

Stephanie Tobyn
Director, Economics, Markets and Strategy



Wendy Morton - Minister of State for Transport
House of Commons
London
SW1A 0AA

Jennifer Gilruth - Minister for Transport
The Scottish Government
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

09 June 2022

Dear Wendy Morton and Jennifer Gilruth,

Review Initiation Notice pursuant to Schedule 4A of the Railways Act 1993

In accordance with the provisions of Paragraph 1C of Schedule 4A to the Railways Act 1993, we have today issued Review Initiation Notices relating to our 2023 periodic review (PR23) of Network Rail, which sets out our proposal to commence formally and legally the periodic review (or 'access charges review').

As part of this, we set out the dates by which we require the Secretary of State for Transport and Scottish Ministers to submit (separately) their High-Level Output Specification (HLOS) and the Statement of Funds Available (SoFA) documents.

This letter gives the context for these Review Initiation Notices, including our work to help support timely delivery of funders' HLOS and SoFA documents.

Submission dates for funders' HLOS and SoFA documents

As you are aware, the HLOS document will set out what the respective funder's objectives are and what it wants the railway to deliver over control period 7 (or CP7), which will run for five years from 1 April 2024. The SoFA sets out the level of funding the funder will make available to deliver the corresponding HLOS.

For PR23, we are serving two different notices, one to the Secretary of State and one to Scottish Ministers, reflecting that we have agreed that they will submit their respective HLOS and SoFA documents on different dates. In order to complete our periodic review by the statutory deadlines (including to ensure appropriate funding is in place for Network Rail for CP7), we require that:

- the Secretary of State provides us with his HLOS and SoFA documents by **28 October 2022**; and
- Scottish Ministers provide us with their HLOS and SoFA documents by **30 November 2022**.

This is a different approach from previous periodic reviews where we served a single notice, with one date, for both funders' HLOS and SoFA documents. By issuing two notices in PR23, we are seeking to reflect that the Secretary of State's SoFA is a key input into Scottish Ministers' SoFA, which would make it difficult for the documents to be finalised at the same time.

For the avoidance of doubt, however, we will continue to set a single determination. This reflects the fact that Network Rail is a single company (with two separate funders), consisting of Scotland and regions in England & Wales.

Timely development of the HLOS and SoFA documents

Receiving both funders' HLOS and SoFA documents in a timely manner is paramount to ensuring we can deliver (and implement) PR23 in a manner that aligns with our statutory obligation and timeline. This includes our important role in relation to securing an effective determination in the interests of taxpayers and users of the network.

Specifically, and as set out in more detail on our PR23 timeline, we require both funders' HLOS and SoFA documents in line within the timescales set out above so that:

- Network Rail can develop its Strategic Business Plan (SBP) and submit this to ORR by 24 February 2023. This will set out how Network Rail intends to meet funders' HLOS and, in the case of England & Wales, how it intends to apportion the funding to the regions;
- we are in a position to consult on our Draft Determination by mid-June 2023, which will seek stakeholders' views on our review of Network Rail's SBP, including the proposed funding and output decisions (plus related issues) for CP7;
- we issue our Final Determination by 31 October 2023 which, having consulted with stakeholders, will set out our decisions on Network Rail's delivery and funding for CP7; and
- we issue our review notice by December 2023 (and assuming that Network Rail does not object to the review notice), our subsequent notices of agreement and Review Implementation Notices which will give effect to the decisions made in time for CP7 to commence.

We appreciate the engagement we have had to date with both the DfT and Transport Scotland teams on PR23 (supported through our respective governance

arrangements) and consider that on-going engagement is likely to be crucial in helping us meet our respective milestones.

We also welcome the helpful joint discussions we have had with both funders and Network Rail to help address cross-cutting issues relevant to the development of the HLOS and SoFA documents. We will continue to facilitate these discussions, at least until the HLOS and SoFA documents have been issued.

Furthermore, please note that we have given the notices to the GBR transition team (GBR-TT). This reflects the expected transition from Network Rail to GBR and our approach of treating GBR-TT as 'such other persons as ORR considers appropriate' (in line with the provisions of paragraph 1 C(1)(e) of Schedule 4A to the Railways Act 1993).

Please do not hesitate to get in touch with me and/or the team (using the PR23 inbox address, PR23@orr.gov.uk) if you would like to discuss this further.

Yours sincerely

A handwritten signature in black ink that reads 'Stephanie Tobyn'.

Stephanie Tobyn

Enclosure: PR23 Timeline