

**Feras Alshaker**  
Director of Planning and Performance and Highways



Elliot Shaw  
Chief Customer and Strategy Officer  
National Highways

By email only

14 February 2024

Dear Elliot

## **ORR investigation of National Highways' compliance with its licence and delivery of the second road investment strategy (RIS2)**

Over the past nine years, National Highways has been generally successful in achieving its aims and delivering for road users, taxpayers and communities. In that time, we have worked with the company, in line with our [Holding to Account policy](#), in a proportionate and targeted way to successfully resolve individual risks and concerns before they crystallised into issues affecting road users. This approach has meant that we have never had to use our enforcement powers.

In our last [annual assessment of National Highways performance](#), published in July 2023, we said that generally the company had delivered well for road users in the year. We also highlighted some risks for the company to manage on missed commitments and asset management. Since then, we have observed a number of areas where performance has dipped and some of those risks have crystallised.

During this time, we have continued to work with National Highways, to try to gather sufficient evidence demonstrating that the company understands how its plans and activities on the ground link to, and deliver, its Road Investment Strategy (RIS) targets and commitments and its broader duties under its licence.

Whilst each individual item of concern is potentially manageable, the number and breadth of our concerns, the repetitive nature of many concerns, and the proximity to the end of the road period, means that we consider that a more formal approach to assessing National Highways' performance is now appropriate.

Given that there are only 13 months remaining in this road period (RP2, April 2020 to March 2025), we want to be assured that National Highways has identified, and is taking, every action that could reasonably be expected of it to achieve the targets set by government in the RIS. There needs to be time for corrective action to be taken before the end of the road period should it be necessary.

As part of this work our intention is to help National Highways draw a clear line of sight between activity and outcomes so as to learn and embed lessons to deliver its performance and outputs for RP2 and those being developed for the third road period (RP3). We expect that learnings from this work will help to inform the appropriateness of performance commitments for RP3 and support in the setting of the company's targets to be challenging and deliverable for the next five-year period.

I am therefore writing to advise you that ORR is initiating an investigation into:

- a) whether or not National Highways is complying with the RIS;<sup>1</sup> and
- b) whether or not National Highways has contravened or is contravening its licence.<sup>2</sup>

The investigation will have reference to specific licence conditions, including but not limited to 4.2 (exercising functions and complying with legal duties), 5.6 (improvement, enhancement and long-term development), 5.10 (asset management), 5.23 (environment) and 7.1 (duty to provide data or information on performance). We may consider additional licence conditions as necessary. We will notify National Highways in any proposed change to scope.

We will carry out our investigation in accordance with our published holding to account policy.

## **Scope and nature of the investigation**

We aim to:

- identify the appropriateness of the approach taken by National Highways to set its annual on-road delivery plans and activities and how they align to the commitments that the company has agreed with government;
- determine how well National Highways understands how its day-to-day delivery helps it to achieve performance outcomes and what continuous

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<sup>1</sup> Section 3(6) and section 10(2) Infrastructure Act 2015

<sup>2</sup> Section 6(3) and section 10(2) Infrastructure Act 2015

checks and balances take place throughout the year to allow for course correction; and

- understand how lessons learned and/or deviations from original plans are fed into future planning processes.

We will do this by looking at a targeted sample of areas of interest that reflect our current concerns, grouped under three themes:

- delivery of the capital portfolio;
- application of asset management strategy and policy; and
- delivery of the performance specification.

However, I want to emphasise that this investigation is about understanding how National Highways is learning lessons and embedding them in its approach to delivering the RIS. It is not necessarily about resolving individual items.

We will assess how the company implements a 'plan, do, check, act' approach, to help us understand how it:

- identifies a need;
- develops a plan;
- implements the plan;
- learns lessons and updates its approach; and
- builds in points to that process for check and challenge and opportunities to course correct.

We expect National Highways to demonstrate to us, using existing documentation and evidence, an appropriate approach for each area of interest. The company should also be able to demonstrate a clear line of sight from activities to relevant outcomes, and that it assesses those outcomes to enable it to take corrective actions.

### **Delivering the investigation**

ORR will engage with National Highways separately about contacts and personnel for the investigation. We will share further information about our proposed approach, specific questions and requests for information. We will also provide a timeline for evidence submission.

An important part of our investigation will be to understand National Highways' views. We will arrange an introductory meeting and in-depth meetings on the targeted sample of areas of interest that form the substance of our investigation.

We are planning for the investigation to take approximately eight to 12 weeks between February and April 2024.

The outcome of the investigation will be dependent on the evidence that National Highways provides and in line with our policy.

Finally, I want to emphasise again that we have not taken lightly the decision to launch an investigation. Our track record shows that we act in a targeted and proportionate way to achieve the best outcomes for road users and taxpayers. This investigation will help ORR and National Highways achieve a common understanding of what is causing the current dip in performance, and what can reasonably be achieved in the remaining months of the road period.

If you have any questions, please do not hesitate to contact me. A copy of this letter will be published on our website today 14 February 2024.

Yours sincerely

**Feras Alshaker**