

Ranges and Tolerances – Executive Summary

Office of Rail and Road

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EXECUTIVE SUMMARY

In response to proposals from National Highways (NH), the Department for Transport (DfT) is considering introducing ranges and/or tolerances for a material share of the third road investment strategy (RIS3) performance and capital metrics. Under NH's proposals, around half of the quantitative measures in the framework – four KPIs and eight capital commitments – would be subject to a defined range or tolerance.' This represents a shift from prior road periods where most measures were assessed against point targets (although there is limited precedent from RIS2 for the safety KPI). This proposal would change the regulatory standard and therefore the Office of Rail and Road (ORR) may need to consider how it undertakes its statutory "holding to account" role under the Infrastructure Act 2015.

We have reviewed a range of sectors for precedent for such an approach and have found it to be limited. It is rare for ranges and/or tolerances to be used in isolation i.e. where there are no other drivers of performance outside the target. In incentive terms there is little to drive reaching the midpoint or higher unless there are financial rewards for doing so. There is then a question of how to ensure that delivery is efficient and economic.

Such an approach also raises a range of issues for regulatory monitoring. Key points drawn from the research are set out in summary below.

ORR considerations if bands are introduced

Monitoring burden increases, not decreases, unless bands are tightly governed

While bands are often presented as enabling "risk-based supervision" (focus on material deviations), in practice ORR would need to form a **more continuous judgement** about (i) whether performance inside a band is still efficient and acceptable, and (ii) when to take action before a breach occurs, considering it is limited by statute to taking *enforcement* action only when a breach is happening or has occurred. The key monitoring shift is from "did NH meet the target?" to "is NH's position within the band consistent with efficient delivery and user outcomes, and is the trajectory credible?" That latter is a more nuanced question that required additional analysis and use of judgement.

Clear trajectories become essential to avoid 'end-period gaming' and silent under-delivery

Several proposed bands apply to **total end-of-period delivery** (particularly in the capital specification), which risks masking cumulative underperformance until late in RP3. ORR would likely need to establish **default annual trajectories** (or equivalent interim milestones) for each banded metric, with escalation based on material/sustained deviation from trajectory—even if still within the band. Without this, monitoring becomes reactive, weakens early intervention and could result in material under delivery.

Incentives weaken inside bands; monitoring must compensate

Evidence from other sectors suggests ranges/tolerances are rarely used in performance specifications **without strong incentives** (financial or market) to prevent performance gravitating to the lower bound. NH's framework lacks comparable upside incentives, increasing the risk that the **bottom of the band becomes the de facto target**. If bands are permitted, ORR would need to explicitly assess whether NH's delivery choices indicate "minimum compliance behaviour" (e.g., reduced outputs alongside increased funding), and require explanation and corrective plans.

Highest-risk monitoring issues in NH's proposed approach

Inconsistency of NH's proposals across metrics. Bands are proposed to operate differently across KPIs/commitments, rationales vary, and some proposals include wide delivery ranges without consideration of an agreed in-period assessment framework. While it is for ORR, not NH, to define compliance monitoring, the proposals as they have been put forward increase the risk of **non-comparable judgements** and makes public accountability harder.

Banded commitments as proposed by NH can relax delivery expectations. Capital specification tolerances often apply to **overall RP3 totals**, effectively loosening delivery requirements. This is especially sensitive where commitments have already been reduced and/or funding increased, compounding flexibility and raising the burden on ORR to demonstrate that outcomes remain efficient and user-focused.

NH's definition/measurement gaps. Some NH proposals require sharper operational definitions to be monitorable (e.g., what constitutes “progress” on major structures, and clarity on how progress translates into user outcomes and value for money). Without this, bands create “compliance fog”.

Interaction with existing RIS risk tools

NH already has multiple risk-management mechanisms that to deal with uncertainty: scope/funding adjustments during RIS development, the Central Risk Reserve, change control, and (exceptionally) RIS reopening/variation. If bands are also introduced as an additional risk tool, ORR would need to test whether they are duplicative and whether they make the framework overly risk-averse, by reducing delivery ambition while also weakening the clarity of compliance.

The monitoring approach ORR could adopt should bands be included in RIS3

The start point is that the efficiency review and ongoing regulatory monitoring by ORR provide sufficient flexibility in a situation where performance targets and outputs vary. ORR has a long history of effectively and proportionately using its judgment to objectively assess delivered performance in the round. Given the downside of using ranges and tolerances as set out above, the evidence suggests that doing so is unnecessary and detrimental to road users by weakening incentives.

If bands are introduced, ORR could:

- Seek **point targets + tolerance** over pure ranges where possible (maintains a clear reference point).
- Require NH to provide or ORR to set **annual trajectories** and specify the **information set** NH must report to explain variance (drivers, mitigations, cost/efficiency implications).
- Ensure each band is **tightly justified** against a limited set of acceptable reasons (target-setting uncertainty, measurement lack of clarity, exogenous factors) and target breadth is **proportionate** to that uncertainty.
- Publish clear principles on how it will judge performance **within** the band to protect transparency and accountability to road users and funders.

Overall, the evidence does not support the case for broad adoption of ranges/tolerances across RIS3 without complementary incentives and strong regulatory monitoring rules. If bands are used, they should be limited, justified metric-by-metric, and paired with trajectories and within-band escalation, otherwise they risk diluting accountability, increasing monitoring complexity, and weakening ORR's ability to promote performance and efficiency.



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