

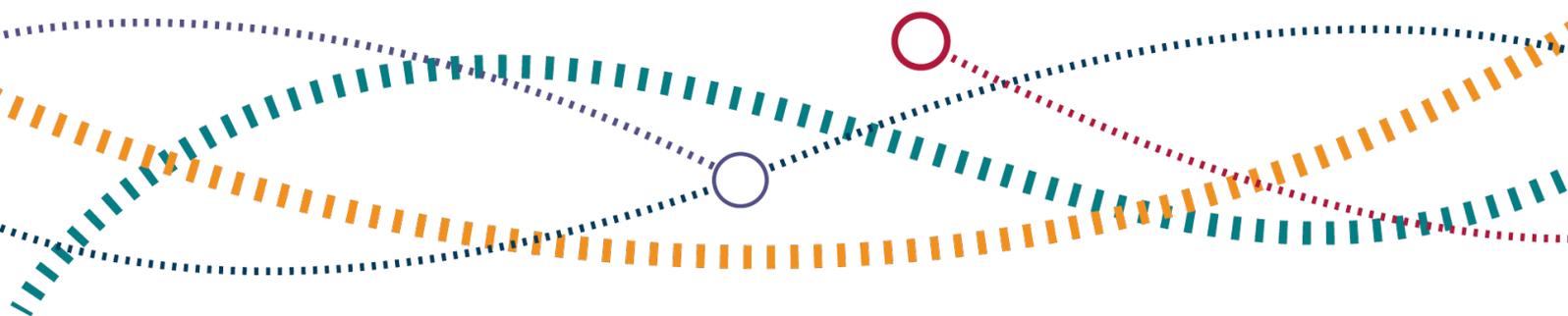


PR23 final determination:

Policy position - Managing Change

19 December 2023

| Version | Date | Notes |
|---------|------------------|--|
| 2.0 | 19 December 2023 | Published following the PR23 final determination |



About this document

This Managing Change policy document is one of five policy positions documents of our final determination for the 2023 periodic review (PR23).

PR23 determines what the infrastructure manager for the national rail network, Network Rail, is expected to deliver with respect to its operation, support, maintenance and renewal (OSMR) of the network during control period 7 (CP7), which will run from 1 April 2024 to 31 March 2029, and how the available funding should be best used to support this.

This strongly influences:

- the service that passengers and freight customers receive and, together with taxpayers, ultimately pay for; and
- the charges that Network Rail's passenger, freight and charter train operator customers pay to access its track and stations during CP7.

Our final determination sets out:

- our decisions on Network Rail's outcome delivery and its planned expenditure to secure the condition and reliability of the network;
- changes to access charges and the incentives framework; and
- relevant policies on the financial framework, managing change and holding to account.

In addition to **this document**, we have also published as part of our final determination:

| Document type | Details |
|---|--|
| Summary of conclusions and overviews | <p>Our decisions on what Network Rail will need to deliver and how funding should be allocated:</p> <ul style="list-style-type: none">• Summary of conclusions and overview for England & Wales• Summary of conclusions and settlement for Scotland |

| Document type | Details |
|-------------------------------|--|
| Consolidated decisions | A summary of our final decisions across Great Britain |
| Introduction | An overview of PR23 and background to our final determination |
| Settlement documents | <p>Detailed final decisions for the System Operator and each of Network Rail’s regions in England & Wales:</p> <ul style="list-style-type: none">• Eastern region• North West & Central region• Southern region• Wales & Western region <p>See our summary of conclusions and settlement document for detailed information for Scotland.</p> |
| Supporting documents | <p>Technical assessments of:</p> <ul style="list-style-type: none">• Health and safety• Outcomes• Sustainable and efficient costs• National Functions• Other income |
| Policy positions | <p>How we intend to regulate Network Rail during CP7 in relation to:</p> <ul style="list-style-type: none">• Financial framework• Access charges• Schedules 4 and 8 incentives regimes• <u>Managing change</u>• Holding to account <p>With the exceptions of managing change and holding to account, our policy position documents include our assessment of stakeholder views on our proposals. Stakeholder views for managing change and holding to account are published in a separate document.</p> |

| Document type | Details |
|--------------------|--|
| Impact assessments | A consolidated set of assessments of the impact of our final policies on access charges and contractual incentives on affected parties |

Next steps

We will now implement our final determination. Implementation is the process through which we amend operators' track and station access contracts to give effect to new access charges and incentives (such as Schedule 8 benchmarks and payment rates) determined through the periodic review. We expect to issue our review notices in December 2023 and, subject to Network Rail's acceptance, issue notices of agreement and review implementation notices in time for CP7 to commence from of 1 April 2024.

We expect Network Rail to publish a delivery plan for CP7 that is consistent with our final determination. We have published [a notice](#) alongside our final determination which sets out expectations for the scope and timing of the delivery plan.

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1. Introduction

This document sets out our Managing Change Policy, which Network Rail¹ is required to comply with under its [network licence](#).

- 1.1 The Office of Rail and Road (ORR) is the combined economic and health and safety regulator for Great Britain's rail network and the regulatory body for railway services in Northern Ireland. ORR is also the monitor for National Highways.
- 1.2 Our core purpose is to protect the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future.

Why a Managing Change Policy is needed

- 1.3 ORR holds Network Rail to account against its network licence. In our [Holding Network Rail to Account](#) document we set out how we monitor Network Rail's performance, how we identify if we need to take action, and the actions we may take to secure improvement.
- 1.4 Over the course of a five-year control period, we monitor performance against the conclusions of our periodic review, consisting of:
 - (a) ORR's **final determination** setting out the outcomes that Network Rail must deliver for the funding provided for England & Wales and Scotland; and
 - (b) ORR's **settlement documents** (within the final determination) for each of the Network Rail regions and System Operator (SO), outlining the funding for each and the outcomes they must deliver. In the Periodic Review 2023 (PR23), our determination will also identify a set of expectations in relation to Network Rail's National Functions, which have various responsibilities and provide various services on behalf of regions on a centralised basis (including for example finance, safety protocols and procurement).
- 1.5 The Managing Change Policy, as described in this document, allows for changes to be made to the regulatory settlements during the control period. It is designed to enable this in a transparent manner, by providing us with an early sight of the

¹ All references to Network Rail in this document are to Network Rail Infrastructure Limited.

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proposed changes and an opportunity to understand the implications of them, as well as facilitating engagement and collaboration with stakeholders and funders.

- 1.6 In addition to the processes described in this document, there are other mechanisms to deal with changes in specific circumstances:
- (a) Network Rail regularly updates its delivery plan over the course of the control period. We review the updated plans, in terms of progress to date and any changes made, publishing a [report](#) on our findings to provide assurance to funders. For example, a region may revisit its internal budget allocation to make changes to its renewal plans;
 - (b) We have a role in processes that can be used to change Network Rail's overall funding in exceptional circumstances and for a narrow range of situations where certain conditions are met.
 - (c) Very exceptionally, an interim periodic review can be triggered to carry out a new charges review if ORR considers that there has been a significant material change in circumstances that means that Network Rail no longer has the resources to deliver its outputs.
- 1.7 The Managing Change Policy complements these mechanisms. It enables Network Rail to respond flexibly to changing circumstances that impact on accountabilities and/or funding of a region, the SO, or the national functions (together referred to in this policy as "Network Rail Business Units") while ensuring:
- (a) Proposed changes are clearly reasoned and evidenced, and their impacts understood by Network Rail, ORR, funders, and third parties. This provides confidence that Network Rail will continue to deliver appropriate outcomes for an efficient level of funding.
 - (b) Clarity about what ORR and stakeholders are holding Network Rail to account for at any point in time, and how this links back to what was planned and funded in the final determination.
 - (c) ORR retains the ability to hold Network Rail to account – including through the comparison of Network Rail's performance between regions or over time – and maintains transparency for stakeholders on how Network Rail is performing.

- (d) The integrity of the five-year infrastructure funding period is maintained, meaning the operation and maintenance of the infrastructure is planned in a way that ensures the long-term sustainability of the assets.

When the Managing Change Policy is used

- 1.8 Network Rail must comply with this Managing Change Policy when it is making **Relevant Changes**. These are changes that impact Network Rail Business Units' accountability or funding. We set out the definition of Relevant Changes in Chapter 2. Should Network Rail make a Relevant Change without complying with this policy (recognising that this policy allows for changes to be made urgently where necessary, see paragraph 4.4), this would constitute a breach of the network licence and ORR may take action.
- 1.9 Network Rail should categorise Relevant Changes into **Risk Funding Changes, Notified Changes or Consulted Changes**, depending on their impact and significance. In exceptional circumstances, ORR may reclassify a Consulted Change as an **Exceptional Change**. We explain the categories of Relevant Changes in Chapter 3.
- 1.10 We explain the managing change process, clarifying ORR's involvement in it as well as our expectations for Network Rail's engagement with stakeholders, in Chapter 4.

Managing change principles

- 1.11 This Managing Change Policy is based on the following principles:
 - (a) **Proportionality**: not all changes are 'relevant' or in-scope. Instead, the focus is on the impact of changes to the regulatory settlement.
 - (b) **Consistency**: similar changes should have similar treatment, both over time and across different types of change (unless there are good reasons for differences).
 - (c) **Transparency**: funders and stakeholders should be able to understand what changes are happening, the reasons for the changes and the process that has been followed.
 - (d) **Timeliness**: early engagement on more substantive changes should ensure that the impact of proposed changes can be considered in advance, making the managing change process more effective.

- 1.12 Relevant changes in control period 7 (CP7, which runs from 1 April 2024 to 31 March 2029) may be caused by a variety of factors, including those outside of Network Rail's control. This policy is intended to be 'effects-based', and changes should be classified by the nature and scale of their impact, rather than their cause.

The status of this policy

- 1.13 This policy is an updated version of the policy in place during control period 6 (CP6, running from 1 April 2019 to 31 March 2024). It reflects the policy changes consulted on as part of our [PR23 draft determination](#) and has taken stakeholder views into account. It will take effect from the beginning of CP7 until superseded by a new version. Any changes to the policy will be subject to consultation with Network Rail and stakeholders more generally.

2. Scope of the managing change policy

Network Rail must comply with the Managing Change Policy when making changes that affect the accountability or funding of its Business Units.

Relevant Changes

- 2.1 As a condition of its licence (Licence Condition 4), Network Rail is required to comply with this Managing Change Policy when making a 'Relevant Change', where the definition of Relevant Change is set out below.

Box 1: Definition of a Relevant Change

A **Relevant Change** is a change that has a material impact on what Network Rail should deliver in operating, maintaining and renewing the network as set out in our final determination. This includes changes to:

- (a) Network Rail Business Units' accountability, which could include:
 - (i) the regions' boundaries;
 - (ii) the functions of Network Rail Business Units.
- (b) Network Rail Business Units' funding as indicated in the final determination and set out in detail in the Delivery Plan (including changes to annual budgets).
- (c) Network Rail's risk funding
- (d) The outcomes set in the final determination and/or their monitoring metrics (success and supporting measures, success measures baseline trajectories, and supporting measures forecasts).

- 2.2 For clarification purposes:

- (a) If Network Rail is unclear on whether a change satisfies the 'Relevant Change' criteria, it should contact us as soon as possible to discuss before making any decision.

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- (b) Changes in how individual Network Rail Business Units allocate their annual budgets within themselves are not considered Relevant Changes for the purposes of this policy.
- (c) When changes are made to the final determination through the managing change process, any *subsequent* changes should be made in relation to the revised position, not the original final determination.

3. Categories of relevant change

Relevant Changes should be categorised by Network Rail as a Risk Funding Change, Notified Change or a Consulted Change. ORR can reclassify Consulted Changes as Exceptional Changes in certain circumstances.

- 3.1 The categories of Relevant Change are **Risk Funding Changes, Notified Changes, Consulted Changes** and **Exceptional Changes**. The categorisation of a change is determined by:
- (a) whether it is a change to Network Rail's risk funding. If so, the change is dealt with as a **Risk Funding Change**. A change which is not a Risk Funding Change is determined by;
 - (b) its potential to reduce our ability to regulate Network Rail and hold it to account effectively, including being able to compare performance between Network Rail Business Units;
 - (c) its materiality in terms of its monetary impact and potential impact on outcomes delivered to customers, end-users and funders; and
 - (d) whether Network Rail Business Units impacted by the change agree to it.
- 3.2 To clarify point 3.1(d) above, in agreeing to a change, a Network Rail Business Unit confirms that:
- (a) the change can be incorporated into its business plans such that it can still deliver against its commitments to customers, or that the change does not have a material impact on the commitments. This recognises that these commitments can change over time reflecting customers' changing priorities; and
 - (b) no changes to the requirements set out in the final determination are being sought.
- 3.3 Changes to performance measures are also categorised as either Notified Changes, Consulted Changes or Exceptional Changes. We provide more detail on this at the end of this chapter.

Risk Funding Changes

- 3.4 **Risk Funding Changes** are changes to Network Rail's risk funding. They are Relevant Changes, but do not follow the process for Notified or Consulted changes set out below, and cannot subsequently be re-classified by ORR as Exceptional Changes.
- 3.5 When making **Risk Funding Changes**, Network Rail must act in accordance with the risk funding principles set out in Annex A. We will monitor and hold Network Rail to account for this through our regular ongoing engagement, exercising our judgement and considering the circumstances in line with our general approach. If necessary, we may undertake independent reviews to test compliance.

Box 2: Example of a Risk Funding Change

The following change, which was made by Network Rail during CP6, would be categorised as a Risk Funding Change in CP7:

In the 2021-22 financial year, Network Rail decided to move funding from its centrally-allocated risk fund into its four regions in England & Wales. This was to cover rising inflation costs and mitigate those regions utilising all their region allocated risk funding and prevent cancellation of works. The regions agreed to this additional funding and no reporting arrangements were affected as a consequence of this change.

Notified Changes

- 3.6 The following changes are **Notified Changes**:
- (a) changes to Network Rail Business Units' budgets that are agreed by the affected units;
 - (b) changes to functions within Network Rail Business Units that do not change the reporting arrangements for the affected settlement(s) (e.g., moving a small staff team between Network Rail Business Units); and
 - (c) any changes to supporting measures forecasts.

Box 3: Example of a Notified Change

The following change, which was made by Network Rail during CP6, would be categorised as a Notified Change in CP7:

In the 2021-22 financial year, Network Rail decided to transfer a small team with no licence accountabilities from the System Operator into HR, with a corresponding budget transfer of circa £8m.

Consulted Changes

3.7 Any of the following changes are **Consulted Changes**:

- (a) changes that bring funding for Network Rail Business Units below what was set out in the final determination;
- (b) changes to funding that a Network Rail Business Unit does not agree to;
- (c) changes to accountability between Network Rail Business Units that affect the funds or outcomes established in the settlements;
- (d) changes to the reporting Network Rail provides to ORR in connection with ORR's outcome monitoring framework (see the section on performance measures below);
- (e) changes to success measure baseline trajectories, success measure calculation methodology, success measure definition, addition/removal of success measure, supporting measure calculation methodology, supporting measure definition, addition or removal of supporting measures.

3.8 ORR does not expect Consulted Changes to be made frequently.

Box 4: Example of a Consulted Change

The following change, which was made by Network Rail during CP6, would be categorised as a Consulted Change in CP7:

In 2021 Network Rail decided to transfer a section of Wales & Western region, covering 72 miles of rail infrastructure around and including Worcester, to North West & Central region. Network Rail wanted to make the change as it would mean all responsibilities for asset management, strategic planning, operations and maintenance for Worcestershire and West Midlands Axis would sit within one region. Network Rail's [letter](#) summarised what the impact of the change would be on the CP6 financial settlement, and set out the changes to CP6 metrics used by ORR to monitor Network Rail's performance. Network Rail's letter also set out the stakeholder engagement it had with key stakeholders.

Exceptional Changes

3.9 In occasional circumstances, if we consider a Consulted Change risks undermining the settlements of Network Rail Business Units, ORR can classify a Consulted Change as an **Exceptional Change**.

3.10 The following are examples of Consulted Changes which we would regard as Exceptional:

- (a) A change in accountability across Network Rail Business Units that ORR considers could:
 - I. undermine the settlements;
 - II. reduce our ability to make comparisons between regions; or
 - III. harm funders' and/or ORR's ability to keep a clear line of sight to what was planned and funded for in the final determinations.
- (b) A fundamental change to Network Rail Business Unit funding such that the Business Unit has no prospect of delivering a reasonable proportion of its requirements against the final determination.
- (c) A change to one or more of the success and supporting measures in the outcomes framework (i.e. adding/removing measures or changing methodology for a measure), or a change to the baseline trajectory for one or more of the success measures.

Changes to performance measures

- 3.11 Our final determination sets out baseline trajectories for a set of success measures (typically by region for each year of CP7). These are the headline indicators we will use to publicly hold Network Rail to account. We also use supporting measures as well as additional assurance (such as operator customer scorecards) to inform our view of Network Rail's performance.
- 3.12 Having clear baseline trajectories promotes strong accountability and gives stakeholders clarity about what Network Rail is expected to deliver. It is therefore appropriate that any changes to those baseline trajectories are made in a transparent and controlled manner.
- 3.13 However, as set out in our Holding to Account policy, we expect fluctuations in performance around the baseline trajectories (and will not automatically assess instances of performance levels worse than the trajectory as poor performance). This does not mean that the baseline trajectories are wrong or need to be changed.
- 3.14 In addition, as set out in our [PR23 final determination: supporting document on outcomes](#), we recognise that forecasting whole industry train performance is particularly challenging in the context of this control period given uncertainty about future passenger demand and train operator plans. To ensure our passenger train performance trajectories remain realistic throughout CP7, we will reset the trajectories for years three to five at the end of year two of the control period.
- 3.15 Changes to success measure baseline trajectories will only be made following a material change in circumstances. These circumstances are those unforeseen in Network Rail's forecasts or ORR baseline trajectories and are likely to be outside of Network Rail's control and lead to a sustained change in realistic performance expectations in future years of the control period.
- 3.16 As part of our general engagement, we may ask Network Rail to include or remove success or supporting measures, change their definition or calculation and update success measure baseline trajectories, as appropriate and in line with the categories of change set out above. If Network Rail does not make the changes ORR has asked for, ORR will have the option of making the changes (following wider consultation as appropriate). In doing so, ORR will set out clear reasons for this and will provide Network Rail with the opportunity to comment on the proposals and rationale. ORR will publish its decision along with relevant feedback from Network Rail.

3.17 Changes to performance measures in our outcomes framework are categorised as set out in the table below:

Table 3.1 Changes to performance measures

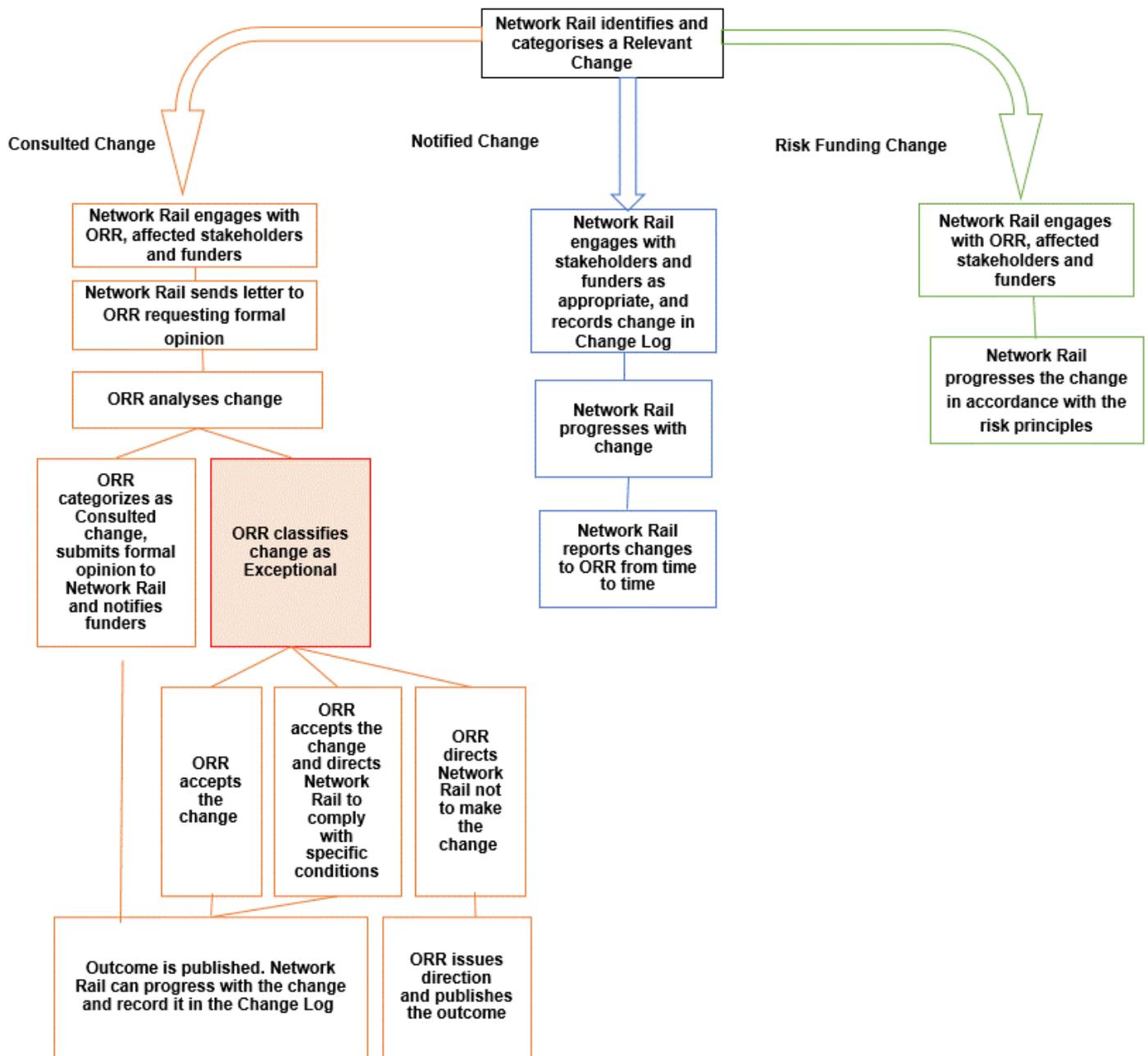
| Type of change | ORR change classification | Additional consideration |
|---|---------------------------|---|
| Success measure baseline trajectory | Consulted / Exceptional | Change will only be allowed if there is a material change in circumstances or there is a change in calculation methodology which requires a change in the baseline trajectory |
| Success measure definition / calculation methodology | Consulted / Exceptional | |
| Addition / removal of success measure | Consulted / Exceptional | |
| Supporting measure forecast | Notified | |
| Supporting measure definition / calculation methodology | Consulted/ Exceptional | |
| Addition / removal of supporting measure | Consulted/ Exceptional | |

4. The managing change process

When considering making a Relevant Change, Network Rail must categorise it as a **Risk Funding Change**, a **Notified Change** or a **Consulted Change**. ORR's involvement in the managing change process will be proportionate and vary according to the category of change. We expect Network Rail to engage with its stakeholders as part of the change process.

4.1 The managing change process is summarised in Figure 4.1 and further explained in the remainder of this chapter.

Figure 4.1 Managing Change Process Outline



Emerging change

4.2 For any change being considered, Network Rail will need to decide whether it is a Relevant Change, and if so, categorise it as a **Risk Funding Change**, **Notified Change**, or **Consulted Change**. Where Network Rail is not clear about whether the change is Relevant or what category the change is, it should discuss the matter with ORR as early as possible.

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- 4.3 Additional information may emerge about the potential impact of a Relevant Change that alters its categorisation. If this results in a modification from Notified Change to Consulted Change, then Network Rail must inform ORR of this as soon as possible. If this results in a modification from Consulted Change to Notified or Exceptional Change, ORR will notify Network Rail as soon as possible.
- 4.4 There may occasionally be circumstances where Network Rail needs to make a Consulted Change urgently to respond to an unfolding situation. This Managing Change Policy should not be a barrier to such decisions being made in a timely manner. In these circumstances, we expect Network Rail to inform us about the driver (including an explanation of the urgency), the expected scale and impact of the Consulted Change as soon as possible.
- 4.5 In all cases, Network Rail shall also explicitly consider and address any implications of proposed changes on the safety of its infrastructure.

Stakeholder engagement

- 4.6 We expect Network Rail to engage with its stakeholders and funders (where they desire to be involved) about Relevant Changes as they emerge. Network Rail should seek to understand the potential impact of the change on stakeholders, make those stakeholders aware of the change, and give them an opportunity to influence it (including how it is delivered and/or possible negative impacts mitigated). Network Rail's stakeholder engagement should be consistent with the Stakeholder Engagement Duty in its network licence.
- 4.7 When considering a Consulted Change, Network Rail should engage with affected stakeholders and provide them with information about the reason for the Consulted Change, its expected impact and the mitigations of possible negative impacts that are being explored and/or pursued.
- 4.8 We expect the high-level details and outcomes of stakeholder engagement to be reflected in the information Network Rail provides to us (described below). ORR may request additional information on a case-by-case basis (for example stakeholder comments).

ORR involvement in the managing change process

Risk Funding Changes

- 4.9 ORR should be involved in Risk Funding Changes in line with the risk funding principles set out in Annex A.

Notified Changes

- 4.10 The process of managing Notified Changes will be entirely handled by Network Rail. Once Network Rail identifies a Notified Change, it should record it in a Change Log² that will include all Relevant Changes made in the respective financial year. This should include a summary of the reasons for and impacts of the Relevant Change, any stakeholder engagement undertaken, and indicating when the Relevant Change took effect.
- 4.11 Network Rail will progress the Notified Change and must ex-post inform ORR by submitting the Change Log to ORR from time to time, as agreed with ORR. This will provide transparency around any changes and help ORR to make comparisons between Network Rail Business Units over time in a way that supports better regulation.
- 4.12 The process for submission of the Change Log to ORR should be aligned with existing monitoring and reporting activities, for example Network Rail plans that are subject to ORR monitoring and reporting.

Consulted Changes

- 4.13 Network Rail should engage with ORR (and affected stakeholders) as soon as possible when considering a Consulted Change, and always in advance of the decision to make the change (unless there is a need to make an urgent change).
- 4.14 Network Rail should agree a timeline with ORR, setting out Network Rail's decision-making process as well as the time required for ORR to issue its opinion.
- 4.15 Based on this early engagement, Network Rail must submit a letter to ORR providing information about the Consulted Change it intends to make and seeking ORR's formal opinion in relation to it. This letter must include:
- (a) the reason for the potential change and why it has been classified as a Consulted Change (as per criteria set out in Chapter 2);
 - (b) which of Network Rail's Business Units the potential change will impact;
 - (c) the expected impact on Network Rail Business Units (including any impact on region boundaries);

² Or other formal record agreed by ORR.

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- (d) an explanation of any other options that are being considered; and
 - (e) evidence of stakeholder engagement.
- 4.16 ORR will assess the information provided (and may discuss with Network Rail) in order to determine whether we are reclassifying the change as Exceptional (using the criteria set out in section 3).
- 4.17 ORR will provide Network Rail with a formal opinion on the Consulted Change in a timely manner. Network Rail should not progress the change before this opinion has been received, unless there is a need to make an urgent change. The opinion will set out any concerns ORR has about the implications of the change. ORR will publish the opinion and notify relevant funder(s).
- 4.18 We expect Network Rail to consider our opinion (and that of affected stakeholders) carefully when making the decision to progress the Consulted Change. Network Rail can disagree and continue with a change that we are concerned about. Where this arises, we would expect Network Rail to inform us of its decision and explain its rationale.
- 4.19 Consulted Changes should be added to the Change Log and include a summary of the reasons for the change, stakeholder engagement undertaken by Network Rail, impacts of the change, and indication of when it took effect.

Exceptional Changes

- 4.20 When Network Rail seeks ORR's opinion on a Consulted Change, ORR will assess the change to determine whether we consider the change to be **Exceptional**.
- 4.21 If this is the case, ORR will confirm this to Network Rail as soon as possible and provide an indication of the timescale in which ORR expects to issue a decision in relation to such a change.
- 4.22 We would expect to discuss the Exceptional Change with Network Rail to understand the nature of the change. Depending on the outcome of these discussions, we would consider the following options:
- (a) Supporting the change if Network Rail is able to address any concerns we have and agree to any conditions we would wish to impose. In this situation we would follow the Consulted Change process by issuing and publishing an opinion and notifying funders;

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- (b) Placing conditions on the change through a direction to Network Rail, which we would publish, and also notify relevant funder(s); and
- (c) In extreme circumstances, direct Network Rail not to make the change. We would publish the direction and notify relevant funder(s) of our decision.

4.23 ORR reserves the right to consult with funders and stakeholders ahead of issuing the direction if we consider it appropriate or necessary to inform our decision making.

Annex A: Risk funding principles

In our Final Determination, we identified £1.5 billion of cash risk funding for England & Wales in CP7. **The risk funding principles for England and Wales, that govern how that funding can be used, are as follows.**

- A.1 Risk funding will be identified clearly within Network Rail's CP7 delivery plan, including where these are held (i.e. in regions or in Group).
- A.2 Risk funding will not be held in current years. They are planning provisions for later years of the control period.
- A.3 Risk funding should be used to mitigate financial risks related to the delivery of HLOS activities and HLOS outputs (e.g. due to higher-than-expected inflation, industrial action, higher than expected Schedule 4 & 8 costs, bad weather, shortfalls in income, the impact of budgetary controls, lower than assumed efficiency, higher than expected engineering works costs).
- A.4 Risk funding can be used to address costs imposed by new regulatory and legal requirements. However, the timing, scale and nature of these requirements should determine whether risk funding is used or they are managed through other means.
- A.5 Risk funding should not be used to pay train operator costs outside of normal contractual arrangements.
- A.6 Drawdown of risk funds will be formalised as part of the annual business planning process.
- A.7 Network Rail will report to ORR, DfT and HMT on the use of risk funding as part of quarterly business plan updates, including during the finalisation of the annual business plan.
- A.8 Where Network Rail forecast that more risk will materialise than risk funds allow for, Network Rail will explain the changes it would need to make to its plans through the managing change process that is overseen by ORR.
- A.9 Any risk funding that is not required for financial risk would be used to support Network Rail's core railway activities (i.e. HLOS activities and HLOS outputs). There is no intention to use risk funding for GBRTT.

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A.10 Where risk funding is not needed for risk in CP7, this will be flagged to ORR and communicated clearly in regular reporting to DfT and HMT. This will be in advance of its use as Network Rail hold no in-year risk funding.

In our Final Determination, we identified the cash risk funding for Scotland in CP7 as £225 million. **The risk funding principles in Scotland, that govern how that funding can be used, are as follows** noting that the first two principles refer to how and when risk funding was identified, which we have already done.

A.11 It needs to be acknowledged that a Risk Fund only exists in practice if CP7 efficiencies targets are met in full. That work continues and is subject to ORR validation.

A.12 Risk funding will be identified clearly within the CP7 delivery plan and will be proportionate to the prevailing environment in which the financial determination is set.

A.13 Risk funding will not be profiled in 'current' years (i.e. the prevailing year of delivery). Instead, it will be held as provisions in later years of the control period.

A.14 Risk funding may be used to mitigate financial risks related to the delivery of HLOS activities and HLOS outputs, for example:

(a) Inflation that is higher than is assumed in the business plan.

(b) Industrial action.

(c) Schedule 4 & 8 costs that are materially higher than assumed in the business plan.

(d) Shortfalls in income brought about by factors not anticipated in the business plan and outside of Network Rail's control.

(e) Material engineering works costs brought about by factors outside of Network Rail's control.

(f) Movements in efficiencies.

(g) Movement in headwinds outside of Network Rail's control.

A.15 In all cases, and in the first instance, Network Rail will be expected to undertake reasonable endeavours to manage effects such as these through existing and new cost control mechanisms that are being developed for CP7.

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- A.16 Risk funding can be used to address costs imposed by new regulatory and legal requirements. However, the timing, scale and nature of these requirements should determine whether risk funding is used or whether they are managed through other means, i.e. the managing change process.
- A.17 Risk funding should not be used to pay train operator costs outside of normal contractual arrangements (this would not prohibit, for example, Schedule 4 & 8 payments or paying train operators to deliver services on behalf of Network Rail).
- A.18 Network Rail will report to Transport Scotland and the ORR on the planned use of risk funding before it is deployed, as part of quarterly business plan updates, and/or periodic financial reporting, including during the finalisation phase of the annual business plan. This will include a full analysis of the key drivers and the options that have been considered to mitigate the effects of the prevailing cost or revenue pressure.
- A.19 Where more financial risk is expected to materialise than risk funds allow for, Network Rail will explain the changes that would be needed to plans through the managing change process that is overseen by ORR.
- A.20 Any risk funding that is not required for legitimate financial risk would be used to supplement additional core railway activities (i.e. HLOS activities and HLOS outputs) or considered for return to Transport Scotland by way of rebate. There is no intention to use risk funding for GBRTT.
- A.21 Where risk funding is not likely to be needed for risk in CP7, this will be flagged to Transport Scotland and the ORR and communicated clearly in regular reporting.



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