



West Coast Railway Company Limited  
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LA5 9UR

Paul McMahon  
Director, Freight  
Network Rail  
One Eversholt Street  
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NW1 2DN

1<sup>st</sup> April 2015

## **Urgent: Attention The Company Secretary**

**cc: The Managing Director**

### **Suspension Notice 1 April 2015**

This letter constitutes a Suspension Notice following a Train Operator Event of Default as described in Schedule 6 of the following Track Access Contracts:

Track Access Contract (Charter Passenger Services) dated 30 August 2009 between Network Rail Infrastructure Limited and West Coast Railway Company Limited;

Track Access Contract (Freight Services) dated 6 April 2011 between Network Rail Infrastructure Limited and West Coast Railway Company Limited.

As you are aware, Network Rail is entitled to issue a Suspension Notice on West Coast Railway Company Limited (WCR) for various grounds, including:

1. Any breach by the Train Operator of this contract, its Safety Obligations or any of the Collateral Agreements; or
2. Any event or circumstance which is reasonably likely to result in any such breach, which, by itself or taken together with any other such breach, event or circumstance, Network Rail reasonably considers constitutes a threat to the safe operation of any part of the Network.

Network Rail believes that an Event of Default has occurred because a breach of the Safety Obligations has already taken place or, in the alternative, is reasonably likely to take place. You are aware that Network Rail has had concerns about WCR's performance of its Safety Obligations for some time and recent events lead Network Rail to believe that the operations of WCR are a threat to the safe operation of the railway. Specifically:

- WCR's senior management response to the recent SPAD at SN45. This ranked as the most serious SPAD that has taken place this year when the industry risk ranking methodology was applied;
- The response by the senior management of WCR to the issues raised in the meeting of 30 March 2015, where WCR demonstrated that its controls, communication and commitment following the recent SPAD were inadequate;

Network Rail also has serious concerns about the fact that WCR unilaterally suspended the response to Network Rail's review of WCR's Safety Management System undertaken in January 2015. The review raised some serious and significant issues and there was no communication with Network Rail to explain that the response was being suspended

This Suspension Notice will take effect from 00.00 on Friday 3<sup>rd</sup> April 2015.

The restriction imposed on WCR while this Suspension Notice is in force is that no Services may operate on any Routes.

Network Rail considers that the Event of Default is capable of remedy. Network Rail considers that the steps required to remedy the Event of Default are:

1. Introduce an effective, risk-based driver monitoring regime that includes proactively using analysis of On Train Data Recorder downloads for a representative and sufficient sample of diagrams;
2. Demonstrate there is in place an effective and secure system of tamper-evident seals for train protection isolator cocks on all relevant traction;
3. Implement arrangements to accurately record, monitor and manage all train protection activations (including Automatic Warning System and Train Protection and Warning System), and provide clear instructions to all train crew, including support crew, on the actions expected of them report and respond to train protection activation;
4. Establish a time-bound plan to recommence and complete implementation of the actions arising from Network Rail's review of WCR's Safety Management System in January 2015;
5. Review and implement appropriate changes to company processes to be able to demonstrate that all safety and operational information is received and positively acknowledged by train drivers;
6. Demonstrate by independent assurance that there is an effective system for managing access to traction footplates/cabs in traffic, with clear communication protocols; and
7. Clarify the safety accountabilities for each Director and independently review the effectiveness of the company's safety assurance and governance arrangements to demonstrate that those accountabilities are discharged.

NR requires the following timescales to be met for the actions identified above:

1. Action 1-5 inclusive should be completed by 15 May 2015; and.
2. Material demonstrable progress towards the completion of actions 6 and 7 must also be achieved by 15 May 2015.

Should these actions be achieved within these timescales to the reasonable satisfaction of Network Rail then the Suspension Notice will be withdrawn.

The service of this Suspension Notice shall not affect WCR's continuing obligation to pay the Track Charges; nor shall it affect WCR's rights (as defined in Schedule 5) for the purpose of making a Train Operator Variation Request.

Yours faithfully



**Paul McMahon**  
**Director, Freight**