

Management of Congested Infrastructure

Seilwaith Amey Cymru / Amey Infrastructure Wales Limited



Code of Practice

Draft Version 1

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Section 1 - Introduction

1.1 The purpose of this Code of Practice

This Code of Practice sets out the principles and procedures that Seilwaith Amey Cymru / Amey Infrastructure Wales Limited (AIW) will follow in identifying and managing Congested Infrastructure on the Core Valley Lines (CVL) Network.

The legal requirement for management of Congested Infrastructure is set out in the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (The 2016 Regulations). Specifically, the areas relating to Congested Infrastructure are:

- Regulation 23 – Scheduling and co-ordination
- Regulation 24 - Ad hoc requests
- Regulation 26 - Congested infrastructure
- Regulation 27 - Capacity analysis
- Regulation 28 - Capacity enhancement plan

1.2 Compliance with this Code of Practice

This Code of Practice applies to all AIW employees and its agents, particularly those dealing with capacity planning and timetabling processes. The Code of Practice will be publicised internally to all employees, and externally on AIW's website at the following link:

<https://tfwrail.wales/about-us/metro/core-valley-lines-infrastructure-manager>.

1.3 Review of this Code of Practice

AIW will review the application of this Code of Practice each year and propose any changes it believes are necessary to achieve the purpose of the Code of Practice. AIW will consult with stakeholders on any proposed changes to the Code of Practice.

1.4 Queries and comments

Comments on the content and application of this Code of Practice are welcome at any time. Comments can be sent to:

Nick Rowe

Rheolwr Rheoleiddio a Chysylltiadau Cwsmeriaid / Regulatory & Customer Manager

Seilwaith Amey Cymru / Amey Infrastructure Wales Limited

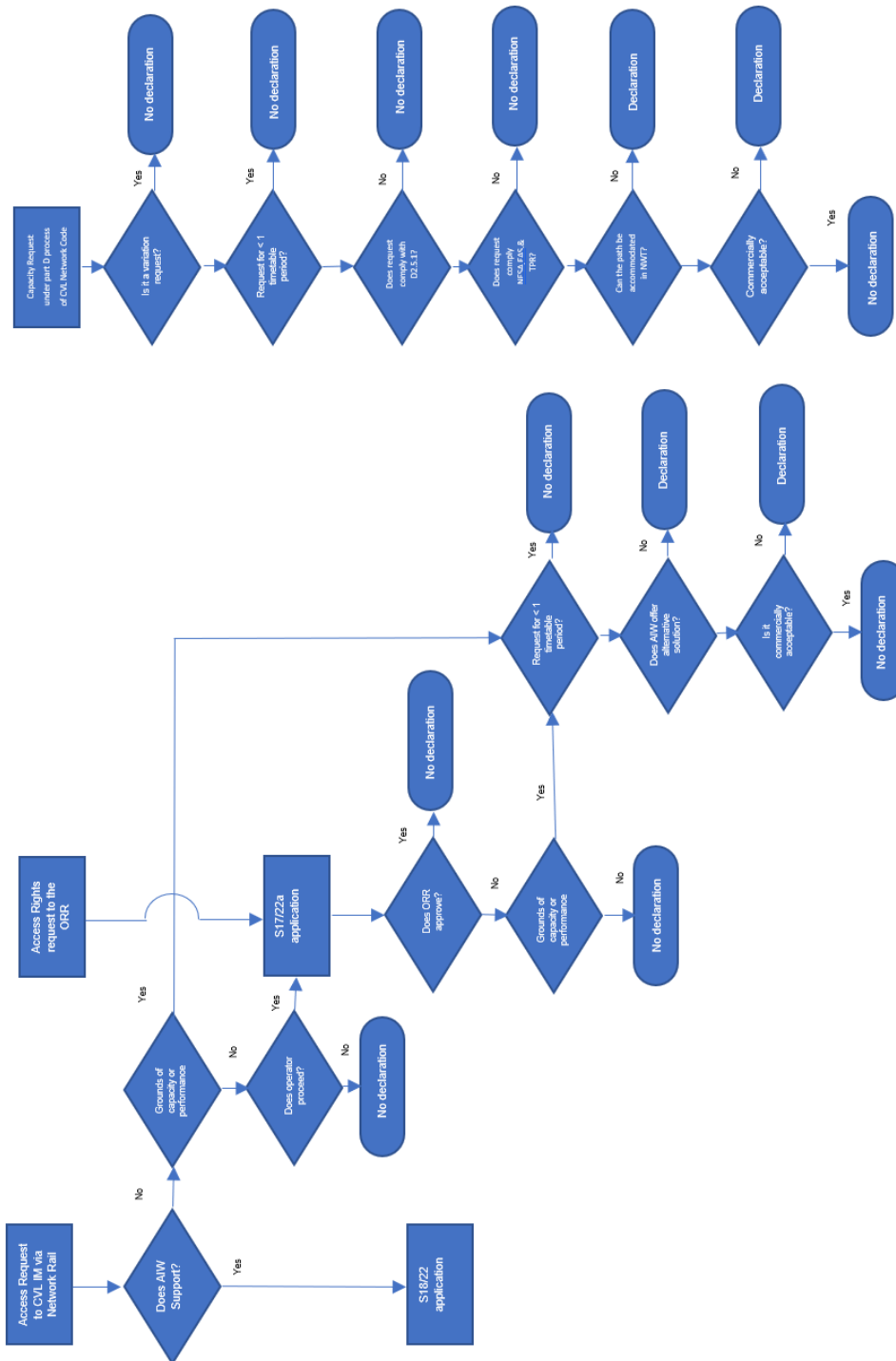
Trafnidiaeth Cymru / Transport for Wales Infrastructure Hub,

Trefforest Industrial Estate,

Pontypridd CF37 5UT

Email: CVLTrackAccess@amey.co.uk

Indicative flowchart to accompany Section 3



Section 2 - Recognising the needs of Stakeholders

2.1 AIW's obligations to stakeholders

This Code of Practice outlines the process which AIW (as the operator of the CVL network) will adopt to:

- a) Identify and declare areas of congested infrastructure on the CVL Network
- b) Undertake capacity analysis and produce a capacity enhancement plan
- c) Allocate or ration the use of congested infrastructure
- d) Revoke declarations when appropriate

This Code of Practice does not change the existing CVL processes for the award of access rights, nor the timetabling process set out in Part D of the CVL Network Code.

2.2 Particular needs of stakeholders

Stakeholders have sought clarification of how the Regulations relating to congested infrastructure are implemented on the railway network in Great Britain. The regulations have some clearly mandatory elements, but other elements are open to interpretation and there are some areas (such as revocation of a declaration) where they are largely silent.

AIW intends to meet the needs of its stakeholders by adopting a process that will set out transparent, consistent, unambiguous answers to the questions of interpretation and application of the Regulations relating to congested infrastructure.

Section 3 - Congested infrastructure

3.1 Principles for the identification of congested infrastructure

3.1.1 Regulation 26 sets out circumstances where AIW must make a declaration of congestion. These are:

(a) Where, after co-ordination of requests for capacity, it is not possible to satisfy all those requests adequately; or

(b) Where, during timetable preparation, AIW considers that an element of the infrastructure is likely to become congested during the next timetable period.

3.1.2 The following sections 3.2 to 3.4 set out the way AIW will interpret and apply these requirements. For ease of reference the process is shown in a flowchart on page 5. The flowchart is indicative, not definitive; the conditions to be applied are described in full in the text in this section 3.

3.2 Identification of congested infrastructure arising from an application for new or amended access rights

3.2.1 AIW may declare congested infrastructure if:

(a) AIW decides not to support a reasonable and credible access application (in accordance with its Stakeholder Relations Code of Practice) on the grounds of capacity and/or CVL Network performance.

(b) ORR rejects an access application on the grounds of capacity and/or CVL Network performance. In this case the declaration will be made regardless of whether AIW supported the access application; or

(c) Network Rail considers that it is likely that one or both of the circumstances described in (a) and (b) above will occur in the next timetable year, i.e., before the December after next.

3.2.2 The circumstances in 3.2.1 include consideration of CVL Network performance impact, i.e., the expected increase in *reactionary* delay arising from the proposed additional/changed service(s). A proposal which is not supported by AIW and/or ORR solely because of concerns about the *primary* delay it will cause (for example, because of rolling stock known to be unreliable) would not lead to a declaration of congested infrastructure.

3.2.3 AIW will not usually declare congested infrastructure if the application that cannot be satisfied adequately is for a duration of less than one timetable period as defined in section D2.1.6 of the CVL Network Code.

3.2.4 AIW considers that a request for capacity has been adequately satisfied when the proposal offered in response to the request is still commercially acceptable to the operator.

3.2.5 Commercial acceptability is for the applicant to judge. In order to know whether it can provide a commercially acceptable proposal without wasting time on repeated offers, AIW needs help from the applicant to understand the ‘tipping point’ that would make the access rights acceptable or not (e.g., the time limit that would trigger an additional resource diagram, or the effect of different days run). AIW does not require commercially confidential information for this purpose.

3.2.6 In identifying what parts of the infrastructure it should declare to be congested, AIW will consider the service pattern, infrastructure and any relevant contractual constraints that are preventing the request from being met adequately.

3.3 Co-ordination of requests for capacity made through Part D of the CVL Network Code

3.3.1 In the event of conflict between different requests for infrastructure capacity while preparing the next working timetable, AIW is required under Regulation 23 to consult the applicants and co-ordinate requests to attempt to ensure the best possible matching of all requirements. This obligation is discharged during the timetable preparation period.

3.3.2 The co-ordination obligations in Regulation 23 could involve industry parties in significant cost, so this Code identifies a limit on what is reasonable.

3.3.3 If a request for capacity conflicts with others, then AIW will attempt to resolve each separate conflict it identifies.

3.3.4 In attempting to resolve the conflicts, AIW will consider the retiming of other train paths in addition to those involved in the conflict, exercising its flexing right, having due regard to the decision criteria, and attempting to meet the ‘commercial acceptability’ test (as described in section 3.4.3 of this Code) for each service.

3.3.5 In respect of each specific conflict identified, if all the requests for capacity cannot be satisfied adequately when at least 3 other trains (not directly involved in the conflict) have been retimed, then AIW will consider rejecting one or more of the requests, in accordance with the CVL Network Code, and declaring congested infrastructure.

3.3.6 This approach inevitably involves an arbitrary number, but such a number is required to balance the need for a minimum quantity of exploratory retiming activity before a declaration is made, with the need to limit the potentially endless amount of such work that AIW could undertake in each timetable cycle.

3.4 Identification of congested infrastructure arising from a request for capacity through Part D of the CVL Network Code

3.4.1 AIW may declare congested infrastructure if:

- (a) AIW, after co-ordination in accordance with Regulation 23, is unable adequately to satisfy all requests for capacity, subject to the provisions in sections 3.3 and 3.4 of this Code; or
- (b) AIW considers that it is likely that the circumstance described in (a) above will occur within the next timetable year, i.e. before the December after next.

3.4.2 AIW considers that adequate satisfaction of a request for capacity is when the response to the request is (a) within the parameters of the request or applicable flexing right; or (b) outside the parameters of the request but still commercially acceptable to the operator.

3.4.3 Commercial acceptability is for the applicant to judge. In order to know whether it can provide a commercially acceptable proposal without wasting time on repeated offers, AIW needs help from the applicant to understand the ‘tipping point’ that would make the response acceptable or not (e.g., the time limit that would trigger an additional resource diagram, or the effect of different days run). AIW does not require commercially confidential information for this purpose.

3.4.4 Capacity constraints may exist off the CVL Network; on connected facilities or on infrastructure controlled by other infrastructure managers. In the case of connected facilities, the freight model access contract requires an operator to have suitable access in place on any connected facility prior to any associated bid for access on the CVL Network. In respect of Network Rail, they are leading the industry development of a framework for the consideration of congested infrastructure across network boundaries. AIW will work with Network Rail and the ORR to help develop this framework.

3.4.5 AIW will not usually declare congested infrastructure if the request that cannot be satisfied adequately falls into one of the following categories:

- (a) The application is for a duration of less than one timetable period as defined in section D2.1.6 of the CVL Network Code. This is so that a declaration is not made where there is not an ongoing requirement for access.

(b) The application is incomplete according to the requirements of section D2.5.1 of the CVL Network Code. An incomplete application would not provide sufficient information for AIW to assess whether the infrastructure is congested.

(c) The application is not compliant with the relevant NESAs, EAS and/or TPRs, except where TPRs relate to CVL Network capacity e.g., headway or margin against other services. This is so that a declaration is not made in response to applications that are (e.g.) outside the available times of operation.

(d) The application is a train operator variation request as defined in section D3.3.1 of the CVL Network Code. This constitutes an amendment to the working timetable, so AIW does not have an opportunity to co-ordinate requests and decide whether a declaration would be appropriate.

(e) The application is in response to a CVL IM variation as defined in section D3.1.2 of the CVL Network Code. This also constitutes an amendment to the working timetable.

3.4.6 AIW will consider rejection of its own services on the same basis as rejections of requests from applicants: it could be appropriate to declare congested infrastructure if path requests to fulfil AIW's network licence obligations cannot be satisfied adequately.

3.4.7 In identifying what parts of the infrastructure it should declare to be congested, AIW will consider the service pattern, infrastructure and any relevant contractual constraints that are preventing the access request(s) from being met adequately.

3.5 Declaration of congested infrastructure

3.5.1 When AIW decides, in accordance with the principles set out above, to make a declaration of congested infrastructure, it will advise stakeholders as soon as is practical, and before the relevant timetable change date.

3.5.2 The advice will include a brief description of the circumstances that gave rise to the declaration, the specific geographical limits of the affected infrastructure, the date on which the declaration was made and the date from which the congested status applies (which would normally be the relevant timetable change date). It will also include commentary on the availability of strategic capacity on the affected infrastructure for ad hoc requests under Regulation 24.

3.5.3 The details of each declaration as listed in section 3.5.2 will also be published, by AIW.

3.6 Capacity analysis

3.6.1 Regulation 27 sets out requirements for the capacity analysis.

3.6.2 The analysis must identify the reasons for the congestion, considering:

- (a) characteristics of the infrastructure.
- (b) operating procedures; and
- (c) characteristics of the train services.

3.6.3 The analysis must also consider measures to alleviate congestion, including:

- (a) re-routing of services.
- (b) re-timing of services.
- (c) alterations to the speed of trains within current infrastructure capability;
and
- (d) infrastructure improvements.

3.6.4 In considering these potential measures, AIW will include potential changes to the TPRs (constrained by the technical capability of the infrastructure), and radical diversions and/or service pattern alterations unconstrained by existing contracts. The analysis will not necessarily be limited to the infrastructure that was subject to the declaration of congestion; other infrastructure may be included where relevant. The analysis will include comment on the consequences of the potential measures for the availability of strategic capacity for ad hoc requests under Regulation 24.

3.6.5 AIW will produce a capacity analysis report in consultation with the Secretary of State for Transport and the Welsh Ministers.

3.6.6 AIW will make the findings of the analysis available to the following parties in accordance with Regulation 26(3)

- (a) existing users of that railway infrastructure.
- (b) new applicants for infrastructure capacity which includes that element of the railway infrastructure which has been declared to be congested.
- (c) the Office of Rail and Road.
- (d) the Secretary of State; and
- (e) the Welsh Ministers.

3.7 Capacity enhancement plan

3.7.1 Regulation 28 sets out requirements for the capacity enhancement plan.

The plan must identify:

- (a) Reasons for the congestion.
- (b) The likely future development of traffic.
- (c) Constraints on infrastructure development.
- (d) Options for and costs of enhancing capacity, including the potential effect on charges.
- (e) Details of the action to be taken to enhance the capacity of the congested infrastructure (following cost benefit analysis); and
- (f) A timetable for completion of the detailed measures identified.

3.7.2 The Capacity Enhancement Plan must be published no later than 6 months after completion of the capacity analysis as detailed in Regulation 27.

3.7.3 AIW will produce a capacity enhancement plan in consultation with stakeholders, referencing other published strategies where these exist and are appropriate in order to minimise duplication. The plan cannot commit any funder to any investment. In addition it should be noted that AIW is not funded for enhancements of the CVL Network. In the event that a capacity enhancement plan was produced which highlighted the need for enhancements the matter would be referred to TfW in their role as owner and investor for the CVL network

3.7.4 The plan will not necessarily be limited to the geography that was subject to the declaration of congestion; other infrastructure may be included where relevant.

3.7.5 A draft of this document will be shared with the Secretary of State and the Welsh Ministers no later than 9 months after the date on which the declaration of congestion was made, for their approval. This is two months earlier than the requirement of Regulation 28, at the request of the Secretary of State.

3.7.6 The Capacity Enhancement Plan will be provided to the parties consulted under Regulation 26(3) no later than 12 months after the date on which the declaration of congested infrastructure was made, regardless of whether Ministerial approval has been received.

3.8 Capacity allocation on congested infrastructure

3.8.1 Regulation 26 permits priority criteria to be set by AIW for the allocation of capacity on congested infrastructure. These must:

- (a) take account of the importance of a service to society, relative to any other service which will consequently be excluded; and
- (b) ensure that freight services, and in particular international freight services, are given adequate consideration in the determination of those criteria.

3.8.2 Section D4 of the CVL Network Code sets out the processes that AIW will follow and the factors that it will consider in making decisions on the priorities for the allocation of scarce capacity; on congested infrastructure these will be applied with regard for the requirements of the regulations.

3.9 Supplementary access charges on congested infrastructure

3.9.1 Schedule 3 of the Regulations permits a scarcity charge to be levied for the use of congested infrastructure, where this charge has been set out in the applicable CVL Network Statement.

3.9.2 AIW does not intend to levy such a charge before 1 April 2024 at which point new charges will be set for the next five years.

3.10 Revocation of a declaration

3.10.1 If during the course of the working timetable period to which the declaration of congested infrastructure relates, but before the completion of the capacity analysis, the congestion is resolved, AIW may revoke the declaration of congested infrastructure. Where a revocation is made AIW must inform the persons described in paragraph 3.6.6 (of this code) that the declaration has been revoked.

3.10.2 During the initial consultation period in respect of each timetable change date, AIW will review each section of the infrastructure where a declaration of congested infrastructure has been made and not revoked, considering whether, for the period to which the timetable will apply, there is likely to be a material change to either:

- (a) the supply of infrastructure capacity; and/or
- (b) the demand for the use of infrastructure capacity.

3.10.3 If AIW considers that there is likely to be such a material change, then AIW will write to timetable participants during the initial consultation period so that any access proposals they submit at or after the priority date can be made with knowledge of this likely material change. Then, either:

(a) Where the relevant declaration of congested infrastructure was made in response to an application for additional or amended access rights, AIW will review during the timetable preparation period whether, in the period to which the timetable will apply, the infrastructure is likely to remain congested according to the principles set out in section 3.1 of this Code; or

(b) Where the relevant declaration of congested infrastructure was made in response to a request for additional or amended capacity through Part D of the CVL Network Code, AIW will review during the timetable preparation period whether, in the period to which the timetable will apply, the infrastructure is likely to remain congested according to the principles set out in section 3.2 of this Code.

3.10.4 If these reviews find that there has been a material change to the supply of and/or the demand for infrastructure capacity, and that the infrastructure is not likely to remain congested, then:

(a) AIW will advise stakeholders of its intention to revoke the declaration with effect from the relevant timetable change date.

(b) Subject to appropriate consideration of any representations received within the five working days after this advice is given, AIW will confirm the revocation to stakeholders before the relevant timetable change date.

Glossary:

Congested infrastructure	Infrastructure declared congested under Regulation 26 where the declaration has not been revoked
Decision criteria	The criteria set out in section D4.6 of the CVL Network Code
EAS	Engineering Access Statement
Initial consultation period	The period for consultation concerning a new timetable as defined in section D2.3.3 of the CVL Network
NESA	National Electronic Sectional Appendix
CVL IM variation	A proposal to vary the timetable after the timetable preparation period, as defined in section D3.1.2 of the CVL Network Code
ORR	Office of Rail and Road
Priority date	The date, 40 weeks before the commencement of the relevant timetable, by which operators should submit their access proposals, as defined in section D2.4.4 of the CVL Network Code
Regulation(s)	The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 as amended from time to time
Timetable change date	A date for the implementation of timetable changes as defined in section D2.1.3 of the CVL Network Code
Timetable period	The period between timetable change dates as defined in section D2.1.6 of the CVL Network Code
Timetable preparation period	The period for compilation of a new timetable as defined in section D2.6.1 of the CVL Network Code
TPRs	Timetable Planning Rules
Train operator variation request	A proposal to vary the timetable after the timetable preparation period, as defined in section D3.3.1 of the CVL Network Code