

**Responses to PR23 policy framework consultations:**

**a) Policy consultation on outcomes, infrastructure performance and managing change; and**

**b) Technical consultation on the measures in our proposed CP7 outcomes framework**

[PR23 policy framework initial consultations | Office of Rail and Road \(orr.gov.uk\)](https://www.orr.gov.uk/pr23-policy-framework-initial-consultations)

<u>Abellio</u>	2
<u>Arriva UK Trains</u>	8
<u>DB Cargo (UK)</u>	14
<u>Eversholt Rail Limited</u>	18
<u>FirstGroup Rail</u>	22
<u>Freightliner</u>	26
<u>Govia Thameslink Railway (GTR)</u>	28
<u>Heathrow Airport Limited</u>	30
<u>Liverpool City Region Combined Authority (LCRCA)</u>	34
<u>McLachlan &amp; Tiffin</u>	39
<u>MTR Elizabeth Line (MTREL)</u>	40
<u>Network Rail</u>	47
<u>Northern Trains Limited</u>	58
<u>Rail Freight Group</u>	69
<u>Rail Partners</u>	75
<u>Rail Safety and Standards Board (RSSB)</u>	83
<u>ScotRail Trains Limited &amp; Scottish Rail Holdings</u>	90
<u>SE Trains Limited (South Eastern)</u>	93
<u>Tata Consultancy</u>	99
<u>Transport for London (TfL)</u>	101
<u>West Midlands Rail Executive (WMRE)</u>	106



## **Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### **About you**

Full name: David Hillhouse

Job title: UK Operations & Performance Manager

Organisation: Abellio

Email\*:

Telephone number\*:

*\*This information will not be published on our website.*

### **Chapter 3: How we will regulate the infrastructure manager**

We welcome views on this chapter’s proposed suite of tools to hold the infrastructure manager to account during the next control period.

**Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

Abellio is supportive of the proposed approach that will result in separate regions with a central systems operator. There are benefits which can be expected with this approach however there are some key considerations that must be outlined and enforced during CP7 to prevent breakdowns in inter-regional communication. The competition between regions should be encouraged however, not at the expense of overall customer experience. As Great British Railways comes online during the control period there will be an expectation that the ORR supports the industry as GBR balances the needs of both operator and infrastructure manager. The regional settlements, system operator and TOCs' objectives should all align to the benefit of the customer during CP7 and it will be the responsibility of ORR to provide an impartial mediation of the new added complexities.

**Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

Greater clarity is needed on the proposal as the regional and system operator responsibilities, expectations and performance criteria are defined going into CP7. Further clarity is required on the role of Great British Railways and how this will interact with Network Rail, the ORR and operators as it comes online during CP7.

## **Chapter 4: The role of stakeholders**

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

**Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?**

Abellio supports the proposed approach to stakeholder engagement within CP7 as outlined throughout the consultation presentation. To ensure the voice of the customer is being heard appropriately during the control period, regular and constructive dialogue should be a fundamental aspect of the contract. As we continue to build back better through the next control period the regional Network Rail operations should work collaboratively to deliver the programs of work required to support regional development and progression. Greater alignment of success measures should be embedded from the start of CP7 and be maintained throughout. There have been examples during the current control period where conflicting priorities have resulted in challenging situations where ultimately the customer's overall experience has suffered. The inclusion of Great British Railways (GBR) through this entire process is paramount of the success of any collective stakeholder engagement. The as yet unknown reach of the organisation needs to be included as a part of the collective as the ultimate goal of all organisations should be the provision of a railway that meets the expectations of our end users. The ORR's

overarching position should be used to maintain standards of excellence between the regions to ensure the best practices are holistic during the next control period during the transition to the GBR operating environment.

***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

Yes, the infrastructure manager should conduct surveys on its engagement during CP7 however this needs to be consistent and transparent. The surveys should be comparable throughout the control period and harmonised across the multiple regions. As Abellio operates across multiple regions there should be consistency and the ability to compare results across these regions.

The surveys should also link in with the planned roll out of the Rail Passenger Insight Survey to ensure both operator and infrastructure supplier are working towards delivering the best railway possible for customers. Failure to capture the customer and their perceptions through the control period will be a miss opportunity to better understand their needs not only at the country's major stations but also on the provision of the asset the operators utilise daily. As the financial model for operators in CP7 is fundamentally different from CP6 there needs to be a focused and targeted approach to meeting the needs of operators for the benefit of customers which should be captured in any new survey development.

## **Chapter 5: Monitoring and enforcement**

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

As outlined within the policy framework consultation there is mention to the proposed powers and reach of GBR when it comes online during CP7. The requirement of the new body to report transparently is welcomed to allow not only operators to scrutinise data but also ORR as we collectively aim to uphold the customer's rail experience during the next control period. Accountability when GBR comes online needs to be clearly defined as the ambiguity of another governing body presents opportunity for a lack of accountability to be built into the next control period that has to be avoided.

Abellio believes the ORR should continue to retain all its current enforcement powers and utilise those that may have not been often used during the current control period. More stringent management of the infrastructure, development and maintenance programs should be expected going into CP7 and the ORR should support the operators in holding both Network Rail and subsequently GBR to a

higher standard than has been permitted in CP6 as we aim to recover the railway to pre-pandemic levels. As the financial model for operators has fundamentally changed to reduce revenue risk and every period is now equally as value with the removal of moving annual averages the management of every period is equally critical to TOCs and this should be reflected in the management of Network Rail.

## **Chapter 6: Outcomes and monitoring performance**

We welcome views on the role of our outcomes framework.

***Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?***

With the end of franchising and the move to National Rail Contracts which have a fundamentally different remuneration structure compared to the previous arrangements, there is a need to update the structure and expectations of Network Rail to be more in line with these changes.

The current usage of scorecards to manage the performance needs to be expanded to better encapsulate the customer experience that is directly impacted by the activities of infrastructure management. This expansion needs to help drive the correct, progressive activities with the bonuses and financial incentives directly linked to the organisation's successes against these targets.

Scorecards that are currently part of the management of Network Rail need to be updated with greater emphasis on delivering infrastructure that meets the move from PPM to T-3 and all other changes currently being rolled out through the TOCs' new contracts. Targets for these new contracts need to be transparent and complimentary to any new TOC contract rather than the current position where targets are not aligned.

To better serve the customers all parts of the industry must be aiming to deliver the best railway possible which should be captured within the ORR's proposal to create a network wide performance target for Network Rail during CP7. As the majority of operators are now on National Rail Contracts which as stated above offer differing challenges to the old franchises there should be provision within the new structure of CP7 to adapt the framework in place to accept the planned move to Passenger Rail Services during the latter years of CP7.

The new targets set within any scorecard going forward should align with the six key NRC targets so both operator and infrastructure manager are collectively aiming for the same jointly agreed target. This will also simplify the negotiation phases within the NRC with the Department for Transport as jointly agreed targets would make setting of performance bandings easier.

To ensure the high performing railway all operators expect the contract and management of Network Rail through CP7 should always be aimed at optimal

infrastructure delivery for the benefit of the customers. The proposed tiered structure of the new regime is accepted as a more responsive approach to the overall challenge that will be faced by the industry during CP7. The input of operators during the setting of targets is an ideal opportunity to align the TOCs and Network Rail towards more representative goals while also supporting those organisations not yet on the new contractual model.

There is an opportunity to better embed the customer experience within the proposed new measures. As the Rail Customer Insight Survey comes online the major stations operated by Network Rail will once again play a fundamental role in the overall satisfaction of customers and will have a financial impact on the operators through the NRC. There should therefore be an equally weighted measurement for Network Rail during CP7 that encourages the infrastructure manager to operate these stations to the best of their abilities to deliver a greater experiential railway for customers. As this once again becomes a financial objective of the operators there should also be a measure of success imbued within Network Rail going into CP7 as they play a significant role in the overall delivery of an experiential railway.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

Abellio accepts the need for the regulator's approach to monitoring, reporting and escalation however, we would like greater clarity on certain aspects outlined in the consultation documentation. What powers are the ORR envisaging to have which would hold Network Rail or GBR to comply with enforcement orders? As stated above, the continued use of the Network Rail scorecards, which should be expanded, should be monitored more rigorously and regularly by the ORR to prevent any continued failures within regions or system operator continuing which in turn would lead to an impact on operators and customers.

We appreciate the need for financial penalties for continued failure however with the new remuneration model in the NRCs the failure of the infrastructure manager will have a significant impact on the operators. We would propose a remuneration mechanism that supports operators faced with an infrastructure supplier that is failing to meet the baselines and has had enforcements placed upon them by the regulator.

We would also support greater regulatory scrutiny on Network Rail and GBR during the delivery of enhancement works and renewals to ensure the industry is operating as efficiently as possible. Too often during the current control period have large renewals or investment programs did not achieve their targets or desired quality and as a direct result impacted significantly on operator and customer. The independent monitoring of the ORR should assist the industry in keeping control over major projects planned for CP7 and assist in the correction of these with early interventions. With the new NRC model and associated KPI set, Abellio would welcome the opportunity for greater collaboration during CP7 to prevent repetition of the challenges that have been faced during the current control period. Operators should be part of the cycle of monitoring and reporting as the measures set to outline

performance expectations of the infrastructure are designed to deliver the greatest customer experience.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

### ***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

Abellio accepts the proposed changes outlined within the policy documents as the principle of simplification is welcomed during the next control period. As the industry undergoes significant and prolonged change the agility needed to effectively manage change is needed to ensure customers are continually put at the forefront of decisions. All proposed changes put forward under the Managing Change Policy should be controlled by the regulator to ensure operators are appropriately represented throughout the process.

With the introduction of GBR during the next control period ORR must ensure the continuity of the services as it faces the currently unknown volume of change. This management of the change may require more robust and rigorous scrutiny from all those within the industry and this must be reflected in the updates to the proposed policy alterations so both TOC and FOC can input effectively.

### **Are there any other comments you would like to make?**

Click or tap here to enter text.

Thank you for taking the time to respond.



## Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: Craig Peters  
Job title: Strategy and Transformation  
Organisation: Arriva UK Trains  
Email\*:  
Telephone number\*:

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter’s proposed suite of tools to hold the infrastructure manager to account during the next control period.

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

Arriva UK Trains is supportive of the approach to create different settlements for each of Network Rail’s regions and a separate settlement for the system operator. We see particular opportunity in comparing the performance and efficiency of the different regions and using this insight to highlight the lower performing regions and to drive improvement.

We welcome the retention of a settlement for the System Operator which recognises the importance of taking a whole network approach to planning and investment decisions. In addition we welcome the focus on national operators and open access.

Given GBR will have dual responsibilities of contracting with train operators and infrastructure manager, it is important that the regulator monitors GBR to ensure that it is acting in a transparent and non-discriminatory way in the delivery of its key system operation activities.

As outlined in the consultation paper, the System Operator now owns the relationship with freight operators and national passenger operators. It is important that as reform progresses, ORR remains focussed on monitoring how the System Operator is delivering for these operators.

***Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?***

Arriva UK Trains would welcome more clarity on how ORR will increase its focus on the core national functions and how it intends to hold them to account in their delivery to the System Operator and the Regions. It is not clear why ORR needs to wait until CP7 to increase its focus on these core functions.

As noted in the consultation document, it will remain important that specific performance related issues at route level continue to be investigated in the new control period. How this works in practice will need to be reviewed as further detail on the way that GBR will be structured beneath its regional divisions becomes clear.

## **Chapter 4: The role of stakeholders**

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

AUKT is supportive of the approach to stakeholder engagement in CP7 as outlined in the consultation document. Regular and transparent engagement with stakeholders is important to ensure that the railway is being operated effectively and in the interest of its direct customers (passenger and freight operators) and rail users (passengers and freight customers).

Effective engagement between Network Rail's regions and train operators in the development of Strategic Business Plans is important so that the infrastructure plans are driven by a clear understanding of the operational requirements.

Arriva agrees with the consultation document's assessment that engagement across Network Rail's regions and system operators has not always been co-ordinated or consistent in this control period. ORR's monitoring of improvements in this area

should be considered a priority, with the infrastructure manager's executive team responsible for delivering a more holistic approach to stakeholder engagement and the sharing of best practice across its regions.

We are supportive of the principles set out in the Stakeholder Engagement Duty as set out in Network Rail's Network Licence. A consultation on GBR's draft licence is expected in early 2023 and it is important that this retains a strong emphasis on engagement with the wider rail industry.

In a reformed railway, where GBR is both specifying most passenger contracts and managing rail infrastructure, engagement with stakeholders will in fact become more important to balance the interest of all rail users and ensure that GBR operates in a transparent and non-discriminatory way, in particular to those operators retaining commercial risk.

***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

In principle, we agree with the recommendation to consolidate the stakeholder surveys conducted by both ORR and the infrastructure manager to reduce duplication. While specific regions may wish to tailor their engagement, wherever possible this should be consistent. This is particularly important for national passenger operators that run services crossing regional boundaries, reducing internal costs incurred by operators having to engage with multiple interfaces across Network Rail structures.

## **Chapter 5: Monitoring and enforcement**

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

AUKT believes that the use of reputational incentives and comparative competition between Network Rail's regions will remain its most powerful tools in holding the infrastructure manager to account in delivering a railway that represents value for money to the taxpayer and benefits rail users.

ORR must retain the ability to require Network Rail to develop recovery plans when it falls short (e.g. infrastructure failings leading to a worsening of performance) which ORR then monitors delivery against. This ability to take enforcement action and the public reporting that it goes with serves as an important licence breach deterrent. We think this is an important power both in enforcing licence compliance with Network Rail and in the future with GBR.

Accountability will be of critical importance in a reformed railway where GBR has responsibility for specifying some passenger contracts, and will hold revenue risk in some cases, in addition to its role as the infrastructure manager. The regulator therefore has a critical role to play in ensuring that the infrastructure manager is acting in transparent and non-discriminatory way. We are also supportive of measures that result in a greater focus on the System Operator to reflect the importance of its function across the GB rail network.

We support the fact that this policy framework will in the future require GBR to report candidly and transparently, and ORR will continue to deliver independent scrutiny.

## Chapter 6: Outcomes and monitoring performance

We welcome views on the role of our outcomes framework.

***Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?***

Arriva UK Trains is supportive of the proposal to implement a new framework. We are supportive of measures that will help to make the targets set within the infrastructure manager's scorecard more transparent, and we believe that the greater involvement of train operators, as their direct customers, is important to make sure that the targets are set at the right level and understood by industry in the next control period. Given ORR's proposal to set Network Rail a whole-system performance target, it is particularly important for TOCs to input into the performance trajectory.

We agree that the infrastructure manager should use the agreed framework and success measures as part of its own business planning process. The success measures should be consistent across each region. Similarly, the analysis used to develop the baseline trajectories across different regions should be consistent to ensure transparency and operators should have the opportunity to challenge and scrutinise these baselines before they are finalised.

We are disappointed that there are not success measures for some of the outcome areas. While noting the ORR view for Health and Safety, we believe a measure could still be developed in the interests of the sector (for example – Injury Frequency Rate). We also believe that Customer Satisfaction should have a success measure, and that it is not necessary to wait on DfT for a decision in CP7.

It will be important that a tiered approach does not result in a loss of focus on some of the key metrics that are outlined in the supporting measures and additional assurance tiers of the proposed outcome framework. A focus on a smaller set of success measures within CP7 may make assessment simpler, but simpler does not

necessarily mean better. It is important that the amount and granularity of information available to ORR to assess the infrastructure manager's performance is not compromised as this is likely to lead to suboptimal outcomes.

The framework should also be robust such that any changes to the performance regime in future, due to structural changes in the funding of some passenger services, does not result in a loss of focus within the infrastructure manager on delivering high levels of performance for operators and their customers. This will be particularly important for those operators that continue to hold revenue risk and are commercially dependent on a high performing railway being delivered.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

Arriva UK Trains recognises that over the course of the control period it may be necessary for the regulator to review the outcome framework and potentially move measures across different tiers to ensure that the infrastructure manager is continually incentivised to improve its performance further. Similarly, in some circumstances it may be necessary for ORR to review the baseline trajectories should there be a major change in circumstances, however the threshold for doing this should be defined ahead of the control period.

It is noted that in some instances ORR may provide independent advice to government on changes to baseline trajectories, rather than adjudicating themselves as the regulator. This is concerning and could question the regulatory independence of ORR if it is asked to fall in line with government decision making or GBR policy. Any changes to the baseline trajectories should be minimised to avoid reducing confidence across private sector operators who make investments based on a reasonable expectation of the level of performance they can expect the infrastructure manager to provide over the course of the control period. The rationale for any proposed changes should be shared transparently with stakeholders with sufficient time for them to scrutinise the proposals and provide feedback.

We agree with the criteria for holding the infrastructure manager to account as outlined in the consultation document. We want the ORR to act swiftly if performance is unacceptable. In terms of when ORR would consider initiating a formal investigation, the consultation document says that ORR propose to publish non-exhaustive indicative criteria in its determination that it will use to monitor the infrastructure manager's performance against baseline trajectories. We would also like to see a consultative approach to the four criteria that could be used,

It is important that train operators are confident in the performances measures set by the infrastructure manager and that stakeholders are regularly engaged and updated on their performance against the measures within the outcome framework. Similarly, stakeholders should be able to report back on the performance they are receiving, and this information should be used to assess whether the measures in the tiered approach are correct and are prioritised in the right way, or if further changes to the framework are required to deliver for customers. This can be facilitated through regular engagement between the infrastructure manager and

passenger operator, and should take place bilaterally or when appropriate engagement could be collective (e.g. through workshops). To avoid administrative burden, national passenger operators should be able to engage with the infrastructure manager on performance related matters at a central level rather than be expected to speak with each region on an individual basis.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

### ***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

Arriva agrees with the proposals, however any changes must be tightly controlled by the ORR to provide confidence to private sector operators.

We agree with the introduction of the timeliness principle as it is important that the infrastructure manager engages with the ORR early when it seeks to make substantive changes and to ensure that minor changes are recorded. It is also important that train operators are included in this process and regularly engaged to provide clarity and feedback on the impact of any changes.

The policy notes that changes under GBR would maintain the ORR's ability to independently oversee the change process. We feel that it is important that ORR holds the power to effectively hold GBR to account regarding change. Further, it is important that ORR is given the autonomy to allow for flexibility and to effectively scrutinise these decisions.

### **Are there any other comments you would like to make?**

None at this time



## Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: Quentin Hedderly

Job title: Regulatory Specialist

Organisation: DB Cargo (UK)

Email\*: [REDACTED]

Telephone number\*: [REDACTED]

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter’s proposed suite of tools to hold the infrastructure manager to account during the next control period.

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

DB Cargo supports this proposal to create separate settlements for the Regions and System Operator. The settlement for System Operator must place sufficient focus on delivering the needs of stakeholders that engage with more than one Region. In addition to providing support for the Regions, System Operator has a key role in providing challenge in taking a whole system approach to planning and investment. Integral to the settlements, will be a requirement to deliver the rail freight growth target. Stakeholders will expect to see clear commitment in Strategic Business Plans to underpin how the rail freight growth target will be delivered.

***Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?***

DB Cargo concurs with the proposal that individual settlement at route level is not appropriate. Planning and investment requires a joined-up whole system approach, rather than one which is fragmented. The Strategic Business Plans produced by the core national functions (System Operator, Route Services, Technical Authority etc.) will need to align with and complement those produced by the Regions.

## **Chapter 4: The role of stakeholders**

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

DB Cargo supports the proposed approach to stakeholder engagement in CP7 outlined in the consultation document. Interacting with multiple functions of the business, national freight operators are not alone in wishing to see a co-ordinated and consistent quality of engagement across Regions and the System Operator. DB Cargo supports consolidation of the ORR and Infrastructure Manager stakeholder surveys to remove unnecessary duplication. Stakeholder engagement will become more critical given rail reform under which GBR will have responsibility for specifying passenger service contracts, in addition to managing the infrastructure. GBR will need to demonstrate that it can balance the interests of all rail users and do so in a transparent and non-discriminatory way.

***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

DB Cargo is supportive of a stakeholder survey on the quality of the infrastructure manager's engagement which poses a consistent set of questions. National operators seek consistency in approach across their engagement with the business units. The survey can be tailored according to a business unit's stakeholder engagement approach where appropriate.

## **Chapter 5: Monitoring and enforcement**

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

**Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?**

DB Cargo supports the proposed broad approach to monitoring and enforcement in CP7 set out in the consultation document. ORR has a critical role to play in holding the infrastructure manager to account for delivering a railway which represents value for money. Incentivising the infrastructure manager to address emerging concerns before they reach the point at which formal intervention becomes necessary, meets our expectation. Measures that result in increased focus on the activities of the System Operator, reflecting the importance of its key system-wide functions are supported. Under the proposed legislative consultation, ORR may find its powers to levy financial penalties on GBR in the future curtailed. ORR will need to ensure it has available the necessary enforcement levers at its disposal and that it is prepared to use these mechanisms.

## **Chapter 6: Outcomes and monitoring performance**

We welcome views on the role of our outcomes framework.

**Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

DB Cargo is supportive of the proposal to implement a new outcomes framework for CP7. Freight operators have concerns as to the effectiveness of scorecard measures in monitoring Network Rail's performance during CP6. The proposed tiered framework appears to be a pragmatic approach to provide appropriate focus on delivery across the regions and System Operator function. Whilst measures should largely be consistent, it is recognised that where HLOS requirements differ, there may be a need for specific tailored measures. DB Cargo is concerned that the network lacks resilience and renewals are not always keeping pace with the rate of asset degradation. Defining a relevant and appropriate suite of performance measures is a critical component in ensuring that a high performing railway results.

**Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?**

DB Cargo acknowledges that there may be circumstances during a Control Period where measures made require adjustment / movement to a different tier. ORR may find it necessary to review baseline trajectories following a change in circumstances, should there be compelling justification. Could the likely circumstances which would generate such changes be categorised prior to commencement of CP7? DB Cargo would expect the Regulator to determine any changes to baseline trajectories, not merely proffer advice to Government on the issue. Changes to baseline trajectories should be kept to a minimum (for unforeseen circumstances), as these run contrary to the performance levels funders and taxpayers are buying. Any proposed changes must be consulted with relevant stakeholders. The consultation document highlights

a concern that the regulatory minimum floors set for assessing infrastructure management performance have not been effective. This has led to a concern that ORR will only act should performance fall below this level. Operators would expect ORR to respond rapidly should performance fall below acceptable levels. It is noted that ORR propose to publish non-exhaustive indicative criteria in its determination to be used to monitor the infrastructure manager's performance against baseline trajectories. Whilst the consultation provides 4 criteria which could be used, DB Cargo would expect to see further consultation in advance of the determination. DB Cargo would wish to engage with the infrastructure manager on certain performance matters at a national level, rather than be expected to absorb an administrative burden in interfacing with individual regional teams.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

### ***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

There is a strong case for a Managing Change Policy for CP7 that strikes a balance between the infrastructure manager's business flexibility needs and the clarity that settlements provide on funding and outputs. DB Cargo recognises a need to be agile and provide flexibility during the process of rail reform when significant structural change will occur. Changes affecting key aspects of the determination and settlements must have strong governance, providing confidence to operators, particularly relevant to those bearing revenue risk. DB Cargo endorses the proposed introduction of a timeliness principle. It is important that the infrastructure manager engages with the ORR at an early opportunity when seeking substantive change. Operators must be consulted on proposed changes in order to provide scrutiny and feedback on the impact of proposed changes.

### **Are there any other comments you would like to make?**

DB Cargo hopes that the comments made in this response to the ORR's consultation document are helpful. It looks forward to continuing to work with ORR and the rest of the industry to take forward any changes ORR decides to make to the PR23 policy framework.

Thank you for taking the time to respond.



ORR Consultation:

PR23 Policy Framework: A consultation on outcomes, infrastructure performance and managing change

Office of Rail and Road

25 Cabot Square

London

E14 4QZ

Dear Sirs

**PR23 POLICY FRAMEWORK: CONSULTATION ON OUTCOMES, INFRASTRUCTURE PERFORMANCE AND MANAGING CHANGE**

This letter constitutes Eversholt Rail's response to the above consultation.

While the issues raised in your consultation do not directly relate to rolling stock or the immediate interests of the ROSCOs, we believe there are some important issues which still need to be clarified for the future, in relation to the procurement and management of rolling stock on the national rail network.

We note that ORR's proposals are based on the current structure of the rail industry with a view to rail reform, but the questions and issues outlined below, should be relevant both to the ORR's periodic review for Control Period 7 (PR23) as it evolves, and to your eventual oversight of Great British Railways' ('GBR') future performance (see below).

These matters are also potentially relevant to the guidance that the ORR will give to Network Rail on the preparation of its Strategic Business Plan, as well as to the context against which the proposed legislation to establish GBR will be prepared (we have therefore written in similar terms to the Department for Transport ('DfT') by way of response to its own consultation on the proposed legislation).

The DfT's consultation on "Legislation to Implement Rail Transformation" has already suggested that there will be some changes to ORR's role and responsibilities. In particular, the Consultation suggested that the ORR would have a new duty to facilitate

Eversholt Rail Limited

[Redacted]

T: [Redacted]

E: [Redacted]

[www.eversholttrail.co.uk](http://www.eversholttrail.co.uk)

Registered in England

Registered address: [Redacted]

the furtherance of GBR's policies on matters of access to, and use of the railway, and that it would be issued with updated guidance from the Secretary of State.

The rail industry will take comfort from the statement in the Consultation that "The government has worked closely with ORR to ensure that the new duty does not conflict with existing duties; does not compromise ORR's independence; and provides ORR with a clear and specific legal requirement to take GBR's approved access policies into account in its decision making".

It is therefore important that ORR's independence is maintained.

The key questions that remain hitherto unanswered, and which need clarification as soon as possible, include the following:

- whether ROSCOs will lease rolling stock directly to train operators or to GBR;
- whether rolling stock will be selected by the train operators or by GBR;
- how rolling stock will be selected and procured, and how prescriptive GBR intends to be in setting rolling stock specifications as part of the bidding process for the new Passenger Service Contracts ('PSCs');
- the extent to which train operators will be free to innovate, and who will engage with the private sector to facilitate the introduction of innovative new traction technologies (eg hydrogen, battery and other forms) and other initiatives that are necessary, if the UK rail industry is to achieve net zero.

These are key issues that the ORR, DfT and GBR will need to clarify, to enable the ROSCOs/rolling stock market to innovate commercially; to achieve value-for-money; and to attract, and retain private sector investment at competitive rates. Indeed, the contemplated market engagement exercise on the future PSCs initiated by the DfT, might be one forum through which these issues can be addressed and clarified, as well as through the ongoing PR23 processes.

The Secretary of State for Transport has made it clear that harnessing the best of the private sector will be one of the core goals for GBR. Yet in the various consultations and other documents published since the creation of the GBR Transition Team, there has been very little, if any, indication as to how this core goal will be acted on and delivered.

If financiers are to invest in the UK rail industry, including in rolling stock, we must have a stable industry that also provides a level playing field for both new and existing rolling stock procurement competitions. This is to ensure existing rolling stock is able to compete

equitably against new rolling stock, and financiers are able to compete against each other with access to the same information as part of a transparent process.

For ROSCOs particularly, to be able to manage residual value through strategic fleet investment, re-marketing and lease rents, it is necessary that there should exist a well-functioning market free of political distortion. In the absence of such a market, investor appetite will drop, and ROSCOs will be unable to attract new investment or re-finance existing investments at competitive rates.

As was recognised by the Competition Commission in its 2009 market inquiry, a well-functioning market is more likely to be achieved in an industry where rolling stock is selected by train operators through a competitive and transparent process. This allows rolling stock lessors to compete against each other, and which gives train operators the choice between different fleets of rolling stock, whether new or existing, on the basis of the value-for-money they expect each fleet will offer. The central procurement or selection of rolling stock by GBR, whether directly or through an overly prescriptive approach to PSC specification, would undermine a well-functioning market and increase investor concerns around potential political factors in fleet selection and deployment.

Clarity is also needed on whether GBR's proposed power to direct information-sharing between train operators will be limited to specific categories of information (such as operational issues on timetabling, ridership and reliability) or whether it would also apply to commercially sensitive information such as lease terms, financial models and pricing. We do not believe it would be appropriate for train operators to share commercially sensitive information: this would clearly compromise a well-functioning market and existing confidentiality duties between train operators and ROSCOs regarding lease provisions and proposals.

Finally, we believe that more clarity is needed on the Secretary of State's proposed power to "intervene where necessary" and issue ad-hoc directions and guidance to GBR. To facilitate a well-functioning market and to encourage private sector investment, this power should only be capable of being exercised within limited pre-defined areas. It is important for the rolling stock leasing market to be free of political interference, in terms of rolling stock choice and deployment. The DfT is aware of the concerns we have previously expressed regarding the over-specification of rolling stock requirements in franchise ITTs and the impact of direct political decision-making: for example, in relation to the future displacement of Class 222 rolling stock from East Midlands by Hitachi Rail's new Class 810 'Aurora' fleet. This distorts the rolling stock leasing market and prevents rolling stock lessors from managing residual value risk.

In conclusion, while we recognise that these issues are not directly relevant to the ORR's current consultations on PR23, we believe they are critical issues which must be resolved and clarified both through the legislative process for establishing GBR and through the



periodic review process. Indeed, as GBR will be the procuring authority for the new PSCs, and as "harnessing the best of the private sector" is to be a core goal for GBR, we believe these issues should become factors against which the ORR monitors the performance of GBR, and against which its strategic business plan is developed.

We would be happy to discuss the issues set out in this letter at your convenience.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Timothy', written over a horizontal line.

*Stephen Timothy*  
**Stakeholder Director**



## **Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### **About you**

Full name: Andy Wylie

Job title: Head of Regulation

Organisation: FirstGroup Rail

Email\*:

Telephone number\*:

*\*This information will not be published on our website.*

### **Chapter 3: How we will regulate the infrastructure manager**

We welcome views on this chapter’s proposed suite of tools to hold the infrastructure manager to account during the next control period.

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

FirstGroup welcomes the proposal to create separate settlements for regions and the SO as this should enable the promotion of efficiency through comparative analysis.

Now that the regions have been established, we wish to see a more cohesive approach to all activities so that the benefits of an integrated network dovetail with the benefits of more local decision making. We would like to see future regulatory activity encouraging this objective.

***Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?***

We wish to understand how the core national functions and the routes fit into the accountability framework for delivery. Without fragmenting the accountability to micro-level and/or creating unnecessary bureaucracy, there is still a need for some route-based activities (such as performance) to be visible to scrutiny by both customers and the ORR.

## **Chapter 4: The role of stakeholders**

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

FirstGroup agrees with the approach to stakeholder engagement in CP7 as outlined in the consultation document. It is particularly important that there is effective dialogue between the NR regions and operators so that development of such items as Strategic Business Plans include requirements from operators as well those from the infrastructure provider.

A consistent approach throughout NR to future stakeholder engagement would be welcomed.

***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

We welcome the move to reduce duplication and, whilst individual regions may wish to introduce specific items or approaches, we would wish to see a degree of consistency here. When operators have to deal with more than one NR region, this will reduce the potential administrative burden.

## **Chapter 5: Monitoring and enforcement**

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

FirstGroup agrees with your general approach and the fact that ORR can require NR to develop recovery plans when it falls short of targets should now have a powerful effect on NR, due to the peer pressure that it puts on that region or other part of NR.

We don't believe that financial penalties on a large centrist publicly funded organisation have necessarily encouraged the right behaviours in situations that required remedial action.

## Chapter 6: Outcomes and monitoring performance

We welcome views on the role of our outcomes framework.

***Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?***

We agree that a new framework is required, the current scorecard system being of limited value. However, we wish to see train operators being more involved in setting those targets, especially if whole-system targets are being set that will impact on all.

We approve of the tiered framework, and this should have a greater impact on the base operations as well as the business planning process. We wish to see some consistency of “success” measures across the regions as well as in the analysis used to establish both the baselines and the trajectories.

With the move to T-15 for delay replay, we would like to see T-15 as one of the success measures, both to replicate the experience of the end-user as well as making at least one of the success measures directly relevant to the passenger.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

We are concerned that during a control period it may be necessary for the ORR to change or adjust measures. It is recognised that if there was a material change in circumstances it may be required to do so but private sector operators do require a degree of consistency through a control period to make its predicted return on investments or even to make further investment in the industry. It would therefore be useful if that materiality to enact any change could be stated at time of settlement.

FirstGroup would like to see more on the involvement of operators in the reporting, feedback, and potential alteration of measures. In a tiered approach, the usual bi-lateral discussions will not be enough and there should be, where and when appropriate, multi-lateral discussions involving several operators.

## Chapter 7: Change and flexibility

We welcome views on this chapter’s proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

The minor changes proposed to clarify and simplify the Policy are very welcome.

We wish to see operators involved in this policy process when the infrastructure provider seeks to make significant changes.

**Are there any other comments you would like to make?**

None.

## ORR PR23 Policy Framework Technical Consultation on measures in our proposed CP7 Outcomes Framework

---

1. Freightliner is pleased to respond to the ORR PR23 Policy Framework Technical Consultation on measures in the proposed CP7 Outcomes Framework. No part of this response is confidential.
2. Freightliner is largely content with the proposals, although by exception, have the comments on the areas identified below that we would urge the ORR to reconsider.
3. We agree with the use of ‘supporting measures’ as well as the ‘success measures’ as a means of providing full visibility and enabling ORR to hold Network Rail to account for their delivery.
4. *Freight performance*: Freightliner acknowledges that for outside parties the Freight Delivery Metric (FDM) can be a confusing measure and therefore welcomes the proposal to provide clarification about what it includes. Although potentially confusing for outside parties, it remains a key metric for the sector – both for freight operators and customers. It is important that Network Rail’s delivery of freight performance continues to be measured and we agree with the approach outlined.

We do however urge the ORR to consider a second ‘success measure’ for freight performance – a metric that measures freight cancellations. Cancelling freight services have very significant impacts on customers and should only occur as a last resort. The current metric that wraps cancellations and delays into the same measure risks diluting the cancellation measure and will make it more difficult to track how Network Rail are minimising freight cancellations. As already in place for the passenger sector, we would strongly suggest that the ORR considers a second ‘success measure’ that reports freight cancellations.

5. *Freight Growth*: Freightliner strongly supports the inclusion of a freight growth target and considers it to be an important measure to incentivise the Routes and Regions to support rail freight growth. This will be particularly important with the creation of Great British Railways (GBR) and the further devolution of responsibilities to regional level. We do urge the ORR to ensure that this measure is included as a ‘success measure’ given the importance of this measure to the industry and the key focus that will be placed on it to understand how GBR is delivering for freight.
6. *Network Capability*: Freightliner strongly suggests a measure relating to network capability is required. We have seen recent issues where published capability is not available, including gauge not being available on a key route across the Pennines despite having published capability. This issue is currently preventing us moving containers from the North East to the North West for a new customer. We are concerned that wider funding challenges may make such instances more common and therefore a measure around network capability would be particularly welcome.
7. *Network Availability and Possession Management* Freightliner considers that a ‘supporting measure’ should be introduced in this area. Tracking network availability, particularly in light of the very significant levels of engineering access that is being requested, is important. We suggest a ‘supporting measure’ in this area. This could work in tandem with freight cancellations being tracked as a ‘success measure’.

8. Freightliner would be happy to discuss any of the areas raised in this response and provide further information as necessary.

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good afternoon

Thank you for providing the opportunity to partake in this consultation regarding the policy framework for CP7.

GTR has the following observations and comments:

**Do you have views on the measures we are proposing for each outcome area?**

GTR are happy with the approach to not make significant changes to how ORR currently monitors the Infrastructure Supplier going forward into CP7. It is acknowledged that the current Infrastructure Manager (Network Rail) will at some point transition to Great British Railway being the Infrastructure Manager, and they will take on the PR23 commitments, and the ORR will expand its regulatory role. As a result of this, the approach for CP7 will need to be flexible to change which is also something welcomed.

Whilst ORR does not propose to introduce significant new measures for CP7, in the areas where they do intend to make changes we have the following observations and comments.

**Environmental Sustainability:**

During the consultation period, GTR raised questions regarding if ORR's proposals had, or are, being developed in alignment with what is being developed through the industry Sustainable Rail Strategy (SRS). ORR advised that their proposals outlined in the consultation line up with a number of the themes in the SRS. GTR also requested further information on the indexes used on the proposed One Planet Living measure, and ORR advised us that this was a bespoke indicator being developed by NR over the next 18 months. Given the answers we received we have no objections to the proposed approach and we will observe what outcomes arise between now and the start of CP7

**Train Performance:**

Overall, GTR are happy with the proposed measures. The main measures of Ontime and Cancellations are fine – they are our main measures at the moment already and have been throughout CP6, so we already have good ability to report these.

With regards to the proposed Supporting Measures, we have the following observations:

- **Average Passenger Lateness-** this was put forward in CP6 but as a whole it would appear that the industry has adopted or taken to it. It is hard to report and is hard to tie into GTR or NR performance as a measure for performance monitoring and improvement.
- **Delay per 100km...** We believe this is a good measure as it normalises operators against their train volume for easier comparison. However, it should be noted that DfT have contracted GTR for the next 3 -6 years in our NRC to delay per 1000miles as opposed to 100km – Would it be beneficial for the CP7 measure to be amended to be consistent with this already existing measure?
- **Performance Management Maturity** – this as stated by ORR is a qualitative measure and as a result, how would it be reported or gauged against benchmarks? Is there risk that this supporting measure could be very difficult to police, and record/report, and would likely end up requiring additional work from the operator/Network Rail to prove their performance, as well as an appeal process if felt achievement has been misjudged? In addition, for example during times of heavy disruption, strikes, extreme heat etc, a lot of things have to be dropped to concentrate

on delivering those scenarios, which would be a double penalty on the operator/NR if they have to pause deliverables?

Once again, thank you for the opportunity to comment on your proposals and we look forward to continued collaborative working with ORR.

Kind regards

Darren Gay  
Track Access Contract Manager  
Mobile

**Office of Rail and Road – A Consultation on PR23  
Policy Framework**

Representation submitted by Heathrow Airport Limited

30<sup>th</sup> September 2022

## Executive Summary

---

With the governance of rail undergoing significant change, and the structure of the industry being reformed, recognition of the uniqueness of airport passengers, and the railway which serves them, is more important than ever before. Reflecting this in regulation from the ORR, as well as GBR, will be critical to ensuring the United Kingdom has an effective and efficient rail network in the decades to come.

Part of the solution must involve more work with different regions and local economies in the country. Whether it's for funding, accountability or engagement, a focus on the local will lead to better and more effective results. The uniqueness of airport passengers makes this essential and makes it critical that regulation takes account of the similarly unique rail structures which facilitate the high standard of service provided to airport passengers.

## Consultation 1: A consultation on outcomes, infrastructure performance and managing change

---

### **3a. Do you have any comments on or proposal to create separate settlements for regions and the SO?**

Heathrow agrees with the approach that each region should be funded at a local level and similarly agrees that the ORR can and should encourage greater local accountability. We also consider it sensible that System Operation have their own settlement to maintain key system operation services and delivery of national train performance.

### **3b. Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

No comment

### **4a. Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?**

Heathrow would like to see more detail how this will work to ensure GBR consults with all stakeholders, including other Infrastructure Managers, and particularly airports given the different needs of airport passengers compared to e.g. commuters or leisure travellers. Greater engagement with airports on national rail policy will help balance GBR's stakeholder relationships and ensure all passengers are represented in a fair manner.

**4b. Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?**

Heathrow would prefer a common set of questions being asked for all stakeholders to maintain a consistent approach.

**5a. Do you agree with our proposed broad approach to monitoring and enforcement in CP7?**

Heathrow agrees with the approach of routine monitoring and assessment, together with investigation, early resolution and enforcement.

**6a. Do you have any comments on the structure of our proposed CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

No Comment

**6b. Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?**

No Comment

**7a. Do you agree with our proposals to improve the Managing Change Policy for CP7?**

No Comment

## Consultation 2: A technical consultation on the measures in our proposed CP7 outcomes framework

---

### **2. Do you have views on the measures we are proposing for each outcome area?**

No comment

### **3. Are there other outcome areas that we should include in the CP7 outcomes framework?**

Heathrow requests that a satisfaction measure for Network Rail and GBR stakeholders is added for passengers, freight and other bodies, as well as for other Infrastructure Managers as a Tier 2: Supporting Measure.

### **4. Are there other outcome areas that we should include in the CP7 outcomes framework?**

There are an increasing number of services operating over multiple Infrastructure Managers. Heathrow requests another outcome be considered for integration with other Infrastructure Managers and a seamless operation of multi Infrastructure Manager trains.



**LIVERPOOL  
CITY REGION**  
COMBINED AUTHORITY

**METROMAYOR**  
LIVERPOOL CITY REGION

**PR23 Policy Framework: A technical  
consultation on the measures in our proposed  
CP7 outcomes framework**

**Response from Liverpool City Region  
Combined Authority/ Merseytravel**

## **Introduction**

The Liverpool City Region Combined Authority welcomes this opportunity to respond to this consultation.

The Mayoral Liverpool City Region Combined Authority was established in May 2017 following the election of Steve Rotherham as Metro Mayor. It draws on powers and funds made available through the Liverpool City Region (LCR) Devolution Deal. These powers and functions include:

- strategic transport planning, including devolved powers over local bus and rail networks and strategically important local roads;
- economic development and regeneration, housing and spatial planning, and the development of a statutory Spatial Development Strategy;
- a devolved and consolidated multi-year funding package; and
- cross-cutting priorities around the low carbon economy, culture, and fairness & social justice.

In 2019, the Liverpool City Region Combined Authority (LCRCA) declared a climate emergency, with the aim of achieving net zero by 2040 or sooner.

### **Q1 Do you have any views on the measures we are proposing for each outcome area?**

The lack of specific success measures for health and safety is a missed opportunity. The ORR should examine a range of key safety issues and should consider imposing specific targets. A lack of such measure may lead to complacency within the industry.

In respect of passenger train performance, we accept the proposed measures to measure trains on time and on the number of train cancellations.

However, this should be based on calls at each station on route rather than end of journey performance. In many train journeys additional time is included between the last two stations which in effect means the train is on time at the terminal station whilst being late at most/all stations en route. The measure should also include a method to demonstrate reduced performance when operators omit stations, operating in a skip-stop manner to allow the trains to get back to time.

In addition; there are many cases, and especially more recently, when train companies are experiencing difficulties delivering a reliable timetable, they take the simple action to reduce the number of services they run and issue a new timetable. The performance measures then only apply to the new timetable and not the timetable that they previously operated.

The most obvious example of this is the decision by Avanti to reduce the number of trains on their West Coast services. This has meant that the usual service of three trains an hour from Manchester to London has been reduced to just one train an hour. However, the performance monitoring will not recognise the loss of two trains per hour and this will artificially improve the performance statistics.

Similarly, in instances where extended engineering works are carried out many rail services are replaced by buses. Again, as the trains are removed from the timetable there is no impact on train performance statistics, even though passenger journey times can be considerably extended, and the actual punctuality of the replacement bus is rarely monitored.

In such cases the ORR should hold a benchmark of total services and should be able to adjust train company performance; taking account not only what trains are in the timetable, but also those services taken out of the timetable. This is more especially important if there are payments for good performance based upon these performance statistics.

Asset management is one of the key areas which requires to be measured. The financial pressure on budgets is likely to lead to currently planned renewals for CP7 being deferred. Whilst this may be necessary to meet budgetary constraints for CP7, it only leads to an increasing backlog of works which will fall into the next period CP8.

In the worst case, deferred renewals may lead to emergency unplanned works being necessary which will be more expensive and disruptive than planned work. The ORR should ensure that all works planned for CP7 are delivered in CP7, and that deferrals are only allowed where there is a clear rationale and justification, not simply to balance budgets.

This also relates to efficiency and financial performance. Key to this is to measure what is delivered for the expenditure. The reality is that costs have increased recently; in particular with recent inflation figures of over 10% and associated staff cost increase. There is a need to recognise that even with greater efficiency core costs will be more expensive in CP7 and we will not achieve the same volume of output for the same funding envelope.

Finally, we are disappointed that there are to be no measures in respect of accessibility. We work closely with the DfT and their Access for All Programme to improve access to our network both through the installation of lifts on our stations and also in the design of our new trains which incorporate sliding step technology enabling level access from platform onto the train.

We would expect the Access for All programme to continue into CP7 and therefore we would expect the ORR to monitor delivery of schemes to ensure network access is improved year on year.

## **Q2 Are there other measures we should consider?**

There are a couple of areas of safety which would benefit from specific measures, such as:

- (a) Signals Passed at Danger (SPADS - i.e. trains going through red lights) - whilst fitment of TPWS systems has reduced the risk of trains going through red lights, Network Rail should still record all SPAD incidents to identify locations where incidents occur and establish action plans to reduce future incidents.

The ORR should monitor to ensure where SPAD issues are identified, that actions plans are implemented in a timely and cost-effective manner to reduce risk to passengers.

- (b) Level Crossings – Level crossings (in particular crossings which are on high speed lines) are a risk to trains and users of the crossing. Network Rail should maintain a record of all incidents at level crossings.

The industry should then set an objective to reduce the number of crossings working (especially at high risk locations) with industry partners and stakeholders such as local councils and highway authorities.

In the event crossings cannot feasibly be removed then consideration should be given to reduce risk of incidents though the upgrade of crossing with automatic barriers. The ORR should set a target for the reduction of the number of level crossings, and monitor implementation.

- (c) Climate resilience - Network Rail need to ensure they provide evidence of the impact of climate change in terms of incidents of flooding, storm damage, and impact of extreme hot weather on the network. This evidence can then be used to identify mitigating actions to address the most significant issues.

The ORR should put in place monitoring of Network Rail action plans to ensure timely delivery of works to reduce impact of future occurrences, such as the implementation of flood defences/ increased drainage capacity and capability.

The ORR should support Network Rail to identify best practice for climate resilience and include reviewing of existing standard to recognise increasing temperatures, storm conditions and flooding. One such explain of this would be the ORR working to support Network Rail in identifying and working towards biodiversity at lineside across the network, as a potential measure to help provide greater climate resilience.

The railway is a large user of energy especially in relation to traction power networks. The ORR should support Network Rail in the installation of sustainable energy solutions such as wind power turbines and solar power, either on their own property or through energy procurement contracts with private sustainable power generators.

A new measure may be the amount of sustainable energy that Network Rail uses (i.e. % of sustainable generated energy used compared to overall energy usage).

Another area which needs to be considered is the use of sustainable power for on track plant and machinery. These machines such as tampers use a number of engines and are extremely noisy. Trials should be set up to support development of battery powered equipment, which will not only reduce fuel use

and pollution, but could potentially be much quieter for the benefit of the staff using the equipment and also benefit lineside residents who are so impacted by the noise of on track plant working generally during overnight possessions.

Finally there should be a measure as to how the ORR will monitor the decarbonisation of Rail, is there an opportunity for the ORR to measure the reduction of diesel train usage and develop incentives/penalties for encouraging more sustainable zero carbon rail vehicles (electric, hydrogen, battery trains) to encourage the rail industry to change.

**Q3 Are there other outcome areas that we should include in the CP7 outcomes framework?**

As previously stated, we would propose monitoring of the number of accessible stations so there is visibility on the performance of the industry in making the network accessible for all.

In addition, there is the issue that even where stations are fitted with lifts that they are not always reliable. The ORR should ensure that Network Rail monitors the reliability of lifts and escalators and puts in place action plans to address unreliable equipment.

The ORR should review performance of these key access assets and the associated action plans to ensure Network Rail carries out the remedial repairs and renewals in a timely manner to ensure the equipment is available for passengers to use.

Office of Rail and Road  
25 Cabot Square  
London  
E14 4QZ

30 September 2022

Dear Sirs

**ORR PR23 policy framework - technical consultation on the measures in the proposed CP7 outcomes framework – a general observation**

**Over scoping and/or over-engineering**

The future generous funding of UK rail is presumably under severe challenge. More than ever UK rail has to invest within its means.

An observable feature of new works and renewals has been the generally high quality and thus cost of the investment. An example, which is widely discussed in the UK rail industry, is the cost of OLE. You just have to look at structures west of Bristol Parkway to wonder why there is so much steel work. There are similar examples with recent electrification in Scotland. A rail colleague described the OLE as “clunky”!

The historic descoping and thus recurring failures of OLE on the ECML will be in the minds of many but as always there must be challenge to the cost of investment and renewals - “is there over specification” and / or “over engineering” of solutions and projects.

One reason that such high costs have crept in may be the reliance on external consultant’s advice. If there is over specification, failures may be less likely, but of course consultants are not paying the bill for the investment!!

Maybe dull terms like “adequate and safe” should be used rather than terms such as “cutting edge” and “world class” which inevitably occur in press releases of rich states’ new rail projects.

Yours faithfully

*Ralph C Tiffin*

Ralph Tiffin BSc FCA AMIMechE  
Statutory Auditor and Engineer

# **Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

**(due 30 September 2022)**

## **Consultation Questions**

### **Chapter 3: How we will regulate the infrastructure manager**

#### **MTREL Position:**

We welcome views on this chapter’s proposed suite of tools to hold the infrastructure manager to account during the next control period.

It would be useful to receive further details of the monitoring, reporting and enforcement measures the ORR will utilise in CP7, in particular how it will protect operators such as MTR Elizabeth line who sit outside of the GBR framework.

---

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

#### **MTREL Position:**

Seems sensible provided that the settlements can be adjusted to reflect future industry change, especially as the future role and structure of System Operator has not been finalised.

---

#### **Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

#### **MTREL Position:**

No comments.

---

# **Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

**(due 30 September 2022)**

## **Chapter 4: The role of stakeholders**

### **MTREL Position:**

We welcome views on this chapter’s proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

Stakeholder engagement remains important especially as we move towards a more devolved railway.

---

**Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?**

### **MTREL Position:**

No, seems to be working well.

---

**Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit’s stakeholder engagement approach?**

### **MTREL Position:**

Yes – we believe that this should continue, although we are sometimes frustrated that feedback is not taken forward or translated into effective action plans. It would be good to understand in more details how ORR will monitor, reporting and, if necessary take enforcement action – in particular to protect operators that will sit outside of the GBR framework.

---

# **Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

## **(due 30 September 2022)**

### **Chapter 5: Monitoring and enforcement**

#### **MTREL Position:**

We welcome views on this chapter’s proposals on how we monitor the infrastructure manager’s performance and, where necessary, initiate enforcement action.

Generally yes, provided that operators that sit outside of the GBR framework are sufficiently protected.

---

#### **Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?**

#### **MTREL Position:**

Enforcement seems very light, no real mention of what the outcome are if there is a failure, other than being put on an escalator.

Generally yes, provided that operators that sit outside of the GBRR framework are sufficiently protected and that targets are agreed in a collaborative way, with input from operators where appropriate.

---

### **Chapter 6: Outcomes and monitoring performance**

#### **MTREL Position:**

We welcome views on the role of our outcomes framework.

---

# **Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

**(due 30 September 2022)**

**Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

**MTREL Position:**

There is no mention of CRMP which is what the routes are now measuring? (CRM-P measures the minutes of NR-attributed delay to all passenger trains from incidents occurring within the region normalised by the train kilometres travelled by passenger trains within that region.)

PPM is MTREL’s contractual measure, again, no mention, but regions will be measured on on-time metrics (one feeds the other, but doesn’t account for cancellations which will be measured separately).

Measures should be agreed in collaboration with train operators, with sufficient protection for operators that sit outside of the GBR framework.

---

**Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?**

**MTREL Position:**

No measures of success proposed for customer satisfaction (isn’t one of the key points for GBR passenger satisfaction?).

Likewise, no success measures for timetables. Surely something could be done with performance data?

No success measures are proposed for network availability or engineering management.

---

**Response to ORR’s consultation – PR23 policy  
framework: A consultation on outcomes,  
infrastructure performance and managing change  
(due 30 September 2022)**

**Chapter 7: Change and flexibility**

**MTREL Position:**

We welcome views on this chapter’s proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

---

**Question 7A: Do you agree with our proposals to improve the Managing  
Change Policy for CP**

**MTREL Position:**

No comments

---

# **Response to ORR's consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change**

## **(due 30 September 2022)**

**Are there any other comments you would like to make?**

### **MTREL Position:**

I would be interested to understand how they will report to stakeholders and operators on the infrastructure performance, they note that they will be using the composite sustainability index. I would like to see a more granular level of detail, such as S&T, S&C and E&P reliability per train operated.

That the weighting of the financial performance model should not be higher than that of the other performance measures!

The CP7 plans should filter down to the Joint Performance Strategy for each year.

There should be clear timescales, milestones, etc to show us what will be delivered then with performance trajectories and forecasts based on these plans.

If a majority of GBRR operators opt-out of Schedule 4 and Schedule 8, potentially removing some incentives from both Network Rail and the TOCs concerned, then sufficient ORR monitoring, reporting, and if necessary enforcement action, should be in place to protect operators that sit outside of the GBR framework.

-----

**Response to ORR’s consultation –  
A technical consultation on the measures in our  
proposed CP7 outcomes framework**

**(due 30 September 2022)**

**Do you have views on the measures we are proposing for each outcome area?**

**MTREL Position:**

No comments

---

**Are there other measures we should consider?**

**MTREL Position:**

No comments

---

**Are there other outcome areas that we should include in the CP7 outcomes framework?**

**MTREL Position:**

No comments

---

## **Network Rail's response to ORR's Consultations on:**

- **Outcomes, infrastructure performance and managing change**
- **Measures in the proposed CP7 outcomes framework**

**September 2022**

## Executive summary

Network Rail welcomes the opportunity to respond to Office of Rail and Road's (ORR) consultations on proposals for outcomes, performance and managing change and proposed outcomes measures for CP7, both published on 28 July 2022. Our views on both consultations are included in this response and we provide a summary of our key points here:

- Reflecting the continued uncertainty over PR23 timescales and CP7 funding levels, over the coming weeks we will be seeking to agree with ORR what is realistic to provide as part of our SBP submission (including the level at which information is disaggregated), and what information could follow over the remainder of PR23, to support ORR's regulation of regions and the SO in CP7.
- In principle, we support settlements that reflect our devolved structure, and continuation of the CP6 approach, which includes recognising and retaining the need for flexibility across settlements over the control period to enable the best overall decisions in the funding available, and to adapt to changing business requirements.
- We may need to reprioritise our funding within CP7 to respond to changing circumstances, priorities and emerging risks. This will be particularly important within a potentially constrained funding envelope with less ability to absorb impacts on our plans. It is also important that the approach is consistent with the annual arrangements we have in place with the Department for Transport and Treasury. We understand that transparency of any such changes over CP7 is important to ORR.
- Comparative regulation should consider the differences in regions' plans and objectives, for example reflecting different stakeholder priorities.
- We welcome reducing duplication between Network Rail and ORR's stakeholder engagement surveys and working to agree appropriate stakeholder survey questions without placing undue burden on our processes or stakeholders.
- ORR's early intervention and staged approach to monitoring has been positive in CP6. It is important that this remains proportionate and risk-based to avoid causing undue distraction from delivery of core plans. Criteria indicating when ORR is likely to enhance its monitoring should be based on CP6 experience to provide more certainty and consistency in ORR's Holding to Account approach.
- We support the clear, tiered structure of success and supporting measures suggested by ORR. Balance across our different objectives is an important principle in the outcomes framework, so we do not consider that three environmental measures out of eight success measures in total is proportionate.
- We disagree with ORR's proposal to monitor against fixed baseline trajectories unless there is a 'major' change in assumptions or circumstances. There are many variables and unknowns in forecasting performance, so flexibility is important to continue to reflect realistic expectations of performance, while maintaining line of sight back to start of Control Period baselines.
- Adding a timeliness principle to the managing change policy is appropriate. In practice, this must consider the case by case circumstances to apply this principle as is reasonably practicable.
- While we recognise that the proposed change to the Freight Performance success measure (FDM-R to FCAL) may be relatively simple, we do not currently see strong evidence that this would better inform performance management decisions and would welcome further discussion with ORR on this.

## Introduction

We recognise that ORR's consultations come at a time of significant change and uncertainty for the industry, as is the case for the wider periodic review. It is essential to recognise that the periodic review itself may be affected by industry change and uncertainty which may impact how ORR's conclusions to these consultations feed into our planning process. Our approach to meeting the expectations associated with this consultation, such as development of forecasts and stakeholder engagement, will have to flex accordingly to react to wider impacts on the Periodic Review Programme.

Following publication of the Williams-Shapps plan for rail, DfT is currently developing implementation plans expected to bring track and train together in GBR, creating an integrated plan that incorporates CP7 infrastructure manager plans. ORR importantly notes that this consultation is relevant to regulation of the infrastructure manager in CP7 and also sets out how different elements of the framework may work under rail reform, with the overall objective of putting forward proposals for a regulatory framework that is fit for purpose for the future. We support ORR's approach to remain flexible to change as so much of the legislative and regulatory framework for GBR is still in development. We have discussed this response with GBRTT and they support the views set out here, but as discussions on the regulatory framework for GBRTT are ongoing, this should not be considered GBRTT's formal response to proposals for regulation under rail reform. The regulatory framework will sit within our overall licence obligations for CP7. We agree with ORR that major changes to the licence are not required at this stage while GBR licence discussions are ongoing, but will continue to work with ORR to keep this under review.

**Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the SO?**

In recent discussions with ORR we have highlighted the challenges we face around PR23 timescales, in particular meeting all the expectations set out in ORR's July 2022 guidance on preparing our Strategic Business Plans (SBPs). Reflecting the continued uncertainty over PR23 timescales and CP7 funding levels, over the coming weeks we will be seeking to agree with ORR what is realistic to provide as part of our SBP submission (which could include the level at which information is disaggregated), and what information could follow over the remainder of PR23 to support ORR's regulation of regions and the SO in CP7.

While the need for these discussions reflects circumstances that are specific to PR23, in principle, we support settlements that reflect our devolved structure, and a continuation of the CP6 approach. ORR's consultation recognises the need for flexibility across these settlements (noting that Scotland's funding is ring-fenced), which we fully support. We may need to reprioritise our funding within CP7 to respond to changing circumstances, priorities and emerging risks. This will be particularly important within a potentially constrained funding envelope with less ability to absorb impacts on our plans. We understand that transparency of these changes is important to enable ORR to continue to monitor us effectively against an up-to-date view of funding and outcomes across regions and functions.

We encourage a clear and concise Final Determination so that each business unit has clarity on their accountabilities and requirements for CP7. The PR18 Final Determination included a number of qualitative and, at times, unclear requirements across its 1,000+ pages, so we would like to see more clarity and precision in the PR23 determination to support constructive regulatory engagement with each business unit in CP7. Aligned to the proposed settlement structure, we are continuing to develop our CP7 plans for each region and the SO which will inform ORR's determination, and for other national functions (for which we expect costs to be allocated to settlements).

We see value in comparative regulation, but it is important that regions are able to respond to local needs. Regions and functions need to reflect their own circumstances and stakeholder priorities in developing and delivering plans, so any comparison (for example, of a specific measure of performance) must reflect the different context and stakeholders for each region and function. We are enhancing our own comparative reporting and benchmarking internally and welcome discussion with ORR to minimise duplication of effort.

We note ORR's proposal that GBR will inherit the infrastructure manager determination which may then evolve in the new industry structure. It is important that change and flexibility arrangements during CP7 enable GBR to appropriately incorporate the infrastructure manager's plan to create an integrated plan for rail, subject to final legislation, operating model and regulatory framework for GBR.

**Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

As ORR's consultation recognises, the work of our national functions is critical to the overall success of Network Rail. Our national functions provide technical expertise, assurance and governance structures as well as delivering national programmes contributing to region performance in the short and long term. We agree that it is unnecessary to create separate settlements for national functions, but as they operate under Network Rail's Licence their plans and performance should be transparent to ORR. We recommend a proportionate approach to monitoring these functions, targeting engagement and reporting requirements (for example through ad-hoc reporting requests, targeted assurance reviews and independent reporter reviews) on areas of regulatory concern with clear line of sight to licence and determination requirements.

We also agree that it is unnecessary to create route settlements through the Final Determination. Under our operating model, routes are generally responsible for day to day delivery while regions are accountable for the strategic direction and delivery across all areas of our business plans. When we introduced this structure at the start of CP6, we agreed with ORR that in some cases route information will provide valuable insight to ORR's regional approach to monitoring. We expect to continue to take this approach, agreeing with ORR where route information is valuable and proportionate to support monitoring against settlements and overall determination and Licence obligations.

**Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?**

As an important and high-profile national organisation with geographical reach across Great Britain, providing essential public services and a range of impacts for different groups, we must balance competing interests and demands of stakeholders. We are pleased ORR has recognised our focus on stakeholder engagement through its CP6 reporting and support the continued focus through the CP7 regulatory framework. Stakeholder engagement is an important input to how we develop and deliver our plans.

Our regions and functions are leading engagement with their respective stakeholders to understand and appropriately reflect their priorities in the development of CP7 plans. Although much of the engagement to date has needed to reflect the confidential nature of funding discussions, we have implemented regional stakeholder challenge panels, embedded regular engagement with the supply chain and initiated national passenger research to support our CP7 plan development. Devolution has allowed regions and national functions to put into place local engagement frameworks and strategies supported by stakeholder mapping, which in many cases means a wider group of stakeholders have been engaged and in a more direct and meaningful way than in previous periodic reviews.

A culture of stakeholder engagement is reflected in our vision and objectives and our approach recognises the need for consistent quality of stakeholder engagement. ORR's consultation recognises that consistent quality does not mean every stakeholder should be engaged with in the same way as they all have different needs and engagement points. We have forums and frameworks to share best practice for stakeholder engagement and continue to develop our approach within national governance frameworks. We have shared this information with ORR and will continue to do so. Building on the monitoring approach through CP6, ORR's approach to assessing network-wide stakeholder engagement should be proportionate and appropriate for Network Rail (and eventually GBR), ORR and stakeholders.

We do not agree with ORR's suggestion that we are more influenced by some stakeholders than others because of contractual arrangements. While there is always a need to balance appropriately the priorities of all of our different stakeholders, our engagement approach creates opportunities for other stakeholders to influence outside of contractual arrangements. We also carry out stakeholder engagement assurance in both plan development and annual reporting to review and assure the level to which all relevant stakeholders have

been identified and engaged, and how priorities have been appropriately reflected in plans and delivery. We expect to continue to share our stakeholder engagement approach with ORR, including our stakeholder self-assessments and assurance, which demonstrates how we engage fairly and widely.

**Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions, but which can also be tailored according to the business unit's stakeholder engagement approach?**

We welcome reducing duplication between Network Rail and ORR's stakeholder engagement surveys and working to agree appropriate stakeholder survey questions without placing undue burden on our processes or stakeholders. As ORR notes, it is important that we can continue to tailor our approach to conducting surveys to reflect the business unit's wider stakeholder engagement approach and the stakeholders' preference. We welcome a standard, appropriate set of questions, but we wouldn't expect regions and SO to ask only those questions, and these may change over time. We would expect to learn from each survey and, as appropriate, work with ORR to evolve stakeholder surveys as the process matures further.

We agree that consistency of quality for national stakeholders is important, and we would welcome a discussion at an appropriate time on how to capture feedback on this through the survey and assessment. We propose that this should be part of implementation discussions between the publication of the Final Determination and Delivery Plan.

**Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?**

ORR's early intervention approach has been positive in CP6, allowing ORR to see the steps we are already taking to address challenges in delivering our plans. It is important that early intervention remains balanced with a proportionate and risk-based approach to monitoring to avoid causing undue distraction from delivery of core plans. We support a staged approach and think this should also be reflected in the depth and frequency of information requirements, including regularly reviewing the level of detail at which ORR monitors performance where there are no material concerns.

We think a set of criteria is helpful to provide transparency about when ORR is likely to enhance its monitoring, though this being non-exhaustive could make escalation unpredictable and subjective. We recommend that ORR draws on CP6 experience to make the criteria as robust as possible to provide more certainty and consistency in applying the Holding to Account Policy. This consistency has not always been evident in CP6, for example in some cases ORR has undertaken Targeted Assurance Reviews with limited or unclear explanation of the criteria that has triggered its intervention or the outcome it expects.

We recognise that the tools available to ORR are different to other regulated industries due to Network Rail being an arm's length public sector body. We see value in ORR assessing all forms of intervention in the Holding to Account Policy to understand how effectively they are incentivising improvement. With some of the regulatory tools untested in CP6, we would like to work with ORR to revisit them and understand how they would best support the industry objectives for CP7, which we would expect to be part of ORR's detailed policy review later this year.

Information provision obligations under the network licence are very broad so we recommend that, as we enter CP7, ORR's routine monitoring arrangements should be reviewed to assess whether it is truly risk-based and proportionate and not a legacy from previous Control Periods.

**Question 6A: Do you have any comments on the structure of our proposed CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

We support a simple, holistic approach to monitoring. The tiered approach suggested by ORR is clear and we agree that it is not always suitable to tie regulatory monitoring to scorecards (for example, for slow-moving metrics, like CSI). However, scorecards are a reporting tool and not necessarily the cause of the data quality and transparency issues ORR raises. ORR has recognised this by reducing the frequency of previously periodic scorecard meetings to quarterly as we have evidenced strong scorecard assurance processes. We are committed to data quality and transparency across all our reporting, and expect scorecards to continue to be an important part of our reporting and monitoring approach.

We are developing internal monitoring arrangements for CP7 including how ORR's success and supporting measures will be represented. How the measures are reported internally may vary from ORR's proposed tiered structure. For example, success measure may not automatically be included on top level scorecards, whereas some supporting measures may feature in scorecards. This may change and evolve as we update scorecards through CP7 to reflect the needs of the business, and to reflect a changing industry structure.

A focus of the outcomes framework during PR18 was to provide balance across areas of monitoring. This supports both Network Rail and ORR in assessing performance across a number of priorities, balancing the multiple objectives across our business. We think this is an important principle for PR23 so do not consider that three environmental measures out of eight success measures in total is the right balance. We set out further views on the specific measures later in this response.

ORR's monitoring approach should continue to consider performance in the round. As regions need to balance different priorities across their plans, there may be trade-offs that need to be considered. For example, the wider rail industry is encouraging passengers to return to the railway following the Covid-19 pandemic, while we know that both train numbers and passenger volumes may impact on delivery of train performance. ORR's senior regulation managers are well placed to take this balanced view across a range of priorities using both quantitative and qualitative monitoring, and we welcome continued engagement with them to provide transparency and insight on overall performance for each region and function.

The consultation sets out ORR's intention to set trajectories for specified measures with quantified expectations from funders' High Level Output Specifications (HLOSs). We understand that this will be subject to ORR's matching process to reflect the funding available, and would also expect ORR to translate unquantified expectations into the determination as appropriate (e.g. realistic freight growth trajectories within the available funding envelope for CP7, even if this is not quantified in the HLOSs).

As ORR highlights in its consultation, proposals are set out with a view to being fit for purpose under rail reform. We support the need to be able to change measures (subject to appropriate engagement) to reflect improved understanding and focus, particularly under rail reform where measures of success will cover both track and train and this framework may need to evolve to reflect that, for example amending top level success measures.

**Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?**

We disagree with ORR's proposal to fix the trajectories used for monitoring unless there is a 'major' change in assumptions or circumstances. Baselines provide an important starting position for the Control Period, and we agree that line of sight back to these baselines is important. However, previous Control Periods have shown us how forecasts can be affected by major and minor changes in circumstances, as well as planning decisions and trade-offs and monitoring against trajectories developed as far as six years out for CP7-exit could lead to unrealistic expectations underpinning regulatory monitoring. For example, through CP6 we have needed to

forecasting capability, and we know that transparency of the justification for change is vital to effective regulatory engagement and monitoring, enabling line of sight from trajectories used for monitoring back to the original baselines in the Determination. We are also concerned that interpretation of what should be considered a 'major' change may vary. We would like to work with ORR to test real examples from CP6 of changes that have impacted forecasts to explore this proposal further and ideally identify clearer criteria and processes to reflect maturing forecasts in regulatory monitoring.

ORR's consultation suggests that it may also use Network Rail's own forecasts in reporting. It also accepts that we may use our own targets in our public reporting. We think that public reporting against both fixed regulatory trajectories and Network Rail's up-to-date forecasts may be confusing for the audience, and contradicts ORR's own objective of providing clarity to business units, stakeholders, and funders.

We recognise the potential misinterpretation of regulatory floors, but their use for CP6 did reflect the uncertainty in performance forecasting and that there may be movement around a point target. We have suggested to ORR previously that the framework could reflect this uncertainty in CP7 through the use of ranges for regulatory baselines. This aligns to Network Rail's well established scorecard process which uses ranges in target setting. This also enables the comparison of each regions' respective achievement within their own target range, recognising that direct comparison does not account for the very valid differences in regional planning and delivery (discussed earlier in this response).

#### **Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?**

The managing change policy enables us to reprioritise our plans as needed throughout the Control Period, which is vital to a network business. As ORR states throughout the consultation, Network Rail is one licence-holder and the spirit of the managing change policy should continue to recognise the need to make the best overall decisions for the effective and efficient delivery of the totality of outcomes and funding even if this has an effect on a regional settlement (noting that Scotland funding is ringfenced). Under rail reform, bringing track and train together is likely to result in changes to plans, so flexibility and clear, proportionate Managing Change processes will be important to enabling integration of plans.

We think that adding a timeliness principle to the managing change policy is appropriate to enable ORR to consider and respond to potential changes. In practice, this must consider the case by case circumstances of different changes to apply this principle as is reasonably practicable. For example, we may need to react quickly to changing circumstances, or may not be able to share confidential information with working level ORR colleagues. Both Network Rail and ORR should be pragmatic in meeting the principles of the policy.

We absolutely support improved clarity to reduce the risk of inconsistent interpretation of the managing change policy, and have recommended this to ORR through working level discussions throughout CP6.

#### **Technical consultation**

- **Do you have views on the measures we are proposing for each outcome area?**
- **Are there other measures we should consider?**
- **Are there other outcome areas that we should include in the CP7 outcomes framework?**

We agree with ORR's proposal to not introduce a significant number of new measures in CP7. While there can be good reasons to change measures, we support using well-established and well-understood measures that are proven to drive positive decisions as part of the regulatory framework. Public reporting against these measures will likely be better understood and trend analysis will provide valuable insight.

We note that ORR's expectations for forecasting success and supporting measures differ between the technical consultation and ORR's SBP guidance published on the same day. The technical consultation states that forecasts for supporting measures should be provided in annual delivery plans, while the SBP guidance requires forecasts for supporting measures in our SBP. Noting that ORR does not intend to publish baselines for

supporting measures in the Final Determination and in line with the proposals in the technical consultation, we will provide forecasts for success measures only in our SBP, along with a small number of supporting measures for safety and asset management which we will agree with ORR in advance. We will provide forecasts for remaining supporting measures in our Delivery Plans as per ORR's technical consultation.

We recognise the increased focus on environmental sustainability in CP7 reflecting the importance of the issue. However, we do not consider three environmental success measures out of a total of eight to be balanced. We agree that reporting these metrics is important and suggest that reporting as supporting measures would provide ORR with the transparency and insight needed to monitor this important outcome.

Below, we provide specific comments against areas of the technical consultation that we have queries or concerns about. We support all other proposed measures in the technical consultation and will discuss up-to-date definitions with ORR, reflecting some minor proposed adjustments to measures, further to discussions our subject leads have already been having with your teams.

### **Health and safety**

As ORR highlights in its consultation, Health and Safety legislation must continue to be the foundation of ORR's monitoring in this area and therefore it is not essential to identify specific success measures for health and safety. ORR's consultation also indicates that there will be a continued, joined up approach to safety and economic regulation in CP7. As with all areas of our plan, funding available will influence the outcomes we are able to deliver. For example, reducing safety risk to a level that is as low as reasonably practicable must be in the context of the funding available. As we set out earlier in this consultation, planning decisions must consider balanced priorities across areas of the plan.

### **Passenger train performance**

We agree with the success measures ORR has proposed for passenger train performance, but as noted earlier in the consultation we expect there will be a need to review measures within the tiered structure to reflect GBR success measures. This will enable ORR to also consider measures used by train operators, both internally and set out in contractual commitments.

It is important to note that at present we do not have a definition for Regional APL. We would like to consider the best approach to development with ORR, aligning with wider discussions on measures of success for GBR. As mentioned earlier in this response, it will be important to have a consistent understanding of definitions for all measures. We understand delay minutes per 100km to be a naming update from a previous measure but would like to confirm this with ORR as we develop forecasts later in the periodic review.

As we have previously discussed with ORR, performance management maturity, as defined by RM3P, is a subjective measure requiring participants to rate themselves to identify areas they want to focus on improving. The maturity assessment, used in the development of joint performance strategies, generally reflects collective capability across Network Rail and relevant train operators. We have found this self-assessment and continuous improvement approach to be valuable to the industry, and the open and honest self-assessment from all parties is vital to enabling that continuous improvement. We are concerned that formalising the measure within the regulatory framework and accompanying benchmarking and regional comparison could potentially undermine the openness of the self-assessment that the RM3P process relies on. We therefore do not think a maturity score is suitable as part of the suite of supporting measures. We would consider this to be more suited to the additional assurance information ORR will seek in CP7 to provide further insight and assurance on actions being taken forward to improve our overall capability for performance management.

### **Freight train performance**

ORR's consultation proposes replacing FDM-R with FCAL. We are always open to improving the transparency and quality our measures and would like to discuss possible improvements further with ORR, however we do

not believe that the proposal and suggested reasons for this set out by ORR are currently robust enough to justify a change.

The overall purpose of our KPIs is to drive positive performance alongside various other factors considered in making performance management decisions. Freight performance is currently below expectations, and we are committed to taking all appropriate steps to improve this. Selecting suitable measures to better inform performance management decisions may be one option in the longer term, but we think this needs thorough and careful consideration to ensure any new measure does in fact provide the correct insight needed to enable this.

To introduce new measures effectively, our normal process is to shadow-run measures for up to a year to understand how useful they are in informing performance management decisions and enable colleagues to understand them. Early engagement with operational and performance management colleagues indicates that the proposed measure would not be any more helpful in informing management decisions. While we recognise that the proposed change may be relatively simple, we do not currently see strong evidence that this would better inform performance management decisions. As such, we do not believe it would be appropriate to hastily provide forecasts against a new measure in our SBPs without evidence that this approach will address the concerns ORR has raised in the consultation.

In the consultation, ORR raises concerns that FDM has not been widely used by regions in CP6, and suggests this may be because the measure is difficult to understand. FDM is included on 4 of our 5 regional scorecards and within performance management information used by regional performance teams. The Freight and National Passenger Operators (FNPO) team also engages with regional teams regularly on overall freight performance, including FDM, freight cancellations and arrival to 15. FNPO would welcome the opportunity to work with ORR to provide more transparency of how FDM is used throughout our business.

FDM reports the percentage of freight trains arriving within 15 minutes of scheduled arrival time. ORR suggests that the measure is difficult to understand because delay caused by the affected freight operator or another commercial freight operator is not considered a 'failure' under the measure. The proposed new measure (FCAL) inverts the FDM metric to present the percentage of freight trains that did not arrive within 15 minutes of scheduled arrival time (i.e.  $100\% - \text{FDM}$ ). Our understanding is that FCAL also does not include delays caused by the affected freight operator or another commercial freight operator as a 'failure'. While we have discussed with ORR its rationale for making this change, we do not agree that it will resolve any perceived misunderstanding of the freight metric.

ORR proposes that the new measure provides the benefit of a clearer link to freight cancellations. Equally, FDM links more clearly to Arrivals to 15, the other supporting measure proposed. We do not see this as a material benefit outweighing the benefits of FDM.

We would welcome further discussion with ORR to explain our rationale on why we consider FDM should be retained, and potential ways it could be reviewed to make it more effective.

### **Asset sustainability**

We have been discussing with ORR our intention to update the methodology and use of the Composite Sustainability Index (CSI). Our proposed changes are summarised as follows:

- **Updating the baseline:** the current baseline is set in reference to end-CP4, using route boundaries at the time. Additionally, some elements of the measure as now formulated were not available at end-CP4 and are not factored in to the baseline. We propose to update the baseline to end-CP6.
- **Updating cost-based weightings:** the weightings between different assets are based on the renewals costs of those assets as at mid-CP4. We propose to update the weightings to renewals costs as at the end of CP6.
- **Extending the coverage of assets:** we propose to extend the CSI measure to include more assets, particularly where coverage is low at present (e.g. electrical assets).

- **Revising definitions to reflect updated understanding of the relevant assets:** we are considering revisions to the definitions used for the following assets:
  - *Track*: including the required performance of the track and condition measurements in assessing the fraction of remaining service life of the assets.
  - *Earthworks*: changing the weightings for earthworks asset condition states for updated calibration of failure rates.
  - *Operational property*: updating the asset weighting to reflect more up-to-date replacement costs (also required due to proposed increased coverage).
  - *Drainage*: changing the weightings between assets to better reflect the relative value of the asset types.

More broadly, as supporting measures, ORR has proposed a 'range of measures focused on high priority areas and listed these. While we do not disagree that these measures provide important insight to our asset management approach, we expect 'priority areas' to change through the Control Period. This is likely to reflect issues ORR identifies through regular reporting and monitoring, such as items included on the regulatory escalator which change month to month. We suggest it would be more suitable to include these measures as part of the additional assurance information to be agreed with ORR.

### **Environmental sustainability**

We have a number of queries on the detail of the proposed measures (for example, calculation, definition and appropriate frequency of reporting) which we note that ORR intends to work with us on. Until we are able to further discuss the detail with ORR, we cannot definitively support all measures.

As raised earlier in this response, we believe that three environmental success measures out of a total of eight is unbalanced. We would welcome further discussion with ORR to understand why these measures have been selected and how they link to wider reporting (for example under DfT reporting arrangements). Additionally, the One Planet Indicator is a measure calculated from a number of inputs. Some of ORR's proposed success measures are already included within this calculation (e.g. carbon emissions), so we do not understand the need for these to also be included as stand-alone success measures. The approach ORR has proposed for monitoring asset management recognises that the Composite Sustainability Index (CSI) incorporates other measures, so further insight will be gained through supporting measures and additional assurance. We believe this approach would also work well for monitoring environmental sustainability. We can provide clear visibility of the component measures through agreed reporting.

We also see this as an example of when considering performance more broadly is important, for example increased train movements may increase carbon footprint for the railway, but have an overall positive impact on national carbon emissions (e.g. modal shift from road freight to rail freight) and overall financial sustainability of the network with returning passengers increasing industry revenue.

The One Planet Indicator is a new and still developing measure. As per the process described above to introduce new measures, we are shadow-running and still working to refine this and include additional datasets as we move to CP7 and beyond. It is important to note that we will likely need to engage with ORR as the reporting process evolves and ensure trajectories can be updated to reflect new and improving datasets. We are committed to providing clear justification whenever these changes are required.

We understand ORR's proposed measure 'biodiversity unit' to be the 'biodiversity metric', for which we currently report the Defra metric (version 3). This metric is not used by environmental regulators in Wales or Scotland, so we would welcome a further discussion with ORR on the appropriate approach to monitoring this across the whole network. We also note that the description of the measure provided by ORR varies slightly from our understanding and current application which we would like to discuss.

### **System Operator and Freight growth**

We are still discussing the most appropriate monitoring approach for the System Operator (SO) as we embed our new operating model. We will continue to discuss this with ORR, noting that a workshop is planned in early October with the relevant subject matter experts.

For measurement of freight growth, we agree with ORR's proposal to explore alternative and supporting measures.



## Response to ORR's consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: Nicola Eyre

Job title: Head of Access and Strategic Partnerships

Organisation: Northern Trains Limited

Email\*: [REDACTED]

Telephone number\*: [REDACTED]

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter's proposed suite of tools to hold the infrastructure manager to account during the next control period.

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

The approach outlined appears to be sensible. As an operator whose relationship is looked after by a Network Rail route, despite operating across multiple routes, we do have concerns that conflicts could arise from having SO accountable for freight and national operators, whilst the regions and routes having accountability for non-national operators. This has the potential to create a two-tier system especially as SO has the final say on the train plan alongside some key functions such as track access. There is a risk that we will not see parity when conflicts of efficiency occur e.g., ESG may have had a different outcome if owned and delivered by SO vice North and East/East Coast route. It is therefore important that any policy outlining how Network Rail will be held to account recognises the differences in how operators are managed across

routes and System Operator and that there are clear expectations of each for managing the customer to ensure fairness in all Network Rail processes across the board to ensure that SO managed operators are not unfairly advantaged.

***Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?***

NTL agree with not devolving to individual route level, however, there will still be a challenge in how regions have separate settlements. Passenger services work across regions, and the different approaches and use of the settlement need clear coordination and agreement between those Regions to ensure continuity. There is a whole section on how National and Freight will be covered and be coordinated by SO, but this does not cover operators across more than one region (such as NTL), therefore careful consideration is needed as to how this will be best achieved to ensure operators whose relationship is managed by one route despite the operation being across multiple regions are not unduly disadvantaged when compared with national operators who are looked after by SO.

## **Chapter 4: The role of stakeholders**

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

NTL supports the importance placed on engagement with stakeholders. Our experience is that this generally works well. The proposed approach highlights the need to make it easier for stakeholders to engage with Network Rail. We agree that more could be done to improve the experience of stakeholders who work with different regions / parts of the business to make their engagement seamless and avoid duplication. Stakeholders from outside of the rail industry often comment on its complexity and red tape that can actively dissuade them from engaging, working with the industry, and adding valuable insight. We believe there should be emphasis on making it easier for these stakeholders to engage with Network Rail, however Network Rail needs to engage better with TOC's as part of a whole system view to ensure that any enhancements are viable and deliverable to all parties. This would help ensure that plans and priorities deliver maximum benefit for wider society. Where possible Network Rail should actively seek opportunities to collaborate with industry partners on stakeholder engagement both through business-as-usual activity and specific projects / initiatives.

It is important that the future GBR model plans how the TOC level Stakeholder relationship will transition.

***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

A consistent set of questions enables benchmarking and target setting for future years and would seem a sensible approach. We are conscious of the risk of survey fatigue so proposal to consolidate the ORR and infrastructure manager surveys is sensible as well as more cost effective. An annual survey may only give a snapshot in time so we would encourage the infrastructure manager to consider ongoing ways of monitoring and assessing effectiveness of its stakeholder engagement throughout the year. While quantitative data gathered through surveys enables easy assessment we would encourage an element of qualitative research into the effectiveness of stakeholder engagement. We would urge consideration should be given to how stakeholder engagement can be carried out more efficiently where operators such as NTL work across multiple routes – at the moment surveys seem to be on a regional basis which means that NTL ends up attending multiple meetings/completing multiple surveys for individual regions, as part of the whole system model surveys need to take account of the entirety of an operators network and not by individual regions – as an operator we need to be able to deal with Network Rail, not each individual region, this is crucial for reducing inefficiency across the industry.

## **Chapter 5: Monitoring and enforcement**

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

The proposed approach appears to be sensible and should in theory be effective providing that reputation damage has a consequence, otherwise monitoring and enforcement becomes a paper exercise. The lack of levers that influence value (£) is the largest challenge, however, there is no obvious solution to address this currently.

## **Chapter 6: Outcomes and monitoring performance**

We welcome views on the role of our outcomes framework.

***Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?***

NTL remains concerned regarding System Operator (SO) being accountable for national operators whilst also being accountable for overall planning and regulation of the network. This could present a distinct disadvantage for operators who are managed at local route/regional level. Steps will need to be taken to ensure there is

not undue pressure placed on regions by SO to offer preferential treatment to national operators in a bid to ensure that SO targets are achieved. There is a possibility that targets particularly performance targets will differ from route to route, especially for those routes that have national operators passing through so there could be local targets at a route level for 'local' operators and then a national target for national operators. Freight targets are set nationally which makes sense and we would suggest that this should be the same for national operators.

There is an inference in the consultation document that balanced scorecards don't really work. Our experience of recently agreeing scorecards with Network Rail is that the measures that go in them can vary between each TOC, there does not seem to be parameters set by ORR for the content and therefore the process doesn't feel as formal as it once was, nor is it visible how ORR are holding to account through the use of the scorecard. Network Rail needs to be suitably incentivised through the balanced scorecard to agree effective targets with operators and deliver against these. We would suggest that there is still a place for the scorecard and that it needs focussed customer targets that consider the whole system, the scorecard content and delivery needs to be actively monitored and challenged by ORR and action taken where targets are consistently not being met.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

NTL supports the use of the trajectory model as this ensures that improvements are tracked against a trajectory for the funding received as part of the settlement, we believe this is more effective than a one-off target. We would suggest that NTL and wider industry would benefit from visibility of what ORR is tracking and how exactly this is holding Network Rail to account – including better visibility of when action is taken.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

NTL is supportive of the CP7 changes proposed, however, we would suggest the more consideration is given to the role of the stakeholder particularly TOC's when changes are being made. There is far more focus now on how TOCs and Network Rail can work more collaboratively through business planning processes. NTL for example is working closely with Network Rail on its CP7 business planning process and actively seeking alignment on business plan priorities. There is a risk that if stakeholders are not adequately informed or consulted about proposed changes to CP7 plans during delivery – particularly renewal activities that it could result in TOCs not being able to

deliver on agreed commitments. It is therefore important that discussion takes place to understand any knock-on impact of any proposed changes to ensure that all parties are aware of any risks and where appropriate - opportunities of the change. NTL is unclear of how the managing change policy will work during future reform and paragraphs 7.20-7.23 would benefit from further clarity. NTL believes that a future managing change policy post reform would require confirmation of the operating model, the role of ORR in a GBR world and then implementation of a new process or major change control in order to effect the changes. NTL suggests that a mid-control period review/reset should be factored into the process to ensure that the regulatory measures as set, achieve the performance outcomes as per the final determination.

### **Are there any other comments you would like to make?**

No further comments

Thank you for taking the time to respond.



ORR  
PR23 team  
PR23@ORR.gov.uk

4<sup>th</sup> Floor  
Northern House  
9 Rougier Street  
York  
YO1 6HZ

(By email only)

29<sup>th</sup> September 2022

Dear ORR,

## **NTL response to ORR PR23 technical consultation on the measures in the CP7 outcomes framework**

Thank you for consulting Northern Trains Limited (NTL) on ORR's PR23 technical consultation on the measures in the CP7 outcomes framework. We have set out our response as suggested for each individual area that formed part of the consultation as follows:

### **Health and Safety**

- **Do you have views on the measures we are proposing for each outcome area?**

The rationale regarding having no success measures is understood. The supporting measures are also considered appropriate and proportionate at a policy level. It is imperative that the transition to GBR is managed in a safe manner, and so we are reassured by the statement in paragraph 3.5 that additional assurance information will be agreed with Network Rail in order to manage their capability to achieve this during the transition.

- **Are there other measures we should consider?**

No comments

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED  
GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT  
Company No. 03076444

## **Train Performance**

- **Do you have views on the measures we are proposing for each outcome area?**

Whilst NTL welcomes the move towards a true on time railway, and metrics that support this, the current levels of technological and analytic capability within the industry does not support this immediate step change. NTL would like to encourage the ORR to incentivise Network Rail through use of common and aligned performance metrics for example, to those set within our service agreement of, time to three metrics alongside the suggested cancellation metric. If this is not implemented there is risk that there will be creation of insight, and improvement schemes that focus on seconds loss for one party and minutes for the other.

- **Are there other measures we should consider?**

No comments

## **Asset Sustainability**

- **Do you have views on the measures we are proposing for each outcome area?**

Network Rail has provided NTL with a brief overview of the Composite Sustainability Index (CSI) which is a measure used to understand network sustainability and tracks the change in the residual value of the assets, however, we do not yet have visibility of how this data will be used in Network Rail maintenance planning and delivery activities. NTL suggests that this data should be visible to allow monitoring of delivery progress at a TOC level.

At present NTL do not have visibility of data related to the management of Network Rails building assets nor an understanding of how Network Rail use the changing asset life patterns in the interventions across the NTL estate. Again, it would be hugely beneficial for this data and level of information to be available, and we would expect the ORR to have an awareness of this in order to hold Network Rail to account effectively.

Regarding the Examination supporting measure (particularly for structures and buildings) along with the maintenance compliance supporting measure. It would be useful if Network Rail reported to TOCs on these measures and the progress of the delivery of the plan. Individual TOCs hold asset data for buildings which should be fed into the Network Rail system to support the CSI measure.

- **Are there other measures we should consider?**

NTL suggests that a further measure for this model would be around the performance of M&EE equipment to support both NR and NTL in developing full life cycle maintenance and renewal plans.

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED

GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT

Company No. 03076444

NTL also believes that customer satisfaction measures should be fed into the CSI data to compare and align the findings to influence future Network Rail maintenance planning and delivery activities.

### **Efficiency and Financial Performance**

- **Do you have views on the measures we are proposing for each outcome area?**

The proposed measures for efficiency and financial performance largely seem sensible. From a TOC perspective - the rollout of “fishbones” could impact on NTL; however, we are sighted on this.

We would however express caution over the use of maintenance headcount as a suitable supporting measure:

- 1 head @ £100k vs 2 heads @ £40k each. Headcount = good, cost = bad. Any measure would not only need to consider headcount but also the cost of such.

We question whether this measure will take into account out-sourced work? It would be relatively straightforward for work to be outsourced in order to depress internal headcount and staff cost but the cost of delivery would remain high. We would therefore suggest that outsourced work should be incorporated into this measure.

- **Are there other measures we should consider?**

No suggestions

### **Environmental Sustainability**

- **Do you have views on the measures we are proposing for each outcome area?**

The measures outlined in Section 7 ‘Environmental Sustainability’ appear appropriate. That said, it’s unclear whether they consider TOC managed estates for which Network Rail are Landlord. For example, NTL’s non-traction energy carbon footprint is significantly influenced by the use of fossil-fuel heating systems. Whilst changing these systems may be regarded as an enhancement and therefore out with the CP7 process there may be some that will be due for renewal during the CP and therefore it is important that Network Rail are encouraged and funded to renew in line with environmental sustainability rather than a straight like for like option as had traditionally happened in the past. We believe that this should be factored in/considered when setting the level of funding.

- **Are there other measures we should consider?**

NTL would suggest a new measure related to TOC managed assets owned by Network Rail and their renewal. We believe that Network Rail has a plan to phase out all of their fossil fuelled heating systems by 2030 however this does not extend to TOC managed locations. A specific measure would ensure that all Network Rail assets are treated the same regardless of whether TOC managed or not.

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED

GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT

Company No. 03076444

## **Customer Satisfaction**

- **Do you have views on the measures we are proposing for each outcome area?**

NTL agree that reporting should be based on the new survey that is being developed as a single source of insight for the rail industry. NTL also agrees with the proposed supporting measure.

- **Are there other measures we should consider?**

NTL would suggest a measure for NPS that is aligned to the output of the new survey and that is ultimately agreed for the whole industry. NTL data shows that the top 3 areas to drive NPS through our partnership with Network Rail are Performance, Cleanliness and Staff. We would recommend adding these lower-level areas for satisfaction - cleaning / performance and staff below overall satisfaction.

- **Are there other outcome areas that we should include in the CP7 outcomes framework?**

NTL would propose that there is an opportunity to bring SQ into the measures, as a voice of the customer metric for a consistent service quality at managed stations.

## **System Operation**

- **Do you have views on the measures we are proposing for each outcome area?**

NTL understands that quantitative success measures are difficult in this area, and we therefore support the proposed approach.

We would however, suggest that the supporting measures require more definition and more focus on the overlap between the three areas. As an example - NTL are currently experiencing issues with late Network Change and TPRs for projects such as TRU. We believe that System Operator should be overseeing these interlinked processes to ensure that as an industry we have all the elements in place required to develop the timetable.

- **Are there other measures we should consider?**

No comments

## **Freight Growth**

- **Do you have views on the measures we are proposing for each outcome area?**

No comments

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED  
GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT  
Company No. 03076444

- **Are there other measures we should consider?**

No comments

### **Network Capability**

- **Do you have views on the measures we are proposing for each outcome area?**

NTL believes that there should be measures proposed for Network Capability. Whilst we understand the principle of measuring Network Capability and turning this into information, we don't believe monitoring alone goes far enough in addressing widespread challenges in this area.

- **Are there other measures we should consider?**

NTL would suggest that a good success measure would be around identifying routes that have capacity constraints. NTL have experienced issues with delivering new services due to new information coming to light suggesting that there is a lack of available capacity/congested infrastructure which has been otherwise unreported. As an industry, we should not be discovering lack of available capacity at such time as developing a timetable or service proposition. Network Rail should have a clear understanding of available network capacity and regular assessment of this should be taking place. A measure in this area would encourage proactive and regular network capacity and wider network capability assessment which would mitigate instances of services being unable to be delivered once specified due to lack of available capacity. For supporting measures, we would suggest a measure that considers time band route section utilisation verses capability maps that plots future aspirations and interventions in both service structure and infrastructure growth (time band might be Off peak, Am Peak, PM Peak, overnight including possession impact and signal box hours).

### **Network Availability and Possession Management**

- **Do you have views on the measures we are proposing for each outcome area?**

NTL does not agree that there are no success measures or supporting measures proposed for this important area, nor are we necessarily clear as to what "additional assurance" means in this case. We do, however, support the monitoring of delivery of the recommendations of the review report.

NTL needs to be able to see the reporting on possession trends, notifications as well as late possession changes and cancellations – with this not being a supporting measure it is unclear how this information will be accessed. Fundamentally, all the actions on monitoring are in the right place – the question is how do these feed into the CP7 outcomes framework – planning Network Availability and Possession Management is a fundamental requirement for the infrastructure manager that it must deliver well in line with the funding it receives.

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED

GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT

Company No. 03076444

- **Are there other measures we should consider?**

No comments

### **Accessibility**

- **Do you have views on the measures we are proposing for each outcome area?**

It is disappointing that no measures or clearly defined monitoring has been proposed for this important area.

- **Are there other measures we should consider?**

NTL would suggest that a measure that could be added is the number of derogations applied for by Network Rail to DfT against the NTSN. This would be a measure of compliance and focus Network Rail on reducing derogations. Another suggested measure could be the % of journeys which are step free?

If you have any queries about anything contained within this response, please do not hesitate to get in touch.

Yours sincerely,



**Nicola Eyre**

Head Of Access and Strategic Partnerships

[www.northernrailway.co.uk](http://www.northernrailway.co.uk)

NORTHERN TRAINS LIMITED

GEORGE STEPHENSON HOUSE, TOFT GREEN, YORK, ENGLAND YO1 6JT

Company No. 03076444

# ORR PR23 Policy Framework consultation on outcomes, infrastructure performance and managing change

## Response from Rail Freight Group

September 2022

1. Rail Freight Group (RFG) is pleased to respond to the consultation on ORR Consultation on PR23 Outcomes, Infrastructure Performance and Managing Change. No part of this response is confidential.
2. RFG is the representative body for rail freight in the UK, and we campaign for a greater use of rail freight, to deliver environmental and economic benefits for the UK. We have over 100 member companies including train operators, end customers, ports and terminal operators, suppliers including locomotive and wagon companies and support services.
3. Overall we support the proposals in this consultation subject to the comments below. We are glad that ORR is also considering how its approach may need to change with the establishment of GBR, which will have a very different structure to the current Network Rail.

*Question 3A: Do you have any comments on our proposals to create separate settlements for the regions and SO*

4. We support the proposals to continue with separate settlements or the regions and in particular for the SO. This enables greater accountability at a regional level whilst also protecting the key cross network activities undertaken by the SO.
5. With FNPO now being part of SO we note that the SO settlement will lead on NR's freight outputs, but with delivery at a regional and route level. We support the approach in para 3.22 which highlights how this will be included.
6. We note the comments in 3.28 which outline how these proposals may evolve with rail reform. As the GBR regions are likely to take a greater role in the passenger railway than today, with integrated track and train units, it is essential that there are strong regulatory targets for non GBR operators including freight, and that the SO function has strong levers over the regions for cross network matters. As any changes are implemented over time, this must continue to be a key function of the outcomes framework.

*Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement?*

7. We agree with the proposed approach with an increased focus on core national activities. With the move towards GBR the role and authority of central functions is likely to be of increased importance, and it is essential that there is full transparency and clear governance.
8. Whilst we agree that there should not be separate settlements for the routes, ORR should be satisfied that there is a clear link between the actions of the routes, and the regional and SO settlements.

*Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?*

9. We broadly support the proposals outlined. In freight, Network Rail's stakeholder engagement has historically been focussed on the freight operators, with whom they have a track access contract. More recently there has been greater engagement with the wider freight community including major end customers. Network Rail's relationship with the tenants on its land estate and connected facilities has often been managed wholly separately, but there are signs that a more coherent approach is developing which is welcome.

*Question 4B: Do you agree that the infrastructure manager should conduct its survey (etc)*

10. We agree with these proposals. It is important that stakeholders are consulted but also that the requests are proportionate.

*Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP5?*

11. We agree with these proposals. We note that, under the plans for rail reform, some enforcement actions such as fines may not be available. ORR needs to determine what other actions will be possible to ensure that monitoring and enforcement remains sufficiently strong against a range of potential behaviours.

*Question 6A: Do you have any comments on the structure of our proposed CP7 outcomes framework etc.*

*Question 6B: Do you have any comments on the proposed approach to monitoring etc*

12. We have no comment on the proposed approach. Under para 6.15 it is unclear how baseline trajectories will be set for freight – we assume at a national level? This should be clarified.

*Question 7A: Do you agree with our proposals to improve the Managing Change Policy?*

13. We have no comment on these proposals.

# ORR PR23 Policy Framework Technical Consultation on measures in our proposed CP7 Outcomes Framework

## Response from Rail Freight Group

September 2022

1. Rail Freight Group (RFG) is pleased to respond to the ORR PR23 Policy Framework Technical Consultation on measures in our proposed CP7 Outcomes Framework. No part of this response is confidential.
2. RFG is the representative body for rail freight in the UK, and we campaign for a greater use of rail freight, to deliver environmental and economic benefits for the UK. We have around 120 member companies including train operators, end customers, ports and terminal operators, suppliers including locomotive and wagon companies and support services.
3. Overall we are broadly content with these proposals but consider that the success factors for freight should be clearer and include the freight growth target. It will be particularly important that the Network Rail routes and regions continue to focus on the key measures during a period of substantial change in the transition to GBR.
4. *Introduction* We agree with the tiered approach. It will be important that ORR have full visibility of the supporting measures as well as the success measures and has the ability to hold Network Rail to account for their delivery in some way.
5. *Health and Safety* We have no comments on these proposals.
6. *Train performance* We have no comments on the proposed measures for passenger performance. However with the move to new contract structures under GBR it is essential that the incentives on GBR to manage infrastructure performance remain strong. Whist delay minutes is appropriately a supporting measure presently this should be monitored with any changes to Schedule 8 and the passenger contracts in due course, to ensure that GBR remains properly focussed on infrastructure performance as well as overall passenger performance.
7. We recognise that FDM is a confusing measure because it does not reflect freight train performance as experienced by the user. Indeed it is frequently misreported for example on social media and can lead to a false perception on freight

performance. However we are not convinced that the proposed measure which combines cancellations and delay caused by NR and non-freight users is any clearer or easier to understand. Indeed, it is potentially more confusing.

8. The situations which lead to performance delays and cancellations are not always the same. For example, engineering access is a cause of freight cancellations but not of delay. The actions needed to manage each are therefore not the same and it is unclear that a combined measure would incentivise clear behaviour choices.
9. As freight users place a particular weight on cancellations, we would prefer to see this reported separately alongside FDM as a success measure – in a parallel way to passenger. We consider it particularly important that cancellations are measured directly as this reflects the customer priorities more closely. We support using A2F as a supporting measure.
10. *Asset Sustainability* We support the proposed measures. It is particularly important that the infrastructure is maintained to be capable for freight, including freight only assets, and that characteristics such as route availability and gauge are maintained at the committed levels.
11. *Efficiency and Financial Performance* We support the continued use of FPM. On the supporting measures we note the use of disruptive access as an indicator of efficient delivery. It is important that the incentives work to enable freight to continue to operate particularly overnight, and that any increases in disruptive access is managed with little or no impact on freight services. There is a relationship between this measure and freight cancellations above and there should be an aligned incentive to reduce cancellations for users.
12. *Environmental Sustainability* We have no comment on the proposed measures. Although we recognise the huge importance of environmental sustainability, we note that there would be, as proposed, 3 success measures for the environment, but only 1 for freight. As mode shift to freight is a key way of reducing carbon emissions from transport, it feels unbalanced to have a greater regulatory focus on one than the other.
13. *Customer Satisfaction* We have no comment on the passenger measures. We note that freight customer satisfaction is not included here and suggest it should be on an equivalent basis with passenger.
14. *System Operation* We support the proposed measures but question why none are considered a success measure. We would support stronger regulation of

these outcomes given the vital importance of the system operator.

15. *Freight Growth* We strongly support the inclusion of a freight growth target and consider it should be a success measure particularly if it included in government(s) HLOS(s). This measure is key in incentivising the right behaviour from NR for freight.
16. *Network Capability* We agree that network capability is set out clearly in the licence and network code. However, particularly if funding is constrained, this is a key risk area for freight in particular for route availability and must be closely monitored. We also note the potential for changes to the licence in rail reform and note that this must be maintained in any new licence for GBR.
17. *Network Availability and Possession Management* We are disappointed that the ORR are not planning to formally measure this area particularly as the volume of access requested appears to be increasing as a result of the end of red zone working. At the same time the incentive effect of Schedule 4 is to be weakened by the opt out clauses for passenger operators, meaning that Network Rail has little incentive to reduce disruptive access. We are not convinced that the planned post hoc monitoring will provide a sufficient counterweight to these trends. As such we consider that there should be at least a supporting measure to encourage efficient possessions, coupled with a measure on freight cancellations as described above.
18. *Accessibility* We have no comment on this area.



## Response to ORR’s consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: Liam Bogues  
Job title: Senior Policy Manager  
Organisation: Rail Partners  
Email\*: [REDACTED]  
Telephone number\*: [REDACTED]

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter’s proposed suite of tools to hold the infrastructure manager to account during the next control period.

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

Rail Partners is supportive of the approach to create different settlements for each of Network Rail’s regions and a separate settlement for the System Operator. From a regulatory perspective, this creates the opportunity to continue to compare the performance and efficiency of the different regions and therefore to create incentives on the lower performing regions to improve. It is not clear to us that ORR has made maximum use of this comparative competition opportunity in CP6.

We welcome the retention of a settlement for the System Operator which recognises the importance of taking a whole network approach to planning and investment

decisions. The System Operator has a critical role to play in supporting the regions to deliver a high performing railway.

There is some concern across the train operating community that in this control period, engagement between different Network Rail regions has been inconsistent and has meant that there has not always been a joined up approach to planning and investment. It is therefore important the infrastructure manager works to ensure that separate settlements are consistent with a more integrated approach between the regions in the next control period, for example in the sharing of information and best practice. What's more, given GBR will have dual responsibilities of contracting with train operators and infrastructure manager, it is important that the regulator monitors GBR to ensure that it is acting in a transparent and non-discriminatory way in the delivery of its key system operation activities.

As outlined in the consultation paper, the System Operator now owns the relationship with freight operators and national passenger operators. It is important that as reform progresses, ORR remains focussed on monitoring how the System Operator is delivering for these operators.

The Plan for Rail has committed to the introduction of a rail freight growth target, which Rail Partners has called for to be enshrined within legislation. ORR should ensure that Network Rail's centre, and in the future GBR, ensures that each of its regions are equally focussed on delivering freight growth in their geography. In particular, each regional settlement should detail the policies it will implement and the infrastructure it will deliver to create the conditions for freight growth.

***Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?***

Rail Partners would welcome more clarity on how ORR will increase its focus on the core national functions and how it intends to hold them to account in their delivery to the System Operator and the regions. It is not clear why ORR needs to wait until CP7 to increase its focus on these core functions.

We agree that individual settlements are not necessary at route level and would potentially lead to a more fragmented approach to decision making which is not consistent with the management of a national network. As noted in the consultation document, it will remain important that specific performance related issues at route level continue to be investigated in the new control period. How this works in practice will need to be reviewed as further detail on the way that GBR will be structured beneath its regional divisions becomes clear.

## Chapter 4: The role of stakeholders

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

### ***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

Rail Partners is supportive of the approach to stakeholder engagement in CP7 as outlined in the consultation document. Regular and transparent engagement with stakeholders is important to ensure that the railway is being operated effectively and in the interest of its direct customers (passenger and freight operators) and rail users (passengers and freight customers).

Effective engagement between Network Rail's regions and train operators in the development of Strategic Business Plans is important so that the infrastructure plans are driven by a clear understanding of the operational requirements.

Rail Partners agrees with the consultation document's assessment that engagement across Network Rail's regions and System Operator has not always been co-ordinated or consistent in this control period. ORR's monitoring of improvements in this area should be considered a priority, with the infrastructure manager's executive team responsible for delivering a more holistic approach to stakeholder engagement and the sharing of best practice across its regions.

We are supportive of the principles set out in the Stakeholder Engagement Duty as set out in Network Rail's Network Licence. A consultation on GBR's draft licence is expected in early 2023 and it is important that this retains a strong emphasis on engagement with the wider rail industry.

In a reformed railway, where GBR is both specifying most passenger contracts and managing rail infrastructure, engagement with stakeholders will in fact become more important to balance the interest of all rail users and ensure that GBR operates in a transparent and non-discriminatory way, in particular to those operators retaining commercial risk.

### ***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

In principle, we agree with the recommendation to consolidate the stakeholder surveys conducted by both ORR and the infrastructure manager to reduce duplication. While specific regions may wish to tailor their engagement, wherever possible this should be consistent. This is particularly important for national passenger and freight operators that run services crossing regional boundaries, reducing administrative costs incurred by operators having to engage with multiple interfaces across Network Rail structures.

## Chapter 5: Monitoring and enforcement

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

### ***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

Rail Partners believes that the use of reputational incentives and comparative competition between Network Rail's regions will remain its most powerful tools in holding the infrastructure manager to account in delivering a railway that represents value for money to the taxpayer and benefits rail users.

ORR has the ability to require Network Rail to develop recovery plans when it falls short (e.g. infrastructure failings leading to a worsening of performance) which ORR then monitors delivery against. This ability to take enforcement action and the public reporting that it goes with serves as an important licence breach deterrent. We note that ORR has not had to use this power so far in CP6 but it will continue to remain an important power both in enforcing licence compliance with Network Rail and in the future with GBR.

As noted in the consultation document, there are some mechanisms which ORR has at its disposal that it has elected not to use at all, or has used infrequently, due to concerns about their suitability. The legislative consultation proposed that the ability for ORR to levy financial penalties on GBR in future should be removed. Some of our members agree with this in recognition that any penalty imposed would result in money lost to the railway while others expressed concern that its removal would reduce the ORR's ability to hold GBR to account effectively.

Accountability will be of critical importance in a reformed railway where GBR has responsibility for specifying some passenger contracts, and will hold revenue risk in some cases, in addition to its role as the infrastructure manager. The regulator therefore has a critical role to play in ensuring that the infrastructure manager is acting in transparent and non-discriminatory way. We are also supportive of measures that result in a greater focus on the System Operator to reflect the importance of its function across the GB rail network. It is not clear why ORR should wait until CP7 to provide this greater focus.

This policy framework consultation also notes that in the future GBR will be required to report candidly and transparently, and ORR will continue to deliver independent scrutiny. To support this, in Rail Partners response to the legislative consultation we called for GBR's Public Interest Duty to explicitly require GBR to act in a transparent way.

## Chapter 6: Outcomes and monitoring performance

We welcome views on the role of our outcomes framework.

***Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?***

Concerns expressed by train operators regarding the effectiveness of Network Rail scorecards during PR18 have been borne out during this control period, so Rail Partners is supportive of the proposal to implement a new framework. We are supportive of measures that will help to make the targets set within the infrastructure manager's scorecard more transparent, and we believe that the greater involvement of train operators, as their direct customers, is important to make sure that the targets are set at the right level and understood by industry in the next control period. Given ORR's proposal to set Network Rail a whole-system performance target, it is particularly important for TOCs to input into the performance trajectory.

The rationale for a tiered framework is understood and can help to provide greater focus on the core fundamentals of PR23 across each of Network Rail's regions and the System Operator. We agree that the infrastructure manager should use the agreed framework and success measures as part of its own business planning process. The success measures should be consistent across each region, though it is recognised that there must be scope for tailored measures where specified in the HLOSs. Similarly, the analysis used to develop the baseline trajectories across different regions should be consistent to ensure transparency and operators should have the opportunity to challenge and scrutinise these baselines before they are finalised.

It will be important that a tiered approach does not result in a loss of focus on some of the key metrics that are outlined in the supporting measures and additional assurance tiers of the proposed outcome framework. A focus on a smaller set of success measures within CP7 may make assessment simpler, but simpler does not necessarily mean better. It is important that the amount and granularity of information available to ORR to assess the infrastructure manager's performance is not compromised as this is likely to lead to suboptimal outcomes.

The framework should also be robust such that any changes to the performance regime in future, due to structural changes in the funding of some passenger services, does not result in a loss of focus within the infrastructure manager on delivering high levels of performance for operators and their customers. This will be particularly important for those operators that continue to hold revenue risk and are commercially dependent on a high performing railway being delivered.

Regarding the freight measures in the outcomes framework outlined in the technical consultation, Rail Partners understands that the proposed Freight Cancellation and Lateness (FCaL) metric is simply a different representation of the Freight Delivery Metric (FDM) used in Network Rail's scorecards during this Control Period. We therefore have no preference on the use of either metric to measure delays and

cancellations although we recognise that FCaL is likely to be more intuitive. Our freight operator members continue to have concern with the approach of wrapping up delays and cancellations into one measure. While neither is desirable, cancellations are typically far more damaging and disruptive to customers than delays. Therefore we propose that cancellations is included as a separate success measure in the tiered framework, in addition to FDM or FCaL. This will ensure that the infrastructure manager, at both regional and System Operator level, is strongly incentivised to minimise the number of cancelled freight services in recognition of the significant commercial impact they have.

Similarly, in recognition of the strong focus on rail freight growth both in the Plan for Rail and demonstrated by the Scottish Government, we would also welcome the inclusion of freight growth as a success measure within the tiered framework. This will ensure that each region and the System Operator is strongly incentivised to grow the freight market and would help to track progress against the overarching target. As outlined in Rail Partners' response to GBRTT's rail freight growth target call for evidence, we support 'freight moved' as the metric for measuring freight growth. This metric is well understood by industry and is already measured by ORR today. We note that it is the metric outlined in the tiered framework and our members support this, however we recognise that it is important that the way growth is measured within the tiered framework is consistent with the targets that will be outlined shortly by both DfT and the Scottish Government for the next control period.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

Rail Partners recognises that over the course of the control period it may be necessary for the regulator to review the outcome framework and potentially move measures across different tiers to ensure that the infrastructure manager is continually incentivised to improve its performance further. Similarly, in some circumstances it may be necessary for ORR to review the baseline trajectories should there be a major change in circumstances, however the threshold for doing this should be defined ahead of the control period.

It is noted that in some instances ORR may provide independent advice to government on changes to baseline trajectories, rather than adjudicating themselves as the regulator. This is concerning and could question the regulatory independence of ORR if it is asked to fall in line with government decision making or GBR policy. Any changes to the baseline trajectories should be minimised to avoid reducing confidence across private sector operators who make investments based on a reasonable expectation of the level of performance they can expect the infrastructure manager to provide over the course of the control period. The rationale for any proposed changes should be shared transparently with stakeholders with sufficient time for them to scrutinise the proposals and provide feedback.

We agree with the criteria for holding the infrastructure manager to account as outlined in the consultation document. We note that the consultation document outlines concern that the regulatory minimum floors for assessing infrastructure manager performance has not been effective, creating the impression that ORR

doesn't act unless performance falls below this level. We understand the rationale but ORR will need to demonstrate that it will act swiftly if performance is unacceptable. In terms of when ORR would consider initiating a formal investigation, the consultation document says that ORR propose to publish non-exhaustive indicative criteria in its determination that it will use to monitor the infrastructure manager's performance against baseline trajectories. Although the consultation sets out four criteria that could be used, there is no commitment to consult further on these before the determination. We don't believe this is appropriate.

It is important that train operators are confident in the performances measures set by the infrastructure manager and that stakeholders are regularly engaged and updated on their performance against the measures within the outcome framework. Similarly, stakeholders should be able to report back on the performance they are receiving, and this information should be used to assess whether the measures in the tiered approach are correct and are prioritised in the right way, or if further changes to the framework are required to deliver for customers. This can be facilitated through regular engagement between the infrastructure manager and passenger and freight operators, and should take place bilaterally or when appropriate engagement could be collective (e.g. through workshops). To avoid administrative burden, national freight and passenger operators should be able to engage with the infrastructure manager on performance related matters at a central level rather than be expected to speak with each region on an individual basis.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

### ***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

Rail Partners agrees that minimal changes to the Managing Change Policy are required in CP7 as the policy is broadly considered by our members to be appropriate. However we are supportive of measures which simplify and provide greater clarity. We recognise the need for flexibility during the rail reform process through which significant structural change will occur. However such changes must be tightly controlled by the regulator to provide confidence to private sector operators.

We agree with the introduction of the timeliness principle as it is important that the infrastructure manager engages with the ORR early when it seeks to make substantive changes and to ensure that minor changes are recorded. It is also important that train operators are included in this process and regularly engaged to provide clarity and feedback on the impact of any changes.

We also welcome the clarification and simplification of the policy. This should provide clearer guidance and additional certainty for train operators. We support the focus on the effects-based approach to change.

The policy notes that changes under GBR would maintain the ORR's ability to independently oversee the change process. We feel that it is important that ORR holds the power to effectively hold GBR to account regarding change. Further, it is important that ORR is given the autonomy to allow for flexibility and to effectively scrutinise these decisions.

### **Are there any other comments you would like to make?**

Click or tap here to enter text.

# Rail Safety and Standards Board's comments on the Office of Rail and Road's consultation – PR23 policy framework: A technical consultation on the measures in our proposed CP7 outcomes framework

**Date:** 30/09/2022

## 1. Introduction

The rail industry faces significant challenges now with the need to be attractive to passenger and freight customers; encourage not only modal shift but just travel by public transport itself. All these have to be achieved whilst making the railway financially sustainable with efficiency, cost reductions and revenue growth becoming critical. These short to midterm challenges are likely to continue to manifest themselves in the coming decades as short-term industry decisions will have long term effects and will lock-in technologies, structures, and approaches. The industry needs a long-term plan because infrastructure operation, maintenance, renewals and projects require long-term planning, and are expensive to implement.

We support the Office of Rail and Road's (ORR) proposed tiered outcomes framework in CP7 with top level tier 1 'success measures' complemented by tier 2 'supporting measures' as well as a tier 3 'additional assurance'.

The Rail Safety and Standards Board's (RSSB) functions as an independent (of government, regulator and railway actors including the infrastructure manager) Safety, Standards and Research body, through its technical capability exercised through the management of interoperability standards, health and safety guidance, research and sustainable development initiatives, including 5-year industry-agreed strategies in the areas of:

- Health, Safety and Wellbeing (Leading Health and Safety on Britain's Railway)
- Standards (Rail Standards Strategy)
- Sustainability (Sustainable Rail Strategy)
- Research and Innovation (Rail Technical Strategy)

These functions, strategies and the associated indicators and metrics which show how the sector is implementing these industry strategies will be critical in supporting the ORR's regulatory role as well as the infrastructure manager and other entities in demonstrating that they are meeting their regulatory and wider objectives. RSSB already aggregates and analyses industry data of relevance to its role and examines how strategic commitments and metrics align with the regulatory needs of the sector.

As always discharging regulatory obligations and principles of collaboration, independence and the need to balance a range of considerations, will require a significant reliance on independent analysis of critical data; collective decision making; and effective collaboration. The two areas we particularly want to focus on is our work in the area of sustainability and safety, noting that our work in standards and research will be equally critical in addressing the relevant metrics.

RSSB welcomes the increased focus from the ORR on environmental sustainability in CP7 as well as the positive engagement with the ORR and we look forward to continuing our work together in pursuit of an even cleaner and greener railway through CP7. In the area of safety, we wish to highlight potential risks as well as tools, data and approaches that can support the achievement of the regulatory aims.

Detailed comments linked to relevant sections of the consultation are provided next.

## 2. Environmental sustainability (related to Chapter 7)

### *General feedback related to the industry's Sustainable Rail Strategy and associated implementation*

In developing the Sustainable Rail Strategy (SRS) – an industry first strategy for environmental and social sustainability across the rail sector – we have been mindful of the need to build its objectives into securing mechanisms such as regulation and contracts. Without this the SRS will have limited effect.

The oversight provided by ORR, holding the infrastructure manager to account on environmental sustainability, is an important mechanism with which to drive progress.

During 2021 and 2022 RSSB has led the co-creation of the SRS. The SRS will bring the whole industry together around a common set of strategic goals, providing clarity of mission and shaping collaboration on initiatives to ensure all parties can deliver coherent progress towards this important agenda.

In preparing the SRS we have been mindful of the Network Rail Environmental Sustainability Strategy (NRESS). We have sought to ensure consistency and where possible, to add (for example, on the topic of noise) where there is an opportunity to complement the work. As we move to finalise the SRS in the final months of 2022, we will revisit the NRESS. Checking with Network Rail (NR) colleagues for alignment, where the SRS can read across and support NR's objectives.

As a general point, we would encourage ORR to consider how the final SRS might be applied to the ORR's oversight of NR during the CP7 period. The DfT have confirmed that the SRS is the 'Comprehensive Environment Plan' called for by the Williams-Shapps Plan for Rail and therefore it should be anticipated by ORR, when adopted, to become the strategy against which all parts of the industry, including NR, are to act.

Similarly with the advent of Great British Railways (GBR) expected early on in CP7, the detail of which is still being worked through, the SRS is likely a core strategy that GBR will pursue along with industry partners such as the Passenger Service Contractors. Assuming ORR will hold GBR to account on Environmental Sustainability, there is a considerable opportunity to 'pass through' obligations and requirements as part of the contracts set up with providers in the future railway.

### *Feedback on 7.4, 7.5 and table 7.1 Success measures for environmental sustainability and the One Planet Index*

It is encouraging to see the proposal to use three success measures for monitoring environmental sustainability. It would be helpful to have greater detail on the One Planet Index proposal to enable stakeholders to understand how performance is measured, and to ensure that the performance management proposals being developed on the back of the SRS in the form of the Sustainable Rail Data Framework are compatible.

We encourage the ORR and NR to liaise with ourselves on the reporting mechanism, the terminology, categorisation, and boundaries. As we seek to provide an industry picture of sustainability performance these aspects will need to be understood in detail and wherever possible, standardised to enable comparison.

From our review of the information provided in this consultation there is a risk of overlap and therefore, potential for double counting between the data described as ‘Carbon emissions scope 1&2’ and ‘carbon emissions non-traction energy use’.

We believe that there is potential for the Sustainable Rail Data Framework to assist the reporting and would be pleased to explore this further.

### ***Feedback on 7.5 Air quality related measures***

The proposal to include air quality as a supporting measure for Environmental Sustainability is welcome and we will be pleased to advise further on how data relating to air quality around the rail network should be interpreted and used to inform mitigation.

RSSB has designed and installed the air quality monitoring network (AQMN) at over 100 stations across the rail network in England and Wales with a further 9 being installed in Scotland. Data is now being gathered which we will interpret and report on to inform stakeholder’s mitigation plans.

We continue to discuss appropriate air quality targets for areas of the rail network open to the public. The policy commitment defined in the Rail Environmental Policy Statement, is to set air quality targets in 2022, and for them to be complied with by 2030.

RSSB is developing recommendations for these targets in consultation with NR and the wider industry. Our recommendations will be provided to DfT later in 2022.

Informed by the AQMN data, it is possible that air quality improvement plans may be required by DfT when it is deemed that the targets will not be met by 2030. Although too soon to predict how this mechanism will need to operate, we encourage ORR to anticipate this development in the CP7 period, as infrastructure changes at stations could be an option to consider when putting together such improvement plans.

Specifically, we advise that the technical description relating to air quality should be reworded to more accurately describe the pollutants of concern; “nitrogen dioxide and sulphur oxide” should be “nitrogen dioxides and particulate matter”.

## 3. Safety (related to Chapters 2, 3, 4, 5, 9 and 13)

### *Feedback on Chapter 2. Introduction: clause 2.4*

In the section 2. Introduction: clause 2.4, the four outcome areas of safety, performance, asset sustainability and efficiency are set out. We recognise the need for a focus on efficiency. However great care is needed to ensure that the achievement of the other objectives – especially safety – is not compromised as a result of over-reach. Taking Safe Decisions sets out a framework for decision making in GB rail that helps companies meet legal duties and embrace safety as an integral part of an efficient and effective business. It may be worth promoting that as a mechanism/approach to avoid unintended consequences and a degradation of safety.

### *Feedback on Chapter 2. Using the outcomes framework to monitor performance: clause 2.11*

In determining the Tier 3 assurance activities throughout the control period ORR may wish to draw upon the Rail Safety Intelligence reports provided by RSSB.

RSSB provides regular monitoring information to cross-industry risk groups, which it will publish quarterly on its website. This is used to identify emerging issues and track the impact of activities to deliver the industry strategy Leading Health and Safety on Britain's Railway. RSSB's Annual Health and Safety Report, published in early July each year, provides a state-of-the nation summary of health and safety performance, learning and improvement activity.

RSSB's assessment of the quality of Safety Management Intelligence System (SMIS) reporting is also relevant, both for establishing the level of trust that can be attached to safety metrics (see also comments on clause 3.4) and potentially as an indicator of risk management maturity – RSSB is planning to adapt relevant RM3 criteria in future assessments.

### *Feedback on Chapter 3. Health and safety: clause 3.4 Tier 2 safety indicators*

Attention should be given to the levels and quality of safety reporting (see also comments on clause 2.11). It is important to be able to differentiate between changes in safety risk and changes in reporting and there are historical examples of reporting being suppressed. The Independent review of Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) reporting by NR and its contractors carried out by RSSB shows learning in this area from over a decade ago, refer to the RSSB report into RIDDOR ([networkrailmediacentre.co.uk](http://networkrailmediacentre.co.uk)).

We recommend consideration of the Precursor Indicator Model (PIM) as a supporting measure for safety. It is updated each period by RSSB and tracks trends in train accident risk. The PIM is well-used within NR and more widely by cross-industry groups and provides a good outcome-based complement to the activity-based train accident risk reduction (TARR).

The PIM estimates changes in risk by tracking changes in precursors to train accidents such as collisions and derailments and is calibrated against the Safety Risk Model.

More information is available here [Precursor Indicator Model \(rssb.co.uk\)](https://www.rssb.co.uk).

#### ***Feedback on Chapter 4. Train performance: clause 4.13***

The proposed success measure FCaL with supporting measure A2F should bring better accuracy to measuring freight train performance if used consistently across the NR regions. The A2F measure could be split to show self-inflicted, and others inflicted.

#### ***Feedback on Chapter 5. Asset sustainability***

The proposed Tier 1 and Tier 2 measures taken together should provide a view of the sustainability of the asset base. This will be especially important in periods of economic challenge and the inevitably finite level of funding.

The analysis of interventions must however reflect not just the quantum delivered but how these interventions relate to those assets and asset systems which are most critical to the delivery of a safe high performing railway. It must also consider the risks associated with failure or degraded operation.

#### ***Feedback on Chapter 5. Asset sustainability: clause 5.7 Staff competence***

Measures associated with competence retention through Rail reform are welcome. These must in our view address not just the competence levels but the availability of that competence to the delivery of value through the asset base. This does of course also need to continue to reflect the changing asset base especially in the area of digital / software-based systems.

#### ***Feedback on Chapter 9. System operation: clause 9.5***

The measures being considered for the delivery of strategic projects should include consideration of how such projects affect other interventions, planned and delivered, on the existing asset base and how any associated risks and opportunities are managed.

### *Feedback on Chapter 13. Accessibility: clause 13.3*

The inclusion of accessibility is welcomed. It is noted that the focus appears to be on ensuring accessibility standards are met when carrying out projects at stations. The approach should not just cater for those with reduced mobility. It must include accessibility considering a range of issues, such as age and cognitive and intellectual impairments. It should address not only the experience of passengers and staff at stations but also their access to information pre and post journey. Accessibility of aspects beyond what would be defined as the Mainline Railway, such as in NR offices and depots could also be considered.

ORR should further consider how improvements are made beyond those factored into works carried out for other reasons. Accessibility improvements should be considered as potential projects in their own right, where appropriate.

## 4. Final remarks

We support the proposed approach and welcome the focus on environmental sustainability. We would also welcome a follow-on discussion in exploring how the sector would approach alignment with these measures as well as how they can be enhanced further and further supported by existing and new sources of intelligence and data as outlined in our response.



## Response to ORR's consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: John Macquarrie

Job title: Rail Business Director

Organisation: ScotRail Trains Limited and Scottish Rail Holdings

Email\*:

Telephone number\*:

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter's proposed suite of tools to hold the infrastructure manager to account during the next control period.

**Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

No concerns, so long as the individual regions and SO are held to their settlements.

**Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

No comments

## Chapter 4: The role of stakeholders

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

### ***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

Combining the ORR and NR surveys sounds sensible with the questions being agreed by the two parties, hopefully this will lead to higher levels of stakeholder engagement with less demand on the stakeholders themselves to fill in multiple surveys.

### ***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

Agreed, a standard set of questions is a good idea so direct comparisons can be made, but recognising that regional variations will be required depending which stakeholders are present in each route.

## Chapter 5: Monitoring and enforcement

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

### ***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

Yes, seems sensible, however, concern over what is the deterrent for poor performance if there are no financial penalties once GBR commences?

## Chapter 6: Outcomes and monitoring performance

We welcome views on the role of our outcomes framework.

### ***Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?***

It is noted that in the technical consultation that ORR will be using On Time and Cancellations as the key success measures for train performance. However, in Scotland, it is our intention to also use PPM as the overall success measure. Also, it is important to note that not all stations in Scotland have TRUST recording points and therefore although the On Time measure may be deemed more representative, it would exclude some stations, in particular in the Far North and on the North Electrics route, so would not represent these communities and make this a skewed measure. Where any targets are created for On Time for example, it would need to

be ensured that this aligns back to back with those included with the SRT Grant Agreement to avoid the ScotRail Alliance aiming at multiple different targets. The PPM figure used will also exclude any PPM failures which have been attributed to holding a connection for passengers, or as a result of blanket Emergency Speed Restrictions that have been imposed as a direct result of the Carmont recommendations.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

The idea of being able to change the trajectory in CP7 is welcome due to the issue that has been faced in CP6 in Scotland with Carmont recommendations causing a large increase in blanket ESRs and therefore an impact on performance that could not be foreseen. This has been addressed by SRH amending the way in which PPM is calculated for SRT, by removing and PPM failures due to speed restrictions directly linked to the new recommendations, but this has caused issues with other industry organisations not wishing to make this change.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

Yes these seem fairly minimal, introducing timeliness is a good change, where this is possible.

## **Are there any other comments you would like to make?**

Click or tap here to enter text.

Thank you for taking the time to respond.



## Response to ORR's consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: Susan Ellis

Job title: Track Access & HS1 Contracts Manager

Organisation: SE Trains Limited

Email\*: [REDACTED]

Telephone number\*: [REDACTED]

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter's proposed suite of tools to hold the infrastructure manager to account during the next control period.

**Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

We have no comment on this. Separate settlements in line with the regions created in CP6 seems logical

**Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

Southeastern consider that the central/national functions of NR should be subject to settlements alongside the regions amounts of funding. Whilst we acknowledge that they may not oversee the funding in the way that the regions and SO do, they oversee a large amount of policy related functions so should be held to account for

their role in this. Can you please confirm how it is intended to hold the national functions to account?

## Chapter 4: The role of stakeholders

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

The ORR need to incentivise the sharing of best practice not only between regions but between the IM and operators. There is a vault of knowledge and skills available that does not necessary get utilised and an incentive on the IM to work with others will ensure that this is prioritised.

***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

It seems a sensible approach to have an aligned approach to stakeholder surveys as this will allow for a more accurate comparison across the regions. Is it intended for Operators to have any input into the questions contained within the surveys?

## Chapter 5: Monitoring and enforcement

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

Southeastern consider that targets have been low and have failed to support delivery of a good safety culture, performance etc in CP6. Can the ORR provide some further detail on CP6 performance and how they intend to robustly ensure that NR are using all endeavours to get the best outcomes against target for their operators and customers? We note that not all areas for monitoring have success criteria, how do you intend to hold to account without any clear view on what success looks like?

## Chapter 6: Outcomes and monitoring performance

We welcome views on the role of our outcomes framework.

**Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

Southeastern are supportive of having clear success criteria to hold the infrastructure manager to account however note that the number of targets with the specified criteria is limited and there are many key elements that will not have success or supporting measures. We strongly believe that having a clear set of outcomes will greatly assist in motivation and incentive to successfully deliver the requirements for CP7.

**Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?**

The approach to monitoring, reporting and escalation appears robust but concerns remain (as per above response) that there are a number of outcomes without a specified success criteria which we believe weakens the overall position to hold Network Rail to account.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

**Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?**

Southeastern acknowledge that the need to for flexibility may arise in CP7. This will need to take into account the uncertainty around the transition to GBR and also in light of the unforeseen challenges encountered within CP6. Past experiences have shown that the appetite to make changes can be limited so this feels like a step in the right direction as a simplification to change processes is what is needed with the option for operators to input to ensure any changes reflect operational ability.

## **Are there any other comments you would like to make?**

Click or tap here to enter text.

Thank you for taking the time to respond.

PR23 Team  
Office of Rail & Road

29<sup>th</sup> September 2022

## **SE Trains Limited response to ORR PR23 Policy Framework Technical Consultation**

Dear Sir/Madam,

Thank you for the opportunity to review this consultation.

### **Do you have views on the measures we are proposing for each outcome area?**

#### **Train Performance: Passenger**

Southeastern support this outcome area and the proposed success measures.

#### **Asset Sustainability**

Southeastern support the proposed outcome area and the associated measures however note that the metrics are looking backwards. Can consideration be given to include some forward-facing metrics? The monitoring of staff competency during rail reform seems to be a sensible approach to ensure continuity in what could be a time of extreme change for the industry.

#### **Efficiency & Financial Performance**

Southeastern have no comment on the continued use of Financial Performance Measure (FPM) as per CP6.

#### **Environmental Sustainability**

Southeastern are committed to operate in a socially and environmentally responsible way. We want to continue to reduce climate impacts therefore are supportive of the measures proposed for CP7.

### **Are there any other measures we should consider?**

#### **Train Performance: Passenger**

Southeastern consider that the addition of T-15 as a supporting measure would be appropriate as this is the point at which Operators start to pay passenger compensation.

Noting that Performance is the single greatest driver of customer satisfaction, it is important that the IM is held accountable for enabling good performance as well as on the performance outcomes. In this regard we would propose that the role of the Performance Improvement Management System (PIMS) and its associated maturity model is reinforced by the regulator.

Consideration should also be given to a measure around infrastructure availability which can lead to the need for operators to revise timetables at short notice.

### **Asset Sustainability**

Measures that utilise technology (such a remote condition monitoring) and data to drive good asset management should be utilised to drive innovation. The current structure is functionally organised e.g. S & T, Track, E & P. For CP7 there needs to be incentives for the IM to further maximise whole system thinking in design, asset planning, renewals, maintenance, use of blocks etc.

### **Efficiency & Financial Performance**

Strong emphasis needs to be put on efficiencies, especially given the current economic climate. Network Rail need to be able to demonstrate that they are offering operators the very best value for their money and have an incentive to make efficiencies wherever possible without compromising service and safety.

There are opportunities available for the IM to explore options for maintenance optimisation and efficiencies that should be considered as a measure for CP7.

### **Environmental Sustainability**

As per our above response, Southeastern are committed to operating in a socially and environmentally way.

It is our belief that the measures for Environmental Sustainability could be expanded to increase emphasis on the following areas

- 1 Climate change adaption – IM to work with operators to create long term resilience under different climate scenarios.
- 2 Incentivise the reduction of emissions associated with the supply of electricity through the third rail network. Specific examples of this are reducing Line Loss on the infrastructure and better management of points heaters- which are left on for prolonged periods when not required due to inefficiency of the asset.
- 3 Enhancement of leased assets to operators. This will allow benefits from reduced energy use and carbon emission.
- 4 Waste - focus should include circular economy planning to reduce waste and maximise reuse.

### **Are there other outcome areas that we should include in the CP7 outcomes framework?**

It is disappointing that some key areas have been excluded from the proposed outcome framework.

### **Customer Satisfaction**

Southeastern have concerns that lack of specified success measures will disincentivise the IM from focus on this integral area. The ORR need to be clear to the IM on what success in this area looks like. Customer satisfaction should be expanded to look at not only Managed Stations but also Franchised Stations. The IM plays a very large role in customer satisfaction across the entirety of our network in their role as landlord. They are also integral in the success of our Service Quality Regime with the DfT on which their assets are measured. In CP6, Network Rail have embarked upon a transformational agenda known as Putting Passengers First . In CP7 the monitoring of



Let's talk

passenger satisfaction should be included within the success measures to reinforce this culture change.

### **System Operator**

Adherence to the Network Code for items such as timetable development and access applications is regulated area and therefore should be straightforward to measure against set criteria. Lack of specified measures in this area may disincentivise the IM from focus on what should be day to day management of the railway.

### **Network Capability**

Southeastern consider that there should be specified measures in this area. Can the ORR provide further information as to the proposed dashboard reporting and improvements and how it intends to hold the IM to account without a specified success criteria.

### **Network Availability & Possession Management**

Further steps can be taken to ensure that possessions are utilised to maximum benefit and that the IM works with Operators to ensure that any additional works required in the possession area (on stations for example) are picked up during a block. Southeastern believe that there is benefit to setting out a criteria as to what a successful possession looks like i.e., it is not just finishing on time but was it taken on time, has all intended works been completed successfully. Another measure regarding the ability of the IM to meet a planned timetable should be considered.

Southeastern agree with the suite of measures proposed but feel that KPI's are required to do this efficiently.

### **Accessibility**

Can the ORR provide clarity as to whether the compliance assessment intended for CP7 is solely in relation to design or whether it is intended to cover the level of service at a customer level that is being provided by the IM? This area is key to customer satisfaction so should have a success measure against it that sets out the requirement to ensure that passenger needs are met regardless of any disability.

Yours sincerely,



Susan Ellis  
Track Access & HS1 Contracts Manager  
SE Trains Limited  
4More London



Let's talk

## Efficiency & Financial Performance – Access Optimization

### System Operation – Access Optimization

#### *Background:*

A key objective of a rail infrastructure manager is to deliver effective railway asset management (maintenance and asset renewals) at an efficient cost. Delivering efficient asset management requires sufficient 'access' (train free) hours on the track to carry out maintenance and renewal activities efficiently. However, as the rail infrastructure is also used to run a train timetable, sufficient access hours to do maintenance and renewals efficiently are often not available.

Insufficient maintenance access is a major cause of the key challenges faced by the rail industry:

- Affordability (maintenance and renewals costs are driven up as work is done in shorter access windows);
- Safety (28% of maintenance still requires a Lookout – i.e. working between trains (less safe));
- Performance (lower asset reliability as maintenance has been deferred due to lack of access);
- Capacity (projected growth will need lots of access for capacity enhancements); and
- Passenger satisfaction (putting the passenger first may require a fuller timetable but the railway must also deliver efficient asset management which requires sufficient access).

For an infrastructure manager to deliver on all of these challenges simultaneously is very difficult as trade-offs are required to give what is best overall for the railway. What is 'best' may vary by Route. In particular, a trade-off is required between the incremental value of running trains and the incremental impact of those trains on maintenance access and hence on efficient asset management costs (and other asset metrics).

The goal is to identify the optimum level of train service for the lowest overall cost (considering BOTH value of train services AND asset management cost). This optimum train service will vary by the scope of maintenance work to be carried out, value of individual train services, location, time of day etc. Such an analysis requires a combination of timetable, and infrastructure cost modelling.

To deliver this optimization in a transparent way, the infrastructure manager requires an access optimization tool that would link train operations (the timetable) to access blocks, to productivity / efficiency and to asset maintenance cost. Such a tool would illustrate:

- how infrastructure costs could be reduced with minimum disruption to train services;
- how to reduce the number of repeat visits to worksites due to insufficient block duration;
- a potential trade-off between incremental infrastructure costs and train value benefits from running late night/ early morning services; and
- the normalization of outputs between Routes with different access regimes. Normalization of outputs is required to carry out an 'apples for apples' comparison between Routes.

#### *Suggested KPIs:*

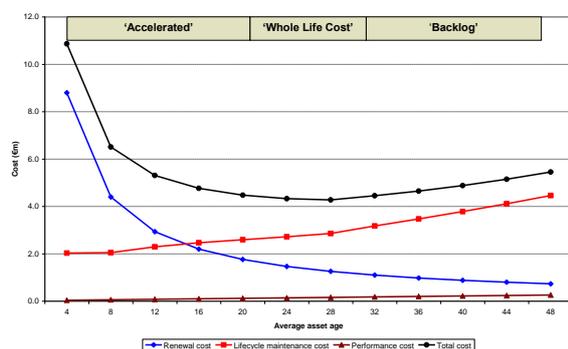
1. Percentage of overall access related infrastructure activity (maintenance and renewals) that is delivered after the infrastructure manager has carried out a quantified access optimization trade-off analysis

## Asset Sustainability – Composite Sustainability Index (Optimum Asset Renewal Age)

### Background

Lifecycle cost analysis identifies the optimum age to replace an asset to deliver minimum lifecycle costs and requires understanding the relationship between maintenance, renewal and performance costs. If an asset is renewed after its optimum age, increased maintenance and performance costs are greater than savings achieved from deferred renewal. Conversely, if replaced before optimum age, additional lifecycle renewal costs exceed savings in lifecycle maintenance and performance costs. Hence the optimum age for asset renewal is that point at which incremental lifecycle expenditure on renewal and incremental lifecycle savings on maintenance are in balance.

As rail infrastructure costs are highly sensitive to location and the conditions under which work is carried out (access duration etc) there is no generic optimum asset age. However, it is possible to calculate a range of optimum asset ages for different assets and different types of route. For example, the optimum rail age may be 38 years for a rural railway whilst it may fall to 33 years for a more heavily utilised commuter railway with relatively higher maintenance and performance costs.



The above graph shows minimum lifecycle cost for the asset in question occur if the asset was replaced between 24-26 years. After this point, the increase in maintenance and performance costs starts to significantly outweigh the benefits from getting more life out of the asset. It is possible to identify three sections on the lifecycle curve defined as:

- *Accelerated*: the part of the curve where average asset age is lower than for minimum whole life costs. Such a situation would exist for assets on a ‘high renewal/ low maintenance’ railway or where replacement has been carried out early as part of a route upgrade;
- *Whole life costs*: that part of the curve where minimum lifecycle costs are being achieved; and
- *Backlog*: that part of the curve to the right of the point where lifecycle costs start to significantly increase as the age of the asset becomes older than the optimum renewal age.

A Sustainability Index (SI) measures the proximity of actual asset renewal age relative to theoretical renewal age for minimum lifecycle costs. For example, if theoretical asset age for minimum lifecycle costs is 24 years and actual renewal age is 32 years, the SI would be  $32/24 = 1.3$ . Hence, the closer to 1.0 the SI, the greater the extent to which a lifecycle cost approach is followed. Alternatively, the whole life cost position of a railway at any point in time may be assessed by estimating the proportion of assets falling within each of the *Accelerated*, *Whole life costs* and *Backlog* bands.

### Suggested KPIs:

1. **Actual** age of asset being renewed vs **optimum** renewal age for specific asset being renewed
2. Overall **actual** asset renewal age profile relative to overall **optimum** renewal age profile
3. Percentage of assets falling within the ‘Accelerated’, ‘Whole life costs’ and ‘Backlog’ bands



## Response to ORR's consultation – PR23 policy framework: A consultation on outcomes, infrastructure performance and managing change

This pro-forma is available to those who wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to [PR23@orr.gov.uk](mailto:PR23@orr.gov.uk) by **30 September 2022**.

Please contact Lynn Armstrong at ORR with any queries:  
[lynn.armstrong@orr.gov.uk](mailto:lynn.armstrong@orr.gov.uk)

### About you

Full name: Alan Smart

Job title: Principal Planner

Organisation: Transport for London

Email\*:

Telephone number\*:

*\*This information will not be published on our website.*

### Chapter 3: How we will regulate the infrastructure manager

We welcome views on this chapter's proposed suite of tools to hold the infrastructure manager to account during the next control period.

#### **Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?**

The approach proposed is reasonable.

#### **Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?**

Issues arising from poor performance on specific Routes need to be subject to thorough investigation, as they could adversely affect operators who are dependent on said Routes to achieve performance targets and upgraded infrastructure. More detail is needed on how the performance of the Routes will be monitored and controlled e.g. will it be possible to disaggregate measurement of outcomes by Route to aid the identification and rectification of poor performance? It will also be

important to ensure that sufficient attention is given to operators that cross some Route and Region boundaries (including London Overground, the Elizabeth line and London Underground) to ensure that these Operators and their specific requirements are given sufficient salience in the new structure, by (for example) appointing a specific Route / Region / Senior Manager to lead their interface with Network Rail.

## **Chapter 4: The role of stakeholders**

We welcome views on this chapter's proposals to ensure the infrastructure manager undertakes consistently good stakeholder engagement.

### ***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

It is important that the approach leads to genuine engagement with stakeholders, reflecting their quantified targets in operating contracts and aspirations for their business in Network Rail's own plans. Concerns raised must be addressed.

### ***Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?***

Such an approach is useful for understanding any shortcomings at a high level and benchmarking performance. It remains important that there is also a genuine commitment to engage with stakeholders on a day to day basis to ensure that their plans and targets are understood and reflected within Network Rail's internal planning processes, particularly where those operators sit outside the Great British Railways (GBR) framework.

## **Chapter 5: Monitoring and enforcement**

We welcome views on this chapter's proposals on how we monitor the infrastructure manager's performance and, where necessary, initiate enforcement action.

### ***Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?***

It remains important that enforcement is effective in term of correcting underperformance, compelling improvement. It seems unlikely that this will be the case if the ability of the ORR to levy financial penalties on Network Rail is removed as proposed.

## **Chapter 6: Outcomes and monitoring performance**

We welcome views on the role of our outcomes framework.

**Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

The structure appears reasonable. It is important that the performance trajectories set reflect the targets and expectations of stakeholders as expressed through their operating contracts.

**Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?**

The approach proposed is rational but does appear to focus on process rather than outcomes. The approach must be effective in driving Network Rail's to adopt the correct behaviours. In the expected absence of fines there is considerable doubt that this will be the case.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

**Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?**

The role of stakeholders needs greater prominence, particularly where changes to performance trajectories and other matters could adversely affect their own plans and targets. It is important that stakeholders have a material say in such changes to protect their own position and safeguard their willingness to invest in the rail network.

### **Are there any other comments you would like to make?**

Reporting must be sufficiently detailed to be meaningful, covering the performance of key asset areas normalised in an appropriate manner. Clarity should be provided on what will be delivered in terms of timescales and milestones.

Thank you for taking the time to respond.



September 2022

30th

Transport for London  
Palestra

London  
Dear  
SE1 8NJ  
Sir/Madam,

## **Periodic Review 23 measures for Control Period Seven Outcome Framework**

Thanks for offering us the opportunity to comment on the proposed measures for the Control Period Seven Outcome Framework. I can confirm that TfL is content for any part of its response to be made public. Our comments on the proposed changes are provided below.

### **Do you have views on the measures we are proposing for each outcome area?**

#### ***Passenger train performance***

We do not consider that the use of an “on time” metric as a Success Measure for passenger train performance is appropriate as this could create perverse incentives for Network Rail. Ensuring that all trains run on time at every station stop is a very demanding target and one that is very hard to achieve on densely used urban networks. This measure is likely to encourage very conservative timetabling as well as making it harder to introduce any enhancements without the provision of new infrastructure which is normally expensive. These both run counter to the need to improve the service offered (in terms of frequency for example) to attract more passengers post Pandemic and improve the financial performance of the railway at an economic cost.

The delay measures proposed are more appropriate, provided that they are applied to the delays that Network Rail causes to encourage improved performance in this area.

#### ***Customer satisfaction***

Passenger satisfaction at NR managed stations should be a Success Measure as both Network Rail now and Great British Railways (GBR) in the future will be able to influence this through the stations estate they control. A significant proportion of all rail journeys will pass through these stations.

#### ***Network capability***

It is important that the ORR retains good oversight in this area, liaising with operators to ensure that there is appropriate consultation when network capability is changed. This is not always the case, particularly so where operators are not the primary customers of particular Regions or Routes.

### ***Network availability and possession management***

It will be important to ensure that the reporting proposed on possessions is effective in terms of driving the correct behaviour, particularly in an environment where operators are given the right to opt out of Schedule Four arrangements.

### **Are there other measures we should consider?**

#### ***Passenger train performance***

Refining the train performance measures used to be more reflective of the journey time customers receive and variations in demand throughout the week would be desirable, so they better reflect the customer experience.

The absence of any measures relating to growth in passenger volumes is an obvious gap, particularly so when such measures are specified for the freight market. Achieving passenger growth is crucial to the ongoing financial viability of the rail network so this needs to be acknowledged through the Control Period Seven Outcomes Framework.

#### ***System operation***

Further consideration should be given to creating a Success Measure in this area given its criticality to the reliable functioning of the railway and the delivery of enhancements. Could adherence to the delivery of service changes to agreed timescales be measured for this alongside general adherence to the timescales specified in the Network Code?

### **Are there other outcome areas that we should include in the CP7 outcomes framework?**

We have no other outcome areas to suggest.

Yours sincerely,

**Alan Smart,  
Principal Planner,  
Transport for London.**

## Response of West Midlands Rail Executive to ORR's:

- **PR23 consultations**
- **PR23 “Guidance to Network Rail on the preparation of its Strategic Business Plan”**

### Overview

This response sets out the position of the West Midlands Rail Executive (WMRE) in respect of the Office of Rail and Road's recently published Period Review 23 consultations and Guidance to Network Rail in respect of rail industry Control Period 7 (2024-29)

This consultation response represents the broad collective view of the West Midlands Rail Executive and the West Midlands Combined Authority. However, individual WMRE partner authorities may also express their own specific perspectives.

### Key Messages

- Democratically accountable regional and city region bodies, such as **West Midlands Rail Executive and West Midlands Combined Authority, already play a significant role in the specification, management and expansion of our regional rail network** and its integration with our wider public transport system.  
(See “**Engagement with Key Industry Partners**” section in main response).

ORR PR23 proposals should explicitly recognise and facilitate our legitimate interest in:

- **monitoring Network Rail** (and in future Great British Railways) and **holding them to account at the regional level**
- **securing support** from Network Rail/GBR to **deliver our wider strategic policy objectives and priorities**, in addition to those set by national government
- WMRE **supports the creation of separate settlements for regions** and the System Operator in relation to “outcomes, performance and managing change” which reflects the move to greater regional autonomy within Network Rail and Great British Railways.  
However, the **case for sub-regional route-specific settlements (with appropriate input from regional rail bodies such as WMRE) should be considered** if this better reflects the organisational level at which decisions will be made under GBR in future.
- WMRE has a proven track record of adding value to industry long term and strategic planning processes and **Network Rail (and in future GBR) should be specifically required to involve WMRE in all stages of the Strategic Business Planning** process:
  - at the regional and route level
  - at the national level on issues such as HS2 integration, freight strategy and decarbonisation where these are of core interest to the West Midlands region
- Network Rail (and GBR) should be **required to seek formal endorsement for their regional Strategic Business Plans from** democratically accountable regional rail and public transport bodies such as **WMRE and the West Midlands Combined Authority**

## About West Midlands Rail Executive

The **West Midlands Rail Executive (WMRE)** was initially established to address the imbalance in regional influence over our regional rail network through the creation of a credible, democratically accountable body which had the authority to act for the wider West Midlands and the in-house expertise necessary to work alongside the Department for Transport in specifying and managing the contract for our local “West Midlands Railway” train services.



WMRE membership includes 14 local transport authorities from across the wider West Midlands region - plus the West Midlands Combined Authority (WMCA) for which WMRE undertakes the majority of rail responsibilities on behalf of Transport for West Midlands (TfWM).

Each local transport authority has a seat on the WMRE Board, which is chaired by the WMCA Mayor.

Two further local transport authorities also sit on the Board as non-voting “affiliate” members.

## West Midlands Rail Executive Contact Details

Full name: Toby Rackliff  
 Job title: Strategic Lead, Rail Policy  
 Organisation: West Midlands Rail Executive  
 Email\*:  
 Telephone number\*:

*\*This information will not be published on ORR website.*

## Response to Specific Questions relating ORR consultation on outcomes, infrastructure performance and managing change

### ***Question 3A: Do you have any comments on our proposal to create separate settlements for regions and the System Operator (SO)?***

This appears to be entirely appropriate and reflects the move to greater regional autonomy within Network Rail and ultimately Great British Railways

### ***Question 3B: Do you have any comments on our proposals for those parts of the infrastructure manager for which we will not be making a settlement (i.e. the national functions or routes)?***

This is probably appropriate at the current time but may need to be reviewed for (and ideally in advance of) PR28, assuming a similar process is in place.

In particular, the case for sub-regional route-specific settlements may need to be considered if this better reflects the organisational level at which decisions are made under the future Great British Railways structure.

### ***Question 4A: Do you have any comments to make about our proposed approach to stakeholder engagement in CP7?***

The ORR rightly recognises that there are a wide range of “stakeholder” groups, all with different interests and that stakeholders can play key roles in:

(a) ***sharing information about their needs and views to inform the infrastructure manager’s priorities including how it should develop and improve its business***

and

(b) ***helping to hold the infrastructure manager to account, through placing pressure and focus on what is being delivered on a day to day basis***

Both these roles are critical to the core functions of West Midlands Rail Executive.

However, whilst noting that “*some stakeholders have more influence than others*” the proposals don’t overtly take account of the fact that some key democratically accountable region and city region bodies, such as West Midlands Rail Executive or the West Midlands Combined Authority, already play a far greater role in the specification, management, expansion, and integration of our regional rail network than most other “stakeholders”.

(See our more detailed comments on “***Engagement with Key Industry Partners***” below)

We nevertheless agree with the ORR's assessment that:

- *there is a risk that stakeholders' views will have different influence in different parts of the business, and that the experience of stakeholders that interact with multiple parts of the business may vary*
- *we would like to see more strategic direction from the infrastructure manager's senior leadership team to drive a strong culture of stakeholder engagement which both compliments and supports a devolved structure*

**(and the devolved structure of external partners such as WMRE)**

- *we expect the infrastructure manager to continue to develop and learn from its stakeholder engagement, with **clear evidence of how this is used to inform all parts of the business***

**Question 4B: Do you agree that the infrastructure manager should conduct its stakeholder survey on the quality of its engagement which asks a consistent set of questions but which can also be tailored according to the business unit's stakeholder engagement approach?**

In terms of consistency of approach this would appear to be appropriate, especially as it avoids duplication of ORR and Network Rail surveys.

However, the survey should ideally be able to reflect the different interests of different stakeholders as well as the potential multiple levels of engagement, interface, and collaboration between key industry partners, such as WMRE, and both Network Rail and the future Great British Railways.

**Question 5A: Do you agree with our proposed broad approach to monitoring and enforcement in CP7?**

This appears to be broadly appropriate, but consideration must be given to greater involvement of democratically accountable regional rail bodies such as WMRE in the monitoring process.

**Question 6A: Do you have any comments on the structure of our proposed use of CP7 outcomes framework, which includes success measures, supporting measures and wider information to monitor and hold the infrastructure manager to account in CP7?**

This appears to be broadly appropriate.

***Question 6B: Do you have any comments on the proposed approach to monitoring, reporting and escalating performance against success measures?***

This appears to be broadly appropriate, but consideration must be given to greater involvement of democratically accountable regional rail bodies such as WMRE in both the monitoring and reporting process.

## **Chapter 7: Change and flexibility**

We welcome views on this chapter's proposed approach to managing changes that could affect key aspects of the determination and settlements (funding and accountabilities) throughout CP7.

***Question 7A: Do you agree with our proposals to improve the Managing Change Policy for CP7?***

This appears to be broadly appropriate given the current interim state of the rail industry structure as a whole.

However, consideration must be given to greater involvement of democratically accountable regional rail bodies such as WMRE at the appropriate decision-making level should the Managing Change process be implemented.

## **Response to Specific Questions relating ORR consultation on the measures ORR are proposing to use for each outcome to hold the infrastructure manager to account**

The outcome areas and measures appear to be appropriate.

There is a broader question as to whether measures should, where appropriate and practicable, specifically reflect targets set by national or devolved governments.

This should ideally extend in future to reflecting the targets of democratically accountable regional bodies.

## **Response to ORR's Guidance to Network Rail on the preparation of its Strategic Business Plan**

WMRE broadly welcomes the publication of ORR's "Guidance to Network Rail on the preparation of its Strategic Business Plan".

The requirement for Strategic Plans to be produced for each Network Rail "Region" is welcomed, although there is also a case to be made for Network Rail to also produce a Strategic Plan for each Network Rail "Route", potentially as part of the Strategic Plan for a Region.

Whilst the proposed engagement "Stakeholders" is a reasonable starting point it again doesn't reflect the roles of rail industry partners such as WMRE, or Combined Authorities with responsibility for public transport integration (see section on "Key Partners" below).

In terms of Strategic Planning, WMRE and its predecessor organisations (notably the West Midlands Passenger Transport Executive have played a key role in supporting Network Rail's Long Term Planning Process over two decades.

WMRE are also responsible for producing our own West Midlands Rail Investment Strategy on behalf of the wider region and support Midlands Connect in developing long term strategic rail planning across the East and West Midlands at the pan-regional level.

This involvement in long term and strategic industry planning has been at both the regional level but also nationally where WMRE has often also represented the interests of other members of the Urban Transport Group.

Because of these roles WMRE, as a key regional industry partner, has both a proven track record of adding value and a core interest in the rail industry's strategic planning and decision-making processes over the both the next Control Period and over the next 10, 20, 30 years and beyond.

Ideally Network Rail (and in future GBR) should be specifically required to involve WMRE and similar regional bodies at all stages of the Strategic Business Planning process, at the regional level and at the national level on issues such as HS2 integration, freight strategy and decarbonisation where these are of core interest to the West Midlands region.

Similarly, Network Rail (and in future GBR) should be required to seek formal endorsement for its regional Strategic Business Plans from democratically accountable regional rail and public transport bodies such as WMRE and the West Midlands Combined Authority before these are finalised.

## **Engagement with Key Industry Partners such as WMRE and WMCA**

In terms of “stakeholder engagement”, democratically accountable regional rail bodies such as the West Midlands Rail Executive (WMRE) are more accurately described as “key rail industry partners” rather than “stakeholders” – an expression which implies an interested, but more passive, relationship with the rail industry.

For example, WMRE already has a devolved role the specification and management of our regional “West Midlands Trains” rail contract, in partnership with the Department for Transport.

We have also pioneered a more seamless joined-up approach to the management of the “whole railway” in the interests of customers through our ground-breaking “West Midlands Grand Railway Collaboration” with Network Rail, Operators and Transport Focus.

As mentioned above, WMRE and its predecessor organisations have also played a key role in supporting Network Rail’s Long Term Planning Process at national and regional level, over two decades.

We are also responsible for producing our own West Midlands Rail Investment Strategy and support Midlands Connect in developing Strategic Planning at the pan-regional level.

WMRE also undertakes the rail responsibilities of Transport for West Midlands (TfWM), the transport arm of the West Midlands Combined Authority, which supports the development of an integrated transport system to drive modal shift and support decarbonisation and the improve health of the region’s citizens.

Combined Authorities and their directly elected Mayors have a specific duty to manage public transport integration and already have significant influence over non-heavy rail modes.

Crucially, Combined Authorities also have greater access to funding both from devolution deals and schemes such as the City Region Sustainable Transport Settlement.

This gives them and their elected Mayors greater scope to invest in new stations, major station upgrades or other improvements to the rail network as can be evidenced at the moment in the West Midlands Combined Authority area.

There is huge ambition across the West Midlands to continue to invest in the rail network to support the local and regional policy objectives including, for example:

- sustainable economic growth (including new housing development)
- improved mobility and access to jobs, training, facilities, and healthcare (especially for deprived areas)
- decarbonisation and urban air quality improvements
- sustainable freight transport within urban centres and conurbations

Such investments from combined/local authorities and other organisations have the potential to contribute significantly to the financial viability of the rail network by increasing patronage and fare revenue.

However, such wider regional objectives should also be acknowledged and taken appropriate account of by Network Rail and the future Great British railways.

Given the above, it is essential, that the roles of democratically accountable regional rail bodies such as WMRE and of Mayors and Combined Authorities are properly and appropriately reflected in the formal requirements placed on Network Rail (and in future Great British Railways) by the Office of rail and Road.

We have made similar representations to the recent Consultation on “Legislative Changes to Implement Rail Reform” (attached for information).

We firmly maintain that closer engagement with Network Rail (and in particular GBR) will be essential at the devolved English regional level, if we are to be able to:

- hold Network Rail and GBR to account at the regional level
- secure support from the rail industry to deliver of our wider strategic policy objectives alongside those set for GBR by national government.

### **Are there any other comments you would like to make?**

Network Rail (and in future Great British Railways) should have a specific obligation to provide organisations such as:

- i. regional rail authorities
- ii. Combined Authorities
- iii. sub-national transport bodies
- iv. local transport authorities

with any data which such organisations may require to support their transport planning and public transport co-ordination activities or to further and monitor progress in respect of their wider regional policy objectives