Guidance to applicants and members of Standards Committee on deviation applications

The table below provides a summary of the guidance. The responsibilities are discussed in detail in the main body of the document.

1. Applying for a deviation

   a. The applicant is responsible for identifying the alternative provisions to the requirement(s) in a RGS and assessing through a suitable process, their predicted impacts on safety and technical compatibility. The Common Safety Method on Risk Evaluation and Assessment (CSM on REA) is a suitable risk management process.

   b. The applicant is responsible for identifying parties who are likely to be affected by the implementation of the proposed alternative provisions and carrying out consultation with them. Consultation allows the applicant to:
      - Inform affected parties of the intention to adopt alternative provisions in place of the RGS requirement(s).
      - Seek confirmation that the proposed alternative provisions are reasonable, in particular in terms of safety and technical compatibility.
      - Amend the proposed alternative provisions to reflect the outcome of consultation.

   c. The applicant applies for a deviation against the RGS requirement(s). The application needs to contain sufficient information for members of the Standards Committee(s) to understand:
      - The scope of the deviation and any limitations on its duration.
      - The proposed alternative provisions.
      - Why the proposed alternative provisions are reasonable, in particular why they are capable of being safe once implemented and that they do not jeopardise the long-term best interest of the mainline railway system as a whole.

2. Deciding whether to approve the application for deviation

   a. The members of Standards Committee(s) need to decide if the application is sufficiently complete to allow them to consider it.

   b. The members of Standards Committee(s) have to be convinced that the applicant has used a suitable process to decide that their proposed alternative provisions are capable of meeting the "essential requirements" (safety, reliability and availability, health, environmental protection and compatibility).

   c. The members of Standards Committee(s) also have to be convinced that the alternative provisions do not jeopardise the long-term best interests of the railway system as a whole. This means considering whether the immediate and local benefit (due to the deviation) is worth the cost and impact of increased diversity and possible constraints on the future operation of the railway system.

3. Implementing the approved deviation

   a. Once the deviation has been approved, the applicant is responsible for:
      - Informing the parties who are likely to affected by the deviation, that it has been authorised.
      - Implementing the alternative provisions safely.
      - Checking that the alternative provisions actually meet the essential requirements and achieve their intention.

4. Maintaining the suitability of the alternative provisions

   a. Once the alternative provisions and the associated change are in place, the applicant is responsible for ensuring that the alternative provisions continue to meet the essential requirements.

Links to the CSM on REA and other documents referenced in this guidance are provided in section 4 at the end of the document.
1 Introduction

The Railway Group Standards (RGS) Code (the Code) defines a deviation as follows:

‘A deviation is a permission to comply with a specified alternative to a requirement or requirements in circumstances where it is not appropriate to change the relevant RGS. A deviation has a specified scope, and where relevant, duration.’

A deviation is not a permission not to comply with a requirement in an RGS. It is a permission to comply with a specific alternative to a requirement in an RGS. For the purposes of this document, the specified alternative(s) are referred to as the ‘alternative provisions’. The same term is used in the form for applying for a deviation from an RGS.

The key stakeholders in the application and consideration of deviations are:

- The applicant, who is applying for a deviation from a requirement in an RGS.
- The affected parties, who must be consulted by the applicant.
- The members of Standards Committee(s), who decide whether to approve applications for deviations using the decision taking principles which are set out in the section 5 of the Code and section 11 of the Standards Manual (the Manual).

The following section provides guidance, highlighting the main responsibilities and considerations for the applicant and the members of Standards Committee(s) in the deviation process.

2 Applying for a deviation – the applicant

2.1 Key steps and activities for the applicant

The applicant is responsible for the following activities at this stage:

A. IDENTIFYING THE NEED TO DEVIATE UNDER SPECIFIC CONDITIONS

1. Identify why it is not reasonable, in particular circumstances, to comply with the existing requirement on either a temporary or a permanent basis. A deviation is therefore required.

B. IDENTIFYING REASONABLE ALTERNATIVE PROVISIONS

2. Identify the scope of the deviation application.
3. Identify the alternative provisions.
4. Identify any limitations on its duration, if appropriate.

C. DEMONSTRATING REASONABLENESS

5. Conduct consultation with all affected parties.
6. Demonstrate why the proposed alternative provisions are reasonable, including suitable and sufficient supporting analysis and results of consultation with affected parties.

D. DOCUMENTING THE EVIDENCE

7. Prepare the application and document the evidence of reasonableness collected at previous steps

E. SUBMITTING THE APPLICATION
2.2 Demonstrating that the proposed alternative provisions are reasonable

When submitting a deviation application, the applicant will have to satisfy the members of the relevant Standards Committee(s) that the proposed alternative provisions are capable of meeting the essential requirements of the railway system and its subsystems.

The Railway Interoperability Directive (2008/57/EC) sets out the essential requirements to be met, which cover safety, reliability and availability, health, environmental protection and compatibility (technical and operational).

In order to determine whether the alternative provisions are reasonable, the applicant should assess as a minimum their impact on safety and compatibility (technical and operational) of the railway system as a whole.

A deviation application is a proposed change to the railway system. The applicant should use a suitable and sufficient process for managing the risks arising from complying with the alternative provisions.

The Common Safety Method on risk evaluation and assessment (the CSM on REA) defines a common European risk management process for the rail industry. The law requires the CSM on REA to be applied if the ‘technical’ (engineering), operational and/or organisational change being introduced is considered significant. However, even if the change is not significant, the CSM on REA provides a suitable and sufficient risk management process\(^1\) for specifying and demonstrating compliance with acceptable safety levels\(^2\).

The Office of Rail Regulation (ORR) has produced guidance on the application of the CSM on REA.

The applicant is also responsible for assessing and specifying the local operational, technical and environmental conditions under which the alternative provisions will be complied with, and the assumptions which determine the limits for the risk assessment.

The CSM on REA places the responsibility on the proposer of the change (the deviation applicant) for coordinating the management of shared risks with other affected parties. Consulting affected parties allows identification of shared risks and agreement of the way to control them. As a result of consultation, the applicant may revise the alternative provisions that were originally proposed to be implemented in place of the RGS requirement(s) and the affected parties may agree to implement alternative measures in order to control the shared risks. The CSM on REA sets out a risk management process to identify and classify the hazards, to assess the risk and to demonstrate that the risk introduced by the implementation of the alternative provisions is acceptable.

2.3 Submitting the application

Applications for deviations are submitted on the deviation application form which is published by RSSB. The evidence associated with the key activities of the applicant, which are set out in section two should be included as part of the application.

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1 In this case, the proposer of the change (the applicant for a deviation) should still apply the risk management process set out in the CSM on REA but formal independent assessment is not required by an Assessment Body.

2 The Risk Acceptance Principles in the CSM on REA are ‘Application of codes of practice’, ‘Comparison with similar systems’ and ‘Explicit risk estimation’. For more details please see the ORR guidance on CSM on REA. In most cases, in GB, the criterion applied for ‘explicit risk estimation’ will be one derived through the application of the principles of reducing risk to a level that is as low as is reasonably practicable (ALARP). This is often expressed as ensuring safety ‘so far as is reasonably practicable’ (SFAIRP).
The application should be supported by the individual who has professional responsibility for the subject area concerned within the organisation that has to comply with, or may be expect to comply with, the RGS. The individual should also have the authority to make commitments on behalf of that organisation in respect of issues related to the requirements in the RGS from which they wish to deviate.

3 Deciding whether to approve the application for a deviation – Members of Standards Committee(s)

The members of Standards Committee(s) have two main responsibilities:

- Deciding whether the application is complete.
- Deciding whether or not to approve the deviation application using the decision taking principles set out in the Code and the Manual.

3.1 Deciding whether the application is complete

The members of Standards Committee(s) decide whether the information and evidence, put forward by the applicant, is sufficient and suitable enough to allow them to make an informed decision on whether to consider and approve the deviation application. This includes assessing whether the candidate has provided the evidence associated with activities highlighted in section two, and whether that evidence is enough to make a decision using the decision taking principles set out in the Code and the Manual.

If the information provided is not deemed to be sufficient and/or suitable, the members of Standards Committee(s) can request more information and can defer the decision until suitable information is provided as necessary.

3.2 Deciding whether to approve the application

The members of Standards Committee(s) take decisions on whether to approve the deviation application based on the decision taking principles set out in the Code and the Manual. The members of Standards Committee(s) shall only approve solutions which:

- Enable the railway system and its subsystems to meet the essential requirements, and
- Promote the long-term best interests of the mainline railway system as a whole

3.2.1 Enabling the railway system and its subsystems to meet the essential requirements

For a deviation application to align with this decision taking principle, the members of Standards Committee(s) have to be convinced that the alternative provisions are capable of meeting the essential requirements of the rail system and its subsystems.

In particular, the process and evidence supporting the application should have demonstrated that the alternative provisions have adequately accounted for:

- The local specificities (technical, operational and environmental conditions) of where the alternative provisions are to be applied.
- The scope and scale of the impact of the introduction of the deviation, locally as well as on the whole railway system.
Therefore the key question for the members of Standards Committee(s) to consider is:

**Has the applicant undertaken suitable and sufficient analysis to demonstrate that the alternative provisions are capable of meeting the essential requirements?**

### 3.2.2 Promoting the long-term best interests of the mainline railway system as a whole

Deviations by their very nature increase the diversity within the railway system, and could potentially constrain or be detrimental to future or current compatibility and developments on the railway system. However, deviations allow for local benefits to be realised and may be required for testing novel systems, which can open up potential benefits in the future.

Before taking a decision to approve the deviation, the members of Standards Committee(s) have to be convinced that the alternative provisions do not put undue constraints and restrictions on the mainline railway system as a whole.

Therefore the key question for the members of Standards Committee(s) to consider is:

**Is the immediate and local benefit (due to the deviation) worth the cost and impact of increased diversity and possible constraints on the future operation of the railway system as a whole?**

When considering this trade-off, the members of Standards Committee(s) should consider the following:

- **The scope of the local diversity being introduced:**
  - Does it apply to one component or a range of components?
  - Does it apply to a small or large part of the rail system or operating environment?
  - Is the diversity being introduced on a temporary or permanent basis?

- **The scale of the impact of the local diversity being introduced:**
  - Does it constrain the compatibility of the whole sub-system or a small part of the sub-system?
  - What is the impact of implementing the alternative provisions in terms of overcoming the diversity introduced by these alternative provisions when compatibility has to be established in the future?
  - Is it reversible, and what is the cost of reversibility?

The members of the Standards Committee(s) make a judgement on the trade-off between the local benefit and the potential future constraints, on the basis of their expertise, experience and professional judgement. They make the decision on the information available and known at the time when the deviation application is made.

### 3.3 Approving the application for a deviation

The members of the Standards Committee(s) should only approve a deviation application if they are satisfied that it meets the decision taking principles set out in the Code and the Manual.

Before approving the application, the members of Standards Committee(s) need to have assured themselves (based on the evidence provided by the applicant) that the alternative provisions are capable of meeting the essential requirements and are in the best long-term interests of the railway system as a whole. If they are satisfied that the alternative provisions meet both these decision taking principles, they may approve the deviation application.
4 Links to documents referenced in this guidance

- The Common Safety Method on risk evaluation and assessment (the CSM on REA)

- The Office of Rail Regulation guidance on the application of the CSM on REA

- The RGS Code (the Code) and the Standards Manual (the Manual)
  http://www.rgsonline.co.uk/General_Documents/RGS_Code_and_relevant_strategies/RGSC02%20Iss%203.pdf

- Deviation application form
  http://www.rssb.co.uk/SiteCollectionDocuments/pdf/rgs/deviations/Deviation_Form.doc