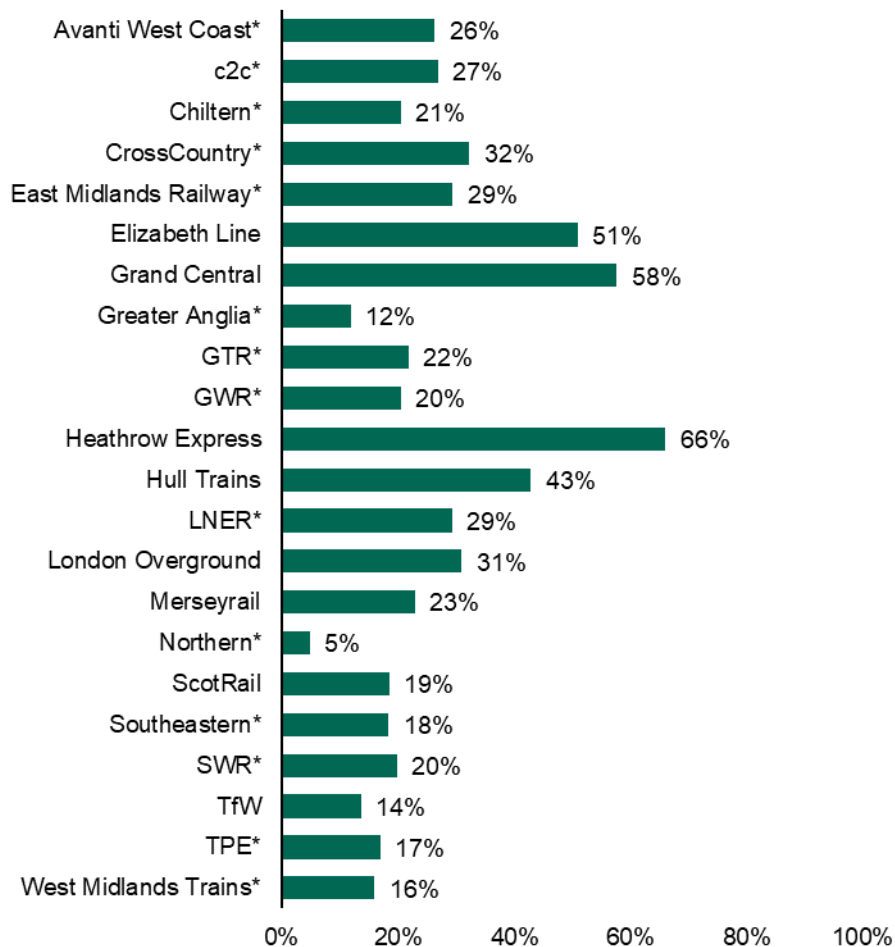
During recent national strikes, the industry has attempted to deliver as high a level of service as possible. The corresponding service levels have varied considerably at both a national and regional level depending on the specific circumstances of the strike, from who was affected (e.g. operators and/or infrastructure providers) to the day it was called on. We have provided below some examples of recent strike day services to provide an indicative view of strike day performance and invite respondents to provide comments on this level of service to inform minimum service level planning. These case studies are used for illustrative purposes of levels of service achieved in the past and are only intended to invite comment on the level of service experienced and no other aspect regarding that strike. They are not predictions of the level of service that may result from potential future strikes, which would be subject to the specific conditions around which they arise.

### **Case Study A: 4<sup>th</sup> January, 2023 RMT Strike**

During strikes that affected both certain operators across Great Britain and Network Rail on 4<sup>th</sup> January the industry sought to run a level of service which ensured certain services still operated. The map of the routes prioritised during these strikes can be found at Annex B.

The timetable the industry developed operated over a 12 hour period between 7am and 7pm and delivered approximately 20% of the regular number of services to operate nationally. However, given the considerations underpinning the prioritisation principles industry used, there was regional variation in services. To illustrate this, please see an operator-by-operator breakdown of service levels on the 4<sup>th</sup> January strike day in Figure 1, though even within operators there was regional variation in service provision which is not captured here.

**Figure 1. Services run on 4<sup>th</sup> January 2023 RMT strike on Network Rail and operators as percentage of typical number of services run.<sup>17</sup>**



\*Operator staff on strike

<sup>17</sup> Industry insight provided by Network Rail. See Annex E for more detail at <https://www.gov.uk/government/consultations/minimum-service-levels-for-passenger-rail-during-strike-action>.



**Question 20** - What was your own experience of these strikes and the level of service provided on this day? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which train service, time of day and route you travelled on/planned to travel on.

- This level of service was too low
- This level of service was acceptable
- This level of service was too high

Please explain why you think this.

**Question 21** – Compared to a non-strike day timetable, what minimum percentage level of service would you consider acceptable given there was a strike? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which train service, time of day and route you travelled on/planned to travel on.

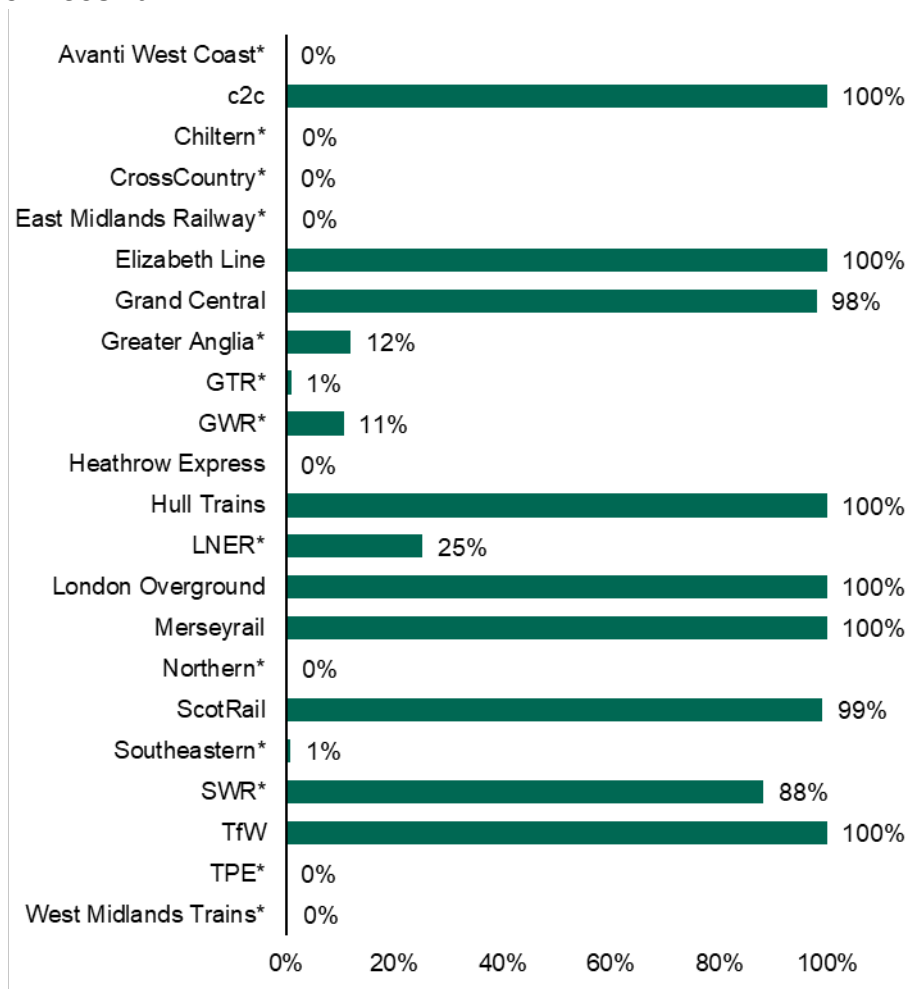
Please explain why you think this.

### **Case Study B: 1<sup>st</sup> February, 2023 ASLEF Strike**

During strikes on 1<sup>st</sup> February 2023, that affected certain passenger services, operators sought to continue running services where possible. In this case study, due to the nature of the strike predominantly impacting train driver staff, services were prioritised differently.

While there was significant regional variation, and some operators did not run any services at all, the timetable industry ran sought to optimise the use of resources to offer as many services as possible, safely and reliably. The result of this was a national average of around 40% of services running, however operators whose staff were not on strike were able to run a good level of service which resulted in very significant regional variation. An operator-by-operator breakdown of this can be found at Figure 2, showing services run on the 1<sup>st</sup> February strike day as % of typical services run. As before, even within operators there was regional variation not captured here.

**Figure 2. Services run on 1<sup>st</sup> February 2023 ASLEF strike as percentage of typical number of services run.<sup>18</sup>**



\*Operator staff on strike (depot drivers and Island Line drivers only at SWR)

**Question 22** - What was your experience of these strikes and the level of service provided on this day? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which operator, time of day and route you travelled on/planned to travel on.

- This level of service was too low
- This level of service was acceptable
- This level of service was too high

Please explain why you think this.

**Question 23** – Compared to a non-strike day timetable, what minimum percentage level of service would you consider acceptable given there was a strike? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services

<sup>18</sup> Industry insight provided by Network Rail. See Annex E for more detail at <https://www.gov.uk/government/consultations/minimum-service-levels-for-passenger-rail-during-strike-action>.

available on this day, please explain which train service, time of day and route you travelled on/planned to travel on.

Please explain why you think this.

**Question 24** – If you travelled, attempted to travel or abandoned your travel plans during a strike in the past 12 months other than those described in the case studies, what was your own experience of these other strikes and the level of service provided on this day?

- This level of service was too low
- This level of service was acceptable
- This level of service was too high

Please explain which strike day, train service, time of day and route you travelled on/planned to travel on.

## 3. Options for Setting MSLs for Passenger Rail

- 3.1 Introducing MSLs for rail is not a novel concept. There are a number of examples across Europe of how minimum service levels are deployed to manage the level of service during rail strikes, such as in Italy and Spain where legislation has been in place for many years. There are different approaches in different countries, but all are based on the same premise of ensuring a more proportionate impact on service users. However, it is important to recognise that MSLs would be new for rail in Great Britain. While international comparators are helpful in illustrating approaches used elsewhere, the employment and industrial relations systems that apply across different jurisdictions vary considerably and what works in one country will not necessarily work in another. It is therefore important that the design of this legislation for rail considers the unique features of our railways, as well as the wider employment legislative context.
- 3.2 There are many ways in which we could set MSLs, and this chapter explores some options. In any approach we take, we are keen to weigh key considerations carefully, such as to which aspects of passenger rail services a minimum service should apply and how MSLs could be set. We are using this consultation document to gather your views and engage with as many respondents as possible.
- 3.3 How MSLs will operate across Great Britain is also a key consideration, including where delivery of rail includes consideration of the roles of other organisations such as mayoral combined authorities (MCAs) and local transport authorities (LTAs). For example, TfL, under the strategic direction of the Mayor of London, has responsibility for the London Underground.

### Proposed options for setting MSLs

- 3.4 We would like to understand consultees' views on proposed options for setting minimum service levels (as set out below) and their applicability, especially their practical implementation. We are also seeking wider views on what consultees consider should be the key focus and priority when designing MSLs for rail, including the geographical scope of routes, the volume and times of services under an MSL.

- 3.5 These options are being considered for application in both heavy and light rail, although noting there are differences in the way they may need to be applied to take account of differences between how heavy and light rail operate.
- 3.6 For example, for light rail and the London Underground, the transport needs of each region may differ, so any contingency planning would differ from service to service. The complexity and scale of London's underground service presents further challenges for MSLs.

### Options for setting MSLs for passenger rail

- 3.7 Having considered the principles described in Section 1, and the information available to date, we have identified two specific options for the delivery of minimum service levels in passenger rail.

#### **Option 1: Design a minimum service level framework based on existing timetable arrangements**

- This option for designing MSLs would involve **considering existing timetables and setting MSLs comparatively to timetables on a non-strike day.**
- **The timetable could be based on the pre-existing expected timetable for the named strike day.** For example, if the strike was taking place on the 1<sup>st</sup> day of a month, the existing planned timetable for that day would provide the basis, and the MSL would be set as a level of that planned service.
- This approach would **allow the MSL to take account of different travel patterns and passengers needs across different days of the week and in different parts of the country**, as well as days where there are particular needs for increased services, such as around key events. These considerations are all captured in the way in which timetables are currently prepared.
- **The pre-planned timetable would be adjusted to an appropriate minimum service level** which would be set based on evidence from consultation, such as corridors that are used by high volumes of people to get to work or access key services. This consultation includes further questions designed to understand passengers' needs, and factor these in the design of regulations.
- Under this option you will see regional variations in service, and in some areas you may see a considerably reduced service provision.

#### **Option 2: Design a priority route map of the heavy and light rail network across Great Britain upon which minimum levels of service must be provided**

- The route map would be determined following consideration of evidence on a range of issues including which routes should be prioritised, which stations should be open, and the level of service that should be delivered on each route (i.e. the number of services stopping at stations on that route).

- We have presented **two options below for how a route map could be designed**, taking into account different priorities, including hours of service and geographical coverage.
- We would identify priority lines based on a range of factors including evidence of key routes for high volumes of people getting to work or accessing key services.
- Our expectation, if this option was to be pursued is that this route map, and the levels of service required, would apply in both national and local strikes.
- Clearly, the greater proportion of the country with stations open, the more services that stop at these stations, and the longer the hours these trains run for, the more staff that are required to be named on a work notice. There are different approaches we could take to designing the route map and associated levels of service. In all scenarios we recognise the importance of surety of service for passenger, and this would need to be taken into account when designing what would be deliverable. Communication to customers would depend on the level of service offered but would need to highlight the restrictions on availability of trains in the same way operators communicate on current strike days.
- From a light rail perspective, we recognise that in some systems where there is only one line included for the service, this priority map is likely to be 100% of the route, although there may be cases where not all stops are used.
- Within this option, we are testing two different approaches to designing the priority route map:

### **Option 2a: Design a priority route map focused on increased hours of service**

- This sub-option would focus on **identifying priority routes, and delivering services on those routes for as long a period as reasonably possible**. This version of the map could draw on existing examples of how priority routes are managed during current strikes in GB, where relevant.
- **The minimum levels of service would be set for those priority routes only and may mean some areas of the country have limited levels of service, or no service at all.**
- Our intention under this sub-option would be for the minimum service level to operate for as long a period as reasonably possible compared to those seen on strike days previously, which have been approximately 12 hours. **The length of the time period for this option would be between 18 and 24 hours**, subject to the outcome of consultation.

### **Option 2b: Design a priority route map focused on increased geographical coverage of service**

- This sub-option would **focus on having as much of the rail network open as possible with a minimum level of service**.
- This would use a range of factors, including evidence around the impacts of strikes to identify the priority routes on which MSLs would be provided. **The intention would be to design the route map based on as broad geographical coverage as possible** (for example, to maximise the number of stations across Great Britain that have services running). This may result in a lower level of service for some areas than currently seen on certain strike days, but improved

levels of service for others and overall. Equally, it should be noted that, even where we are prioritising geographical scope, we are likely to still see no service in some areas.

- Given the focus would be on more routes being open than in option 2a, **this may result in lower levels of service on some of these routes than currently seen on certain strike days, in order for the wider public to overall receive an improved service level.**
- Subject to the consultation, **increasing the level of geographical coverage may also mean we are not able to increase the hours of service** compared to what is currently available on strike days, so this option is based on a 12-hour level of service.

**Question 25** – What is your preferred option for how MSLs are implemented for heavy rail, and for light rail? Please provide two answers if you have a different preference across heavy and light rail.

- Option 1: Design a minimum service level framework based on existing timetable arrangements
- Option 2: Design a priority route map of the heavy and light rail network across Great Britain upon which minimum levels of service must be provided
- No preference

**Question 26** – Please set out the reasons for your choice in Question 25, including any considerations for practical implementation that you would like to make us aware of?

**Question 27** – In the case of Option 2, which do you think is the most appropriate basis for developing the priority route map?

- Option 2a: Prioritisation based on extending hours of service
- Option 2b: Prioritisation based on extending geographical scope of service

Please set out the reasons for your choice, including any considerations for practical implementation that you would like to make us aware of?

**Question 28** – If we explored developing priority routes, what do you think should be the most important factor in designing a priority route map? Please rank the following options in order of priority if possible.

- Services that are heavily used by passengers to get to work or school, or access healthcare services, prioritised by level of demand
- Long distance inter-city services
- Services connecting rural areas that might not have other transport alternatives
- Routes that support critical infrastructure and public services
- Other (please specify)

Please set out the reasons for your choice.

**Question 29** – If services can only run during certain hours, which time periods do you think should be prioritised? Please rank your preferred time periods in order of priority with your highest priority option first.

- Morning peak
- Evening peak
- Early morning (before 7am)
- Late evening (after 7pm)
- Services during a 12-hour period (7am – 7pm)
- Whatever can be resourced most reliably, regardless of timings
- Other (e.g., weekend travel at specific times)

Please set out the reasons for your choice.

**Question 30** – Following the introduction of minimum service levels, what level of service would you expect to see on a strike day, as a percentage of the normal non-strike day timetable?

Please explain the rationale for your answer. In your response you may want to consider what priorities should be taken into account when setting the MSL, including geographic coverage, times of the day and certain routes, such as particularly busy passenger routes. demand profiles during the day compared to a weekday timetable.

For reference, please see examples of levels of service delivered on recent strike days:

As set out in Case Study A (page 32 of the consultation), during a recent RMT national rail strike on 4th January 2023, that involved Network Rail and most train operators, the heavy rail industry implemented a prioritisation strategy to protect critical flows. The strategy relied on a pool of contingent staff, and operated as a 12 hour railway between 7am and 7pm. On this particular day, approximately 20% of passenger services were able to run.

As set out in Case Study B (page 33 of the consultation), during a recent ASLEF strike on 1st February 2023, that affected certain passenger services, operators sought to continue running services where possible. In this scenario, services were prioritised differently. While there was significant regional variation, and some operators did not run any services at all, the timetable industry ran sought to use available resources to offer as many services as possible, safely and reliably. The result of this was a national average of around 40% of services running. However, operators whose staff were not on strike (e.g. open access operators) were able to run a good level of service which resulted in very significant regional variation.

As another example, on a typical Sunday, services run at around 60%, when compared to a usual weekday timetable. It should be noted this is an indicative estimate, and the level of service also varies across operators. Sunday services also have different timetable arrangements to weekdays, such as starting later and have different demand profiles during the day compared to a weekday timetable.



## Other options

As well as seeking views on the options presented, we would also welcome suggestions from respondents on any other options or approaches that should be considered. As part of this, we will also take account of your responses in relation to levels of service on previous strike days as described in the case studies in Section 2.

**Question 31** – Aside from Option 1, 2a and 2b, do you have further suggestions on options we should consider for setting MSLs for rail? Yes/No

If yes, please provide further detail, including whether the proposed option applies to heavy rail, light rail, or both.

**Question 32** – When setting the minimum service level, what do you think would be the most appropriate factor?

- Hours of operation
- More routes running
- More stations open
- Improved services for commuting purposes
- Improved services for leisure purposes
- Other factor (please state)
- Do not know

Please explain why you think this.

## 4. Where Would Minimum Service Levels Apply?

### Geographical scope of MSL legislation

- 4.1 The Bill will apply to England, Wales, and Scotland (Great Britain). The purpose of the Bill is to regulate employment rights, duties and industrial relations in specified services. Employment rights and duties and industrial relations are reserved matters. This Bill enables the UK Government to apply MSL regulations to key sectors across Great Britain.
- 4.2 We recognise that in some cases this could affect employers operating services under devolved powers, such as Transport for Wales and Scotrail. It could also impact on locally operated services such as Transport for London.
- 4.3 We are keen to understand, including through the responses to this consultation and engagement with devolved administrations, whether MSLs should be applied across England, Wales and Scotland, including any differences and considerations that should be taken into account in setting minimum service levels. This will help to inform a decision on whether minimum service level regulations are needed across Great Britain and, if so, how they might be applied to take account of operational considerations.
- 4.4 As part of the development of MSLs, the UK Government will also engage with the Scottish Government and the Welsh Government on the geographical scope of the regulations.

**Question 33** – Do you agree or disagree that it is important that MSLs apply consistently across England, Wales and Scotland?

Please provide detail to support your response, should you wish.

**Question 34** – If you are involved in the operation of rail services, what do you consider to be the key operational considerations when setting MSLs for services running between England, Scotland and Wales.

Please provide detail to support your response, should you wish.

**Question 35** – If you use, or manage, services running between England, Scotland and Wales, please outline your experience of how this operates if there are strikes in one part of Great Britain but not another.

**Question 36** – Are there any matters specific to services in Scotland and/or Wales which should be considered in relation to the provision of MSLs? For example:

- The level of service available on strike days
- Connectivity on strike days across the area in question
- Other matters you consider relevant to the setting of a MSL for Scotland or Wales

## Local Transport Considerations

We also welcome views and input from Mayoral Combined Authorities, Local Transport Authorities, Corporate Joint Committees and Regional Transport Partnerships on the key considerations for setting rail MSLs. These should include Mayoral Combined Authorities, Local Transport Authorities, Corporate Joint Committees and Regional Transport Partnerships who:

- Provide passenger rail services directly (i.e. run the trains and/or trams, and employ the workers who provide those services) and/or
- Have a role relating to passenger rail services due to transport duties such as under the Transport Act 2000 or the Greater London Authority Act 1999 or such other legislation as the case may be.

**Question 37** – Do you agree or disagree that it is that important MSLs apply consistently across Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee and Regional Transport Partnership boundaries in England, Scotland and Wales?

Please specify whether your response relates to your role as a direct passenger rail service provider, or Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee or Regional Transport Partnership responsibilities or both.

**Question 38** – Are there any matters specific to services delivered in Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee or Regional Transport Partnership areas which should be considered in relation to the provision of MSLs? For example:

- The level of service available on strike days, including consistency across regions
- Connectivity on strike days across different regions
- Other matters you consider relevant to the setting of MSLs for England, Scotland and Wales in the context of local transport strategy roles.

Please specify whether your response relates to your role as a direct passenger rail service provider, or Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee or Regional Transport Partnership responsibilities or both.

## 5. What will happen next

A summary of responses, including the next steps, will be published in due course. Paper copies will be available on request.

## 6. Annex A: Impact assessment

An impact assessment has been published alongside this consultation document. It can be found at <https://www.gov.uk/government/consultations/minimum-service-levels-for-passenger-rail-during-strike-action>.

# 7. Annex B: Key Route Strategy Map



## 8. Annex C: Full list of consultation questions

**Question 1** – [Please refer to section 1.49, page 23 of the MSL Passenger Rail Consultation document] Do you agree or disagree with our assessment of the principles that should underpin a minimum level of service? Please provide your assessment for each of the principles set out above, and the rationale for your reasoning.

**Question 2** – Subject to the exemptions described in Question 3 below, we propose that the following passenger railway services will be within scope for MSLs. Please indicate whether you agree or disagree if each of these services are essential to enable passenger trains to meet minimum service levels. If you disagree, please explain why.

- Services provided by passenger train operating companies who operate services under agreements with the Secretary of State, Welsh Ministers or Scottish Ministers, including public sector owned operators
- Services provided by other passenger train operating companies who operate under other arrangements with the public sector (these include London Underground, certain light rail and London overground services)
- Services provided by open access train operating companies – i.e., those who operate commercially, independent of any agreement with public sector bodies
- Services provided by operators of passenger trams
- Services provided by operators of network infrastructure over which the passenger trains and trams above operate (e.g., Network Rail), including the following services:
  - i) the construction, maintenance, re-alignment, re-configuration or renewal of track,
  - j) the installation, operation, maintenance or renewal of a railway signalling system or of any other railway communication equipment,
  - k) the construction, control, maintenance or renewal of electrical conductor rails or overhead lines, of any supports for such rails or lines, and of any electrical substations or power connections used or to be used in connection therewith, and the provision of electrical power by means thereof,
  - l) the provision and operation of services for the recovery or repair of locomotives or other rolling stock in connection with any accident, malfunction or mechanical or electrical failure,
  - m) the provision and operation of services for keeping track free from, or serviceable notwithstanding, obstruction (whether by snow, ice, water, fallen leaves or any other natural or artificial obstacle or hindrance) or for removing any such obstruction,

- n) the provision, operation, maintenance and renewal of any plant, equipment or machinery used in carrying on any of the activities specified in paragraphs (a) to (e) above,
  - o) the exercise of day-to-day control over train movements over or along any track comprised in the network,
  - p) the preparation of a timetable for the purposes of such control as is referred to in paragraph (g) above
- Light maintenance services of passenger trains and trams (including the refuelling or the cleaning of the exterior of passenger trains and trams and maintenance of those trains or trams normally carried at regular intervals of twelve months or less to prepare the passenger trains or trams for service)
  - Any services at stations that are essential to enable passenger trains or trams to operate safely and securely
  - Other – please explain

**Question 3** – We propose that the following passenger railway services will be excluded from scope for MSLs to apply to. Please indicate whether you agree or disagree that these services should be excluded. You should note that the scope of the legislation is Great Britain only and cannot include services provided outside of this jurisdiction. If you disagree, please explain why.

- International passenger rail services – i.e., where services start or terminates outside Great Britain
- Services using a heritage vehicle or on a railway which is a heritage, museum or tourist railway that operates on its own network
- Services provided by private charter passenger train operators
- Other – please explain

**Question 4** – Please indicate whether you agree or disagree that each of the factors below should be used to inform the minimum level of service delivered, and rank them in order of priority. Please set out the rationale behind your choices.

- The need to travel by rail for health purposes or for the purpose of seeking medical attention / treatment
- The need to travel by rail to access education
- The need to travel by rail to earn a living
- The need to earn livelihoods from those travelling by rail
- The need to travel by rail to enjoy private, or family time
- The need to travel by rail for leisure or tourism reasons
- The need to avoid damage to the economy
- Other relevant factors – please set out

**Question 5** – When setting the minimum service level, what do you think would be the most appropriate metric?

- % of services running compared to a similar non-strike day
- % of services running at peak times compared to similar services on a non-strike day
- Volume of passengers able to travel



- Another metric (please say)
- Do not know

Please explain why you believe this.

**Question 6** – From the following options, please select what you mostly use rail for:

- To access a place of work / other work purposes
- To access a place of education / other educational purposes
- To access medical or health facilities
- To participate in personal or family life
- For leisure or tourism
- If other, please state

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please provide two separate responses for these.

**Question 7** – Which of the following reasons best describe why you use rail? Please identify all that apply.

- Closest transport service to where you are starting
- Closest transport service to your destination
- Frequency
- Hours of operation
- Cost
- Convenience or personal choice
- No viable alternative form of transport available
- If other, please state.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please provide two separate responses for these.

**Question 8** – How far do you travel to get to the station you most commonly use on a regular day? How much further are you reasonably able to travel to access a train station that has service on a strike day?

**Question 9** – Which of the following impacts, if any, have you experienced due to rail strikes? Please tick all that apply.

- Impacts on travel plans to work
- Impacts on travel plans to healthcare providers
- Impact on travel plans to educational institutions
- Impact on travel plans for participation in personal or family life
- Loss of earnings or additional travel costs caused by strikes.
- Other impacts or experience of travelling during strike action (e.g., use of alternative transport).

Please tell us more about this. You may wish to include:

- Whether the strike took place on heavy or light rail.

- Experience of information provided around strikes, including examples such as level of advance notice and clarity around timetables, or ability to access refunds.

**Question 10** – Where you have chosen to travel on strike days, or have planned to travel, what impact have strikes had on your experience? Please tick all that apply.

- Changes to frequency of service
- Changes to routes and connections available
- Changes to service hours
- Any experience of over-crowding which has impacted whether you could travel, or your travel experience
- Availability of staff to provide help and assistance
- Other (please specify).

Please specify whether your response relates to heavy or light rail, or both including more detail on the impact you experienced. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 11** – At what point would you decide to cancel your plans to travel on a strike day? Please explain your answer. You may wish to consider factors such as distance to your nearest station with service, frequency of service or hours service is operating.

**Question 12** – We invite evidence from employers in the rail sector on:

- How the number and proportion of passenger services operated varies depending on the number and type of workers on strike.
- Please include a breakdown of this information by type of service, line and region for both strike days and the day immediately after a strike compared to a normal timetabled day.
- The staff categories you require to run services on strike days. This could include examples from recent strike activity on how many FTE staff a day have been needed to run strike day services.
- The impact of strike action on customer experience. This could be based on information such as survey responses, customer feedback, and your assessment of the impacts.
- The impact of strike action on planned railway projects, including maintenance and engineering works.
- Any safety considerations that are unique to strike days.

Please specify whether your response relates to heavy or light rail or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 13** – Please provide an estimate of percentage staff required to operate differing levels of service. For example, the percentage of staff that may be required to deliver 20% service, 30% service, 40% service and 60% service. Please make clear what parameters these percentages are based on (e.g., types of workers, times of service provision etc).

Please also provide detail on how you have reached this estimate, and a breakdown of what proportion of each role you would need for your timetable to be viable.

**Question 14** – We invite respondents to set out how they think MSLs could be set in a way that mitigates impacts on strike action, whilst still protecting the essential needs of passengers.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 15** – We would like to invite respondents to provide us with an assessment of potential costs and benefits, including from an implementation and ongoing operation perspective, and propose, where appropriate, ways to offset them without recourse to public funds.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 16** – Have recent rail strikes had an impact on your business or organisation?

- Yes
- No

**Question 17 (Please only respond if you answered Yes to Question 16)** – Which of the following impacts has your business or organisation experienced? Please identify all that apply.

- Loss of revenue
- Staff absences
- Impacts on business viability
- Increase in home working directly associated with a decrease in revenue/productivity
- If other please state

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 18** – If applicable, please provide evidence for the following:

- Longer-term impacts of strikes on your business, including potential lost customers who have chosen other ways to do business as a result of disruption, or any longer-term impacts on reputation.
- The impact of rail industrial action on the availability of workers, such as (but not limited to) health, education, and blue light services workers.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please make clear which type of rail you are referring to within your response.

**Question 19** – If applicable, what contingency plans have you put in place for strike action? For example, organising special transport arrangements for staff, covering hotel costs so staff can stay closer to work, changing working hours or shift patterns, or changing the way in which you move goods, such as from rail to road freight.

Please specify whether your response relates to heavy rail, light rail, or both. If your response differs for light and heavy rail, please provide two separate responses for these.

**Question 20** – [Please refer to Case Study A, page 32 of the MSL Passenger Rail Consultation document] What was your own experience of these strikes and the level of service provided on this day? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which train service, time of day and route you travelled on/planned to travel on.

- This level of service was too low
- This level of service was acceptable
- This level of service was too high

Please explain why you think this.

**Question 21** – [Please refer to Case Study A, page 32 of the MSL Passenger Rail Consultation document] Compared to a non-strike day timetable, what minimum percentage level of service would you consider acceptable given there was a strike? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which train service, time of day and route you travelled on/planned to travel on.

Please explain why you think this.

**Question 22** – [Please refer to Case Study B, page 33 of the MSL Passenger Rail Consultation document] What was your experience of these strikes and the level of service provided on this day? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which operator, time of day and route you travelled on/planned to travel on.

- This level of service was too low
- This level of service was acceptable
- This level of service was too high

Please explain why you think this.

**Question 23** – [Please refer to Case Study B, page 33 of the MSL Passenger Rail Consultation document] Compared to a non-strike day timetable, what minimum percentage level of service would you consider acceptable given there was a strike? If you are answering from the perspective of a passenger who travelled/planned to travel on one of the services available on this day, please explain which train service, time of day and route you travelled on/planned to travel on.

Please explain why you think this.

**Question 24** – If you travelled, attempted to travel or abandoned your travel plans during a strike in the past 12 months other than those described in the case studies, what was your own experience of these other strikes and the level of service provided on this day?

- This level of service was too low
- This level of service was acceptable
- This level of service was too high

Please explain which strike day, train service, time of day and route you travelled on/planned to travel on.

**Question 25** – What is your preferred option for how MSLs are implemented for heavy rail, and for light rail? Please provide two answers if you have a different preference across heavy and light rail.

- Option 1: Design a minimum service level framework based on existing timetable arrangements
- Option 2: Design a priority route map of the heavy and light rail network across Great Britain upon which minimum levels of service must be provided
- No preference

**Question 26** – Please set out the reasons for your choice in Question 25, including any considerations for practical implementation that you would like to make us aware of?

**Question 27** – In the case of Option 2, which do you think is the most appropriate basis for developing the priority route map?

- Option 2a: Prioritisation based on extending hours of service
- Option 2b: Prioritisation based on extending geographical scope of service

Please set out the reasons for your choice, including any considerations for practical implementation that you would like to make us aware of?

**Question 28** – If we explored developing priority routes, what do you think should be the most important factor in designing a priority route map? Please rank the following options in order of priority if possible.

- Services that are heavily used by passengers to get to work or school, or access healthcare services, prioritised by level of demand
- Long distance inter-city services
- Services connecting rural areas that might not have other transport alternatives
- Routes that support critical infrastructure and public services
- Other (please specify)

Please set out the reasons for your choice.

**Question 29** – If services can only run during certain hours, which time periods do you think should be prioritised? Please rank your preferred time periods in order of priority with your highest priority option first.

- Morning peak
- Evening peak
- Early morning (before 7am)
- Late evening (after 7pm)
- Services during a 12-hour period (7am – 7pm)
- Whatever can be resourced most reliably, regardless of timings
- Other (e.g., weekend travel at specific times)

Please set out the reasons for your choice.

**Question 30** – Following the introduction of minimum service levels, what level of service would you expect to see on a strike day, as a percentage of the normal non-strike day timetable?

Please explain the rationale for your answer. In your response you may want to consider what priorities should be taken into account when setting the MSL, including geographic coverage, times of the day and certain routes, such as particularly busy passenger routes. demand profiles during the day compared to a weekday timetable.

**Question 31** – Aside from option 1, 2a and 2b, do you have further suggestions on options we should consider for setting MSLs for rail? Yes/No

If yes, please provide further detail, including whether the proposed option applies to heavy rail, light rail, or both.

**Question 32** – When setting the minimum service level, what do you think would be the most appropriate factor?

- Hours of operation
- More routes running
- More stations open
- Improved services for commuting purposes
- Improved services for leisure purposes
- Other factor (please state)
- Do not know

Please explain why you think this.

**Question 33** – Do you agree or disagree that it is important that MSLs apply consistently across England, Wales and Scotland?

Please provide detail to support your response, should you wish.

**Question 34** – If you are involved in the operation of rail services, what do you consider to be the key operational considerations when setting MSLs for services running between England, Scotland and Wales.

Please provide detail to support your response, should you wish.

**Question 35** – If you use, or manage, services running between England, Scotland and Wales, please outline your experience of how this operates if there are strikes in one part of Great Britain but not another.

**Question 36** – Are there any matters specific to services in Scotland and/or Wales which should be considered in relation to the provision of MSLs? For example:

- The level of service available on strike days
- Connectivity on strike days across the area in question

Other matters you consider relevant to the setting of a MSL for Scotland or Wales

**Question 37** – Do you agree or disagree that it is important MSLs apply consistently across Mayoral Combined Authorities, Local Transport Authorities, Corporate Joint Committees and Regional Transport Partnerships boundaries in England, Scotland and Wales?

Please specify whether your response relates to your role as a direct passenger rail service provider, or Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee or Regional Transport Partnership responsibilities or both.

**Question 38** – Are there any matters specific to services delivered in Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee or Regional Transport Partnership areas which should be considered in relation to the provision of MSLs? For example:

- The level of service available on strike days, including consistency across regions
- Connectivity on strike days across different regions
- Other matters you consider relevant to the setting of MSLs for England, Scotland and Wales in the context of local transport strategy roles.

Please specify whether your response relates to your role as a direct passenger rail service provider, or Mayoral Combined Authority, Local Transport Authority, Corporate Joint Committee or Regional Transport Partnership responsibilities or both.

## 9. Annex D: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator

Department for Transport

Zone 1/29 Great Minster House

London SW1P 4DR

Email [consultation@dft.gsi.gov.uk](mailto:consultation@dft.gsi.gov.uk)