



## Enhancements in control period 6

Roles and responsibilities

March 2019

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# Introduction

1. In the 2018 periodic review (PR18), enhancements for control period 6<sup>1</sup> (CP6) were treated differently to operations, maintenance and renewals (OMR) expenditure. This reflected that both government departments responsible for funding the rail network (Department for Transport (DfT) and Transport Scotland) were adopting a pipeline approach to commissioning enhancement programmes and projects following lessons learned from control period 5 (CP5)<sup>2</sup>. To set out this new approach, DfT published its rail network enhancements pipeline<sup>3</sup> and Transport Scotland published its rail enhancements & capital investment strategy<sup>4</sup> in March 2018.
2. We have set out our decisions about what Network Rail should deliver in respect of operating, maintaining and renewing its network over CP6, in our PR18 final determination. It is appropriate that we also set out our role for enhancements in CP6, in relation to that of the Department for Transport (DfT), Transport Scotland and Network Rail.
3. This document focuses on our approach to enhancements that are funded by DfT and Transport Scotland and delivered by Network Rail. It also includes an overview of the roles we can play for devolved government and third party funded schemes. However, this role is dependent on the requirements of the funder, among other things.
4. This document does not set out our approach to enhancements delivered by other parties. We will consider our role for such enhancements case-by-case basis, depending on the characteristics and arrangements for each scheme, in line with our duties, our resources and the requirements of government funders. This is consistent with the approach we have adopted for Crossrail Ltd and High Speed 2.
5. As part of PR18, we have set out our approach<sup>5</sup> to managing changes to the route and System Operator settlements that we set in our PR18 final determination (the settlements principally cover OMR). Later in this document, we describe our role in the enhancement change control process. These two change processes will run in parallel where changes to enhancements also have an impact on the PR18 settlements.

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<sup>1</sup> Control period 6 will run from 1 April 2019 to 31 March 2024.

<sup>2</sup> Control period 5 runs from 1 April 2014 to 31 March 2019.

<sup>3</sup> 'Rail Network Enhancements Pipeline: A New Approach for Rail Enhancements', DfT, March 2018, available [here](#).

<sup>4</sup> 'Rail Enhancements & Capital Investment Strategy', Transport Scotland, March 2018, available [here](#).

<sup>5</sup> 'Managing Change Policy', ORR, November 2018, available [here](#).

## Background

6. In our PR13 final determination<sup>6</sup>, we set out the assumed funding available for Network Rail's enhancements portfolio in Great Britain. As part of this, regulated outputs were set at GRIP<sup>7</sup> 3 (option selection) and GRIP 6 (entry into service) milestones. A significant proportion of the portfolio had not reached a level of maturity where there was a reasonable degree of cost certainty.
7. To mitigate this risk, we put in place the Enhancements Cost Adjustment Mechanism (ECAM). This allowed the assumed efficient cost for projects to be re-baselined when they reached GRIP 3. The overall purpose of ECAM was to set the efficient baseline for the complete portfolio once all projects had been through ECAM.
8. Network Rail was reclassified as a public sector body early in CP5. One of the consequences of this was that it no longer had the option to borrow from the market to cover rising costs in its business. The enhancements portfolio in England & Wales also came under significant cost pressures. This led to three major reviews being commissioned: Bowe, Hendy, and Shaw<sup>8</sup>.
  - The **Bowe Review** made recommendations about the governance and assurance of the enhancement portfolio, and the roles of DfT and ORR. The review recommended that DfT increase its scrutiny of work conducted by Network Rail for which it is the client, a role which some in industry had mistakenly assumed ORR was taking.
  - The **Hendy Review** was an affordability review of the enhancements portfolio contained within Network Rail's Enhancement Delivery Plan (EDP) and it re-baselined the cost of the portfolio. To support this changes were made to scope and timing of delivery across the portfolio. Some cash-funded schemes were given regulated output status at this time.
  - The **Shaw Review** looked at Network Rail's funding and its future shape. The review endorsed Network Rail's transformation objectives encouraging the business to devolve power to its geographic routes so that it could better align with the requirements of its customers and be held to account by them.

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<sup>6</sup> 'Final determination of Network Rail's outputs and funding for 2014-19', ORR, October 2013, available [here](#).

<sup>7</sup> Governance for Railway Investment Projects (GRIP) is explained further in 'Investing in the Network', Network Rail, February 2018, available [here](#).

<sup>8</sup> These reports are available as follows: 'Report of the Bowe Review into the planning of Network Rail's Enhancements Programme 2014-2019', DfT, November 2015, available [here](#); 'Network Rail's Investment Programme: The Hendy Report Consultation', DfT, January 2016, available [here](#); and 'The future shape and financing of Network Rail The recommendations', March 2016, available [here](#).

9. As result of these recommendations, improved governance arrangements were put in place by DfT and Network Rail to oversee the enhancements portfolio in CP5. These arrangements are set out in a Memorandum of Understanding between DfT and Network Rail<sup>9</sup>. Changes to outputs are now agreed by DfT having been discussed with Network Rail and its customers at programme delivery groups and programme boards. DfT has agreed it is now responsible for determining whether enhancement costs are affordable and the best use of the funding available<sup>10</sup>.
10. Some enhancement projects in Scotland were also affected by cost pressures and delays in CP6. In response, Transport Scotland commissioned a review of the rail major projects portfolio<sup>11</sup>. Transport Scotland and Network Rail has followed up on the recommendations from this review, including establishing a portfolio board, to improve the governance of the Scotland portfolio of enhancements.
11. In May 2018, a new timetable was introduced for large parts of Britain’s railway network. Unfortunately this caused major disruption to services for passengers particularly in the North of England and in the South East. At the request of the Secretary of State, ORR established an inquiry into the factors that contributed to the failure to produce and implement a satisfactory operational timetable in May 2018<sup>12</sup> (commonly referred to as the ‘Glaister Inquiry’). This identified a wide range of recommendations for the rail industry, including an enhanced system-wide advice, audit and assurance capability for major network changes.
12. The Glaister Inquiry also considered (in the ‘Prior Role Review’) ORR’s role in the May 2018 timetable change and recommended that ORR undertakes a long term role in monitoring the capability and delivery of industry institutions. In the short term, and in particular for the forthcoming timetable changes, ORR will continue its monitoring of preparedness across the industry and maintain this focus while the industry increases its timetable capability.
13. We have discussed options for our role in CP6 enhancements with DfT and Transport Scotland and Network Rail over recent months. Following these discussions, we set out our roles and responsibilities for enhancements during CP6 in a draft of this document (published in June 2018) and sought comments on it. As well as receiving eight replies<sup>13</sup> to this document, we also received several views on

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<sup>9</sup> ‘Memorandum of Understanding between Department for Transport and Network Rail on rail enhancements’, March 2016, available [here](#).

<sup>10</sup> Letter from Bernadette Kelly (Director General – Rail) to Joanna Whittington (ORR CEO), December 2016, available [here](#). Letter from Joanna Whittington to Bernadette Kelly, December 2016, available [here](#).

<sup>11</sup> Commercial Assurance Review of the Rail Major Projects Portfolio, EY, October 2016, available [here](#).

<sup>12</sup> Inquiry into May 2018 network disruption, ORR, available [here](#).

<sup>13</sup> Responses to our draft CP6 enhancements: Roles and responsibilities, available [here](#).

our role for enhancements in the responses to our PR18 draft determination<sup>14</sup> and had further useful discussions with key stakeholders. This final version of the document takes into account the points raised by stakeholders. We would like to thank all those who responded and engaged with us on the draft.

14. To put our role for CP6 enhancements in context, a description of our key roles for enhancements in CP5, and how we fulfilled these, are described below.

## **ORR's role for enhancements in CP5**

15. As described above, responsibility for reviewing the enhancements costs for DfT funded projects changed during CP5. However, we continued to enforce Network Rail's compliance with its network licence and publicly reported on Network Rail's delivery of enhancements. We also continued to assess the cost of Transport Scotland funded enhancement projects, using ECAM.
16. ORR approved changes to Network Rail's enhancements obligations, as described in quarterly updates to the EDP in CP5. We required Network Rail to provide evidence that it had consulted stakeholders and taken any views expressed into account when it made recommendations for decision making to DfT or Transport Scotland. When reviewing these changes to the EDP, we determined whether delayed milestones should be publicly reported as missed or revised, to ensure transparent public reporting of Network Rail's enhancements performance. We agreed a criteria for this assessment with Network Rail early in CP5, which we later published<sup>15</sup>.
17. We held Network Rail to account against delivery of its regulated outputs for enhancements during CP5 (sometimes referred to as regulated milestones), and reported on risks to delivery in the Network Rail Monitor<sup>16</sup>. In order to fulfil this role, we have monitored Network Rail's delivery of enhancements, by reviewing project, programme and portfolio reports and making enquiries directly to informed individuals (for example, the project sponsors in Network Rail) where we used our experience to challenge their response. On occasion, for high risk or profile projects, we have chosen to verify for ourselves what we have been told by interrogating the base data (similar to the check that an internal audit function might perform).
18. As part of reviewing Network Rail's compliance with its network licence, we have reviewed capability change programmes (such as the Enhancements Improvement Programme) and completed individual reviews of capability areas (for example, Network Rail's approach to complex programmes) during CP5. However, we are

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<sup>14</sup> Periodic review 2018: draft determination and consultation responses, available [here](#).

<sup>15</sup> 'Enhancements Delivery Plan - Regulatory Change – Control Control Period 5: Purpose, process map and milestone reporting criteria, ORR, July 2017, available [here](#).

<sup>16</sup> Our Network Rail Monitor documents are available [here](#).

developing a more structured approach to assessing Network Rail's capability to specify enhancements in CP6.

## England & Wales enhancements

19. Overall objective of ORR's role: To incentivise Network Rail to effectively deliver its obligations for the CP6 enhancements portfolio, consistent with the DfT/Network Rail Memorandum of Understanding regarding enhancements, and to support and challenge Network Rail in building its capability.
20. The **role of the DfT**, working directly with Network Rail, is to:
  - agree a plan for taking forward enhancements, including agreeing milestones with Network Rail;
  - hold Network Rail to account in a client/delivery agent relationship, working closely with Network Rail through the project/programme boards;
  - work with Network Rail to gain assurance on individual projects;
  - establish a funding baseline and agree management of this (including provisions for risk and efficiency) with Network Rail; and
  - monitor future performance against the agreed baseline (which will be subject to change control during the control period). This baseline would be used by the ORR for the purpose of any addition to the regulatory asset base (RAB) (if applicable) and commentary on financial performance.
21. **ORR's role** on the enhancements portfolio funded by DfT is as set out below.
  - Monitor Network Rail's delivery of enhancements, to enable a holistic view of Network Rail's performance across operations, maintenance, renewals and enhancements.
  - Provide public accountability and reputational incentives through independent reporting in the Network Rail Monitor on Network Rail's progress delivering enhancements and highlighting the reasons for any changes to its baseline.
  - Inform an assessment of the risk to successful timetable changes, impacting on passenger and freight end-users of the railway, by providing an independent view on Network Rail's delivery of infrastructure enhancements. This is part of ORR's role to monitor the preparedness across the industry for forthcoming timetable changes, and maintain this focus while the industry increases its timetabling capability.

ORR will undertake the above three roles by:

  - (i) reviewing Network Rail's project, programme and portfolio reporting;
  - (ii) completing reviews of Network Rail's capability to develop and deliver enhancements (ORR is currently developing a more structured approach for CP6 for this);



- (iii) attending industry programme delivery groups and boards for information; and
- (iv) making enquiries to informed Network Rail teams and challenging their response, to inform an independent view.

- Publicly report on the cost of enhancement projects as part of ORR's annual efficiency and finance assessment of Network Rail as a whole.
- Support the DfT's client role by:
  - providing an understanding of Network Rail's broader capability to deliver across its business and steps to address capability issues; and
  - advising DfT of any issues identified through ORR's monitoring, that may assist DfT in holding Network Rail to account, by taking a proportionate approach and using industry programme delivery groups and boards to provide this advice.
- **Not** to monitor the cost efficiency of enhancement projects or take action in relation to specific milestones, which will **not** be regulated outputs. Albeit milestone performance, and lessons learnt from a particular milestone, may be a relevant input into identifying broader capability issues and informing our public commentary.

22. Network Rail will publish an EDP to provide transparency to its funders and customers on its enhancement obligations, the purpose of which will be to:

- allow railway undertakings to plan their businesses with a reasonable degree of assurance (fulfilling a network licence condition); and to
- provide transparency on enhancement commitments which should incentivise Network Rail to deliver a high level of performance and inform public and parliamentary debate around this performance.

23. This EDP will contain:

- schemes which are post-final investment decision (as per the DfT Rail Network Enhancements Pipeline);
- milestones describing Network Rail's obligations to its funders and customers (for various key outputs if applicable);
- contact details, to facilitate stakeholders looking for additional information; and
- a brief narrative to enable stakeholders to understand how the scheme could impact on their businesses.

24. DfT has committed to publish an outline of enhancements at each stage of the pipeline, as it takes investment decisions. This means there will be a clear picture of

the schemes that are progressing and the benefits that the UK Government is seeking.

25. When a change is required to the published baseline of Network Rail's obligations for enhancements:
- the change will be agreed between Network Rail and its client through the joint governance (joint project/ programme boards and joint portfolio board), involving broader, affected stakeholders;
  - Network Rail and DfT will agree and provide transparency on the status of the changed milestone in the EDP;
  - ORR will consider if the change arises from a capability issue and report on this as appropriate in the Network Rail Monitor;
  - ORR's specific role in change control will be to provide process assurance for Network Rail's customers and funders (i.e. that a reasonable process for accurate public reporting of Network Rail's performance is in place, has been followed and stakeholders have been consulted), but not to sign off any change; and
  - ORR will note changes impacting materially on any PR18 settlement, which will in parallel be subject to a separate change control policy as set out in our Managing Change Policy for CP6<sup>17</sup>.
26. Early in CP6 we will review whether stakeholders can access the information they need to plan their businesses using the EDP and related information, and identify if any improvements are required.

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<sup>17</sup> 'Managing Change Policy', ORR, November 2018, available [here](#).

## Scotland enhancements

27. Overall objective of ORR's role: To incentivise Network Rail to effectively deliver its obligations for the CP6 enhancements portfolio, consistent with the principles agreed between Transport Scotland and Network Rail, drive efficiency, and to support and challenge Network Rail in building further capability.
28. The role of **Transport Scotland**, working closely with Network Rail, is to:
- agree and apply a pre-pipeline and pipeline for taking forward Scotland enhancements, including agreeing milestones with Network Rail;
  - hold Network Rail to account for the delivery of enhancements in a client/deliverer relationship, working closely with Network Rail through project/programme and portfolio boards, to deliver on time and on budget in accordance with agreed the projects pipeline governance for Scotland;
  - work with Network Rail to gain assurance on the affordability and deliverability of individual projects from a client and funder perspective; and
  - establish a funding baseline and agree management of this (including provisions for risk).
29. **ORR's** role is as set out below.
- Designate milestones that have been agreed between Transport Scotland and Network Rail as formal regulatory requirements and hold Network Rail to account for the efficient delivery of those milestones.
  - Provide public accountability on the Network Rail enhancements portfolio. To use the Network Rail Monitor to independently report on overall Network Rail progress on enhancements and to provide a commentary on the Transport Scotland / Network Rail agreed plan, highlighting reasons for changes. This should support effective delivery by providing reputational incentives.
  - Monitor Network Rail's delivery of enhancements, to enable a holistic view of Network Rail's performance across operations, maintenance, renewals and enhancements and to highlight the impact of these enhancements on other parts of complex cross-industry programmes.
  - Inform an assessment of the risk to successful timetable changes, impacting on passenger and freight end-users of the railway, by providing an independent view on Network Rail's delivery of infrastructure enhancements. This is part of ORR's role to monitor the preparedness across the industry for forthcoming timetable changes, and maintain this focus while the industry increases its timetabling capability.

- Support the effective delivery of the portfolio in Scotland by providing an understanding of Network Rail's broader capability to deliver across its business and taking steps to address capability issues.

ORR will undertake the above five roles by:

- (i) reviewing project, programme and portfolio reporting;
- (ii) completing reviews of Network Rail's capability to develop and deliver enhancements, where ORR is currently developing a more structured approach for CP6;
- (iii) attending industry programme delivery groups and boards for information; and
- (iv) making enquiries to informed Network Rail teams and challenging their response, to inform an independent view.

- To provide advice to Transport Scotland (as requested) on the efficient cost and scope of delivering a specified output at investment decision points to incentivise Network Rail to deliver efficiently. This baseline will be used by ORR for the purpose of additions to RAB, if applicable in the future, and commentary on financial performance; and
- Publicly report on the cost of enhancement projects as part of ORR's annual efficiency and finance assessment of Network Rail as a whole.

30. Network Rail will produce a Scotland EDP. Its purpose will be to:

- allow railway undertakings to plan their businesses with a reasonable degree of assurance (fulfilling a network licence condition); and
- provide transparency on enhancement commitments which should incentivise Network Rail to deliver a high level of performance and inform public and parliamentary debate around this performance.

31. The Scotland EDP should contain:

- schemes which are post-Final Business Case (as per the Transport Scotland Rail Enhancements & Capital Investment Strategy<sup>18</sup>);
- milestones describing Network Rail's obligations to its funders and customers (for various key outputs if applicable);
- contact details, to facilitate stakeholders looking for additional information; and
- a brief narrative to enable stakeholders to understand how the scheme could impact on their business.

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<sup>18</sup> Rail Enhancements & Capital Investment Strategy', Transport Scotland, March 2018, available [here](#).

32. When a change is required to the baseline of the agreed Scotland EDP:
- the change will be agreed between Network Rail and its client through the joint governance (joint project/programme boards and joint portfolio board), involving broader, affected stakeholders;
  - ORR will consider if the change arises from a capability issue and report on this as appropriate in the Network Rail Monitor;
  - ORR's specific role in change control will be to provide process assurance (i.e. that a reasonable process for accurate public reporting of Network Rail's performance is in place, has been followed and stakeholders have been consulted) to Network Rail's customers and funders, but not to sign off the change. ORR will provide advice if requested on the efficient cost of a change; and
  - ORR will note changes impacting materially on any PR18 settlement which will in parallel be subject to a separate change control policy as set out in our Managing Change Policy for CP6<sup>19</sup>.
33. A separate document will be produced to describe Network Rail's obligations for schemes in the pipeline but not committed for delivery by the Scottish Government, including:
- a brief description of schemes including their strategic fit with details of what Network Rail is delivering and how it might contribute to a future service output;
  - milestones describing Network Rail's obligations to develop projects in the pipeline as agreed with, and funded, by Transport Scotland; and
  - changes to this document will be subject to the change control process described above.

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<sup>19</sup> 'Managing Change Policy', ORR, November 2018, available [here](#).

## Devolved government and third party funded enhancements

34. We have published our approach to facilitating third party investment in the rail network on our website<sup>20</sup>. Some of the actions we have or are taking in response to stakeholder feedback include:
- launching a new railway investment web section;
  - providing a single point of initial contact for investor queries;
  - publishing updated guidance on how investors can secure access rights on the national network;
  - commissioning an independent review of Network Rail's Industry Risk and Network Rail Fee Funds; and
  - updating the investment framework.
35. We will work with other government bodies to understand their expectations for enhancements and how we can work together. We have already had some discussions with Welsh Government and other devolved bodies to understand their views. In principle, we could, if requested, advise on the efficient cost of delivery of a particular scheme or portfolio of work, or assist with reputational incentives on delivery through monitoring and reporting.
36. Significant third party funded schemes delivered by Network Rail will be included in its EDP where appropriate, considering the requirements of each funder. This will include as a minimum a summary of the entry into service milestone(s) and Network Rail obligations.

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<sup>20</sup> ORR is open for business: Facilitating new investment in the rail network, see [here](#).



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