



**Working paper 8:
Managing change
affecting the PR18
settlements -
conclusions**

June 2018

Contents



| | |
|--|-----------|
| Context | 2 |
| 1. Introduction | 3 |
| Purpose of this document | 3 |
| Background | 3 |
| Stakeholder views | 3 |
| Structure of this document | 4 |
| Next steps | 4 |
| 2. Intra- and extra-route changes | 5 |
| Overview of our consultation | 5 |
| Summary of stakeholder views | 5 |
| Our response and updates since our consultation | 6 |
| 3. Categorisation of changes | 8 |
| Overview of our consultation | 8 |
| Summary of stakeholder views | 8 |
| Our response and updates since our consultation | 8 |
| 4. Changes to route funding | 10 |
| Overview of our consultation | 10 |
| Summary of stakeholder views | 11 |
| Our response and updates since our consultation | 11 |
| 5. Licence amendment to allow the prevention of certain level III changes | 15 |
| Overview of our consultation | 15 |
| Summary of stakeholder views | 15 |
| Our response and updates since our consultation | 16 |
| 6. Treatment of changes | 18 |
| Overview of our consultation | 18 |
| Summary of stakeholder views | 19 |
| Our response and updates since our consultation | 20 |
| Annex A: Our draft determination documents (includes weblinks)* | 22 |
| Annex B: List of responses to our consultation | 23 |

Context

The [2018 periodic review](#) is the process through which we determine what Network Rail¹ should deliver in respect of its role in operating, maintaining and renewing its network in control period 6 (CP6)² and how the funding available should be best used to support this. This feeds through into the:

- service that passengers and freight customers receive and, together with taxpayers, ultimately pay for; and
- charges that Network Rail's passenger, freight and charter train operator customers will pay for access to its track and stations during CP6.

This document has been published alongside our [draft determination](#), which sets out our overall decisions on PR18 for consultation. The documents included as part of the draft determination are listed in Annex A.

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

² CP6 will run from 1 April 2019 to 31 March 2024.

1. Introduction

Purpose of this document

- 1.1 This document discusses the main points raised by stakeholders in response to our March 2018 [working paper](#) on managing change affecting the PR18 settlements. Together with the working paper, it supplements the [PR18 draft determination](#), setting out further detail on our proposed policy conclusions.
- 1.2 Where we have not commented further in this paper, the approach outlined in our working paper should be taken to be our final proposed policy position for the draft determination.

Background

- 1.3 We are making significant changes to how we regulate Network Rail³. As outlined in our January 2018 [conclusions](#) to our July 2017 [consultation](#) on the overall framework, we are putting a greater focus on route-level regulation and a targeted approach to regulating the system operator (SO). As part of this, each route and the SO will have a separate PR18 settlement.
- 1.4 In our working paper, we developed our approach to managing change in CP6, with the objective of balancing the benefits of Network Rail being able to respond flexibly to changing circumstances against the benefits that we expect from route and SO settlements (i.e. providing routes and the SO with greater assurance regarding their responsibilities and funding and allowing us to compare performance and hold the routes and the SO to account).
- 1.5 The managing change process will achieve this by focusing on the changes that have the greatest potential to undermine the settlements and ensuring that relevant changes are subject to transparent governance processes with ex-ante engagement of affected parties where appropriate.

Stakeholder views

- 1.6 We received 8 responses to our working paper. These are available to view on our website [here](#). Respondents are listed in the Annex B.

³ For more information see our 'conclusions on the initial consultation on the 2018 periodic review of Network Rail': http://orr.gov.uk/data/assets/pdf_file/0003/23196/pr18-initial-consultation-conclusions-letter.pdf.

- 1.7 Responses were broadly supportive of the approach outlined in our working paper, including the proposed categorisation and treatment of changes. There was agreement that ORR should be able to prevent certain ‘exceptional’ changes, based on amendments to Network Rail’s licence. In addition, we received a number of helpful suggestions on how to improve the managing change process.
- 1.8 We would like to thank all those that responded. As this document forms a high-level summary, it has not been possible to mention all of the issues raised or to reference all respondents. However, all views expressed have been carefully considered and factored into our policy development.

Structure of this document

1.9 This document is structured around the areas of the working paper that received significant attention by stakeholders and/or require further clarification as part of the draft determination. For each area we summarise the position we set out in the working paper, provide an overview of the points raised by stakeholders in their responses and respond with our final proposed policy position.

1.10 The chapters are structured as follows:

- 2) Intra- and extra-route changes
- 3) Categorisation of changes
- 4) Changes to route funding
- 5) Licence amendment to allow the prevention of certain level III changes
- 6) Treatment of changes

Next steps

- 1.11 Based on the principles outlined in this document and the working paper, we will work with Network Rail to explore in greater detail how the managing change process will work in practice.
- 1.12 We will then publish a standalone guidance document on managing change ahead of the final determination.
- 1.13 The drafting of the licence amendments related to managing change will be included in the consultation on the revised network licence document in July 2018.

2. Intra- and extra-route changes

Overview of our consultation

- 2.1 Our working paper sought to distinguish between two sets of changes: extra-route and intra-route changes. The motivation for this was to allow a set of changes to take place, where these were consistent with realising the benefits of greater decision-making, and responsibility being held by the route and SO management teams. Where changes were broadly analogous to those that would be taken by the management team of an independent business, the integrity of the settlement is not compromised and we wanted to allow these to take place, subject to appropriate transparency.
- 2.2 We referred to these types of changes as intra-route changes: changes initiated by a route/the SO or should reasonably have been factored into the route's PR18 strategic plan⁴.
- 2.3 In contrast, we defined 'extra-route changes' in a way to capture the set of changes that have a material bearing on what the route and SO management teams are responsible for and are able to deliver. These types of changes are more likely to undermine the settlements, potentially reducing the benefits from greater route and SO-level decision making, and to reduce the effectiveness of ORR's regulatory approach in supporting improved outcomes.
- 2.4 Reflecting this, we defined extra-route changes as being those that originate outside of a route/the SO and could not have reasonably been factored into the route's PR18 strategic plan.
- 2.5 We proposed that only extra-route changes should be in-scope of the managing change process as they have the greatest potential to undermine the PR18 route settlements. The managing change process would apply to all of the geographic routes, the FNPO and the SO.

Summary of stakeholder views

- 2.6 There was widespread support for the principle of focusing the managing change process on extra-route changes. Network Rail noted its use in sending a clear signal about the type of changes that the process will focus on – namely, changes that are outside of the control of routes. The Railway Industry Association (RIA) stated that

⁴ On which the settlement is based.

the examples provided in table 1.1 in the working paper were helpful to illustrate the scope of the managing change process.

- 2.7 However, some operators raised concerns over a lack of clarity about whether changes were intra- or extra-route and there was a degree of confusion regarding the definitions of intra- and extra-route changes.
- 2.8 Network Rail commented that extra-route changes could be identified relatively easily for changes in organisation structure and funding but it would be more difficult to distinguish for changes that impact outputs. Network Rail proposed to report all changes to their business plans and will distinguish between intra- and extra-route changes wherever possible.
- 2.9 There was also broad agreement with the proposal to apply the process to all routes (including the FNPO) and the SO.
- 2.10 It was noted by DfT that a significant proportion of changes would be considered out of scope of the managing change process and that it was important that these also be subject to appropriate regulatory scrutiny.

Our response and updates since our consultation

- 2.11 We acknowledge that there will be a significant proportion of changes that will not be subject to the managing change process. This is necessary to ensure that the change control process is proportionate, practical and does not impose an excessive regulatory burden on Network Rail. We would reiterate that any changes not scrutinised through the managing change process (i.e. intra-route changes) will remain subject to our wider monitoring and enforcement processes. The managing change process will apply to all the geographic routes, FNPO and SO.
- 2.12 Some respondents were concerned that there may be circumstances where an intra-route change could have an impact across other routes. However, a change which has an impact across other routes is, by definition, an extra-route change. A change is 'intra-route' if it is initiated by a route/the SO and does **not** affect what can be delivered under the other route settlements. We will reflect this particular example in our subsequent guidance document, to aid clarity.
- 2.13 We welcome Network Rail's proposal to record and report all changes that could be deemed level I changes regardless of whether they are intra- or extra-route. This should help further improve transparency which is a key aim of the managing change process.

- 2.14 However, we do not agree that it is materially harder to record extra-route changes that affect outputs as it is for changes to structures and funding. While it may be more difficult to categorise the level of a change (I, II or III) that impacts the outputs routes are expected to deliver, this does not affect the change type - the key underlying principle is whether the route/SO has been instructed to change the outputs that it is planning to deliver, or whether the decision to change these outputs has originated from within the route/SO business. As many of these outputs should be determined in consultation with – and ideally with the agreement of – customers, it is important to maintain these distinctions in respect of outputs (as well as structures and funding).
- 2.15 Furthermore, identifying which changes originate outside of a route enables us to better hold routes to account for their performance and helps to support route devolution. Network Rail should therefore identify extra-route changes that have a significant impact on the settlements of the routes and the SO.

3. Categorisation of changes

Overview of our consultation

- 3.1 To enable a proportionate approach, our proposal recommended the categorisation of changes into three levels:
- Level I and above – a change relative to the PR18 settlements;
 - Level II and above – a material change relative to the PR18 settlements; and
 - Level III – a fundamental change relative to the PR18 settlements.
- 3.2 We provided guidance on how changes in CP6 could be allocated to each of these levels based on the scale of the impact of the change on outputs, funding and/or organisational structure.

Summary of stakeholder views

- 3.3 Respondents recognised the need for categorising changes to ensure the process is proportionate in its approach with a greater focus on larger changes.
- 3.4 Multiple respondents noted that the definitions of change were somewhat subjective. For the managing change process to work effectively it is important to have well-understood definitions of the levels of change so they can be consistently interpreted. RIA suggested some amended definitions for ‘material’ and ‘fundamental’ change and queried whether level I, II and III changes might be better labelled minor, significant and exceptional (or fundamental).
- 3.5 Network Rail echoed these concerns but acknowledged that defining the criteria for a ‘material’ change is difficult. Further suggestions were provided by Network Rail with respect to the impact on funding and organisational structure. It explained that all level I changes would be reported through its annual business planning update process.

Our response and updates since our consultation

- 3.6 Defining the materiality of changes is challenging. We agree that providing a clear demarcation for individual levels of change is preferable to improve understanding and ensure a consistent approach is followed, and we have provided this for changes in route funding. However, specifying clearly defined thresholds is not considered to be appropriate for changes to outputs and organisational structure for which there is

a wide range of change scenarios that could all impact the settlements differently depending on the situation.

- 3.7 We welcome the suggestion by Network Rail of using the 'Business Performance Management Framework' as a reference point for changes to the responsibilities of routes or the SO and we will refer to this document in addition to the Network Rail licence and subsidiary documents.
- 3.8 Our policy position otherwise remains as outlined in the working paper for assessing the impact of changes on outputs and organisational structure. Our final approach to funding changes is detailed in the following chapter.
- 3.9 We will further work with Network Rail to develop a clear, shared understanding around the levels of change and, where possible, improve definitions. The requirements around categorisation will be outlined in our subsequent managing change governance document. It will also be important to ensure that Network Rail and ORR work closely together when applying these principles for changes in the early part of CP6. Reporting around these changes will be accompanied by clear explanations around their respective categorisations, to provide more information and guidance for future candidate changes.

4. Changes to route funding

Overview of our consultation

- 4.1 For route/SO funding, we acknowledged the need for Network Rail to have flexibility in managing its budgets across England & Wales relative to the PR18 settlements but noted that large changes could materially affect the routes'/SO's ability to plan and deliver, hence undermining the benefits of the settlements. We noted that funding for Network Rail in Scotland is ring-fenced for CP6 and would not ordinarily be subject to change.
- 4.2 As part of its strategic business plan, Network Rail proposed the use of a 'group portfolio fund' (GPF) approach to managing most financial risks for England & Wales in CP6. Under this approach a portion of each route's revenue requirement for each year (proposed to be £2.6bn in total for CP6) would be committed to the GPF. Network Rail proposed that each route would retain control of some of this money (c.£660m in total for CP6 at a 'route' level), with the remainder (c.£1.9bn) held corporately at a 'portfolio level'.
- 4.3 Network Rail's indicative analysis showed that its proposed funding allocations across the GPF reflected certain 'confidence levels' with respect to funding that we summarised in Table 2.2:

Table 2.2: Network Rail's proposed funding allocations for England & Wales

| Funding allocation | Route level confidence level |
|--|---|
| Route strategic plan | P50 – i.e. 50% chance that the route will deliver its outputs |
| Route strategic plan + route level GPF | P60 – i.e. 60% chance that the route will deliver its outputs |
| Route strategic plan + route level and portfolio level GPF | P80 – i.e. 80% chance that the route will deliver its outputs |

- 4.4 We proposed to link the categorisation of funding changes to the levels of confidence related to these funding allocations as follows:

Table 2.3: Our proposed categories for changes to funding for England & Wales

| Reduction in route/SO funding | Timing | Change level |
|-------------------------------|-------------------------------------|--------------|
| Below P60 level | As part of business planning update | level II |
| Below P60 level | Outside business planning update | level III |
| Below P50 level | Any time | level III |

Summary of stakeholder views

- 4.5 In line with our 2017 PR18 overall framework consultation, stakeholders continue to have differing views on the level of flexibility that should be afforded to Network Rail with respect to funding changes.
- 4.6 As a major funder of Network Rail, DfT requested that any changes which have a material impact on funding be discussed with it before being agreed. The department also wished to see that the monitoring of funding changes (and the treatment of the GPF) were focused on supporting route devolution.
- 4.7 Network Rail considered that the criteria to meet a level II or III change should be less stringent than the position proposed in our working paper. For example, it was suggested that the level that triggers a formal opinion (level III change) should be less restrictive.
- 4.8 A number of respondents including Network Rail raised concerns regarding the complexity of the approach outlined in the working paper, especially the danger of subjectivity around reference to confidence levels for delivery based on a given level of funding.
- 4.9 Transport Scotland sought clarification as to whether ORR expect there to be any change with respect to the applicability of the policy to Scotland given that funding for Network Rail in Scotland is ring-fenced for CP6.

Our response and updates since our consultation

- 4.10 The expected structure of funding through the GPF has evolved since the publication of our working paper. In light of this change and the responses received on our working paper, we have updated our proposed approach for managing changes in funding.

- 4.11 The financial risk funding provisions for Network Rail in CP6 are detailed in our ‘PR18 draft determination supplementary document – financial framework’, which can be accessed [here](#). We have outlined our agreement with Network Rail’s total proposed financial risk funding for England & Wales (£2,311m in 2017-18 prices) and Scotland (£284m in 2017-18 prices). However, our draft determination is that the balance between risk funding held in the routes and the centre should be different.
- 4.12 We have decided that half of the balance that Network Rail proposed be held in the centre should be moved to the routes, and included as ‘contingent renewals’ – namely held as identified renewals work that will take place if certain risks do not crystallise.
- 4.13 Therefore, we have moved £856m for England and Wales from the centre to the routes. These amounts will be allocated to contingent asset renewals⁵. We are currently discussing the risk funding approach for the Scotland route with Network Rail and Transport Scotland in the context of the separate funding arrangements for Scotland. While we consider the total risk funding of £284m (in 2017-18 prices) proposed by Network Rail to be appropriate, we have not yet decided whether this should be allocated to the route/centrally controlled risk funds or contingent renewals.
- 4.14 Our draft determination on risk funding levels is summarised in Table 4.1.

Table 4.1 – Draft determination on risk fund allocations

| £m 2017-18 prices | Route controlled risk funds | Contingent renewals | Centrally controlled GPF | Total |
|-----------------------------|-----------------------------|---------------------|--------------------------|-------|
| <u>England & Wales</u> | | | | |
| Network Rail’s SBP proposal | 600 | 0 | 1,711 | 2,311 |
| Draft determination | 600 | 856 | 856 | 2,311 |
| <u>Scotland</u> | | | | |
| Network Rail’s SBP proposal | 60 | 0 | 224 | 284 |
| Draft determination | 284 | | | 284 |

⁵ This factor would not apply to the FNPO or SO because they do not themselves carry out renewals.

4.15 The governance arrangements around changes in funding are set out in more detail in our ‘PR18 draft determination supplementary document – financial framework’. As the governance arrangements and requirements for managing change are closely linked with respect to changes in funding, these are presented side by side in Table 4.2 to show the process that should apply to the categories of funding that will be included in our final determination. However, it should be noted that the required practices in the ‘governance arrangements’ column do not form part of the managing change process.

Table 4.2 – Governance arrangements and requirements for managing change

| | Governance arrangements | Managing change requirements |
|--|--|---|
| Core route budget | <ul style="list-style-type: none"> ▪ Route’s decision to spend. ▪ Route will notify centre of spend through Network Rail’s business planning process. | <ul style="list-style-type: none"> ▪ Level III change if centre seeks to: <ul style="list-style-type: none"> - veto/defer spending - transfer funding away from route |
| Route-controlled risk funding | <ul style="list-style-type: none"> ▪ Route’s decision to spend on: <ul style="list-style-type: none"> - crystallised risk costs; and - other expenditure (if risks have not crystallised). ▪ Route must notify centre of spending intentions. | <ul style="list-style-type: none"> ▪ Level III change if centre seeks to: <ul style="list-style-type: none"> - veto/defer route spending decision - transfer funding away from route |
| Contingent renewals⁶ | <ul style="list-style-type: none"> ▪ Route’s decision to spend on contingently planned renewals. ▪ Route must consult with centre on major spending intentions. | <ul style="list-style-type: none"> ▪ Level II change if centre seeks to: <ul style="list-style-type: none"> - veto/defer route spending decision - transfer funding away from route |
| Centrally held GPF | <ul style="list-style-type: none"> ▪ Centre to decide with involvement of routes in governance process. | <ul style="list-style-type: none"> ▪ Level I change |

⁶ Not applicable to FNPO or SO.

- 4.16 For simplicity and certainty, we propose that the levels of change for the managing change process do not relate to the confidence levels as outlined in our working paper. Instead they will relate to the funding allocations presented in our final determination in accordance with the categorisation outlined in table 4.2.
- 4.17 As outlined in the working paper, the managing change requirements related to funding changes do not apply to Scotland as the funding is ring fenced - transfers between England & Wales and Scotland are not allowable. We do not envisage any changes to this position.

5. Licence amendment to allow the prevention of certain level III changes

Overview of our consultation

- 5.1 To protect and preserve the benefits of the routes' and SO's settlements, we proposed amending Network Rail's licence to require the company to comply with the managing change process. A failure to follow the process would likely only delay implementation of the change while that failure is remedied.
- 5.2 In addition, we proposed amending the licence to enable us to prevent certain level III changes, where there is no reasonable means available to us to mitigate the serious impact of the change on our ability to compare the performance of the routes and the SO (labelled 'exceptional changes'). In such cases, for Network Rail to proceed with the change would amount to licence breach.
- 5.3 We noted that there may be some circumstances where the balance of our statutory duties supports reliance on the 'reopener' provision (part 7 of schedule 7 of the access agreements of franchised operators) in preference to indicating that the change must not progress, and vice versa.

Summary of stakeholder views

- 5.4 There was strong support for the principle of using the Network Licence to ensure compliance with the managing change process and to enable ORR to prevent changes in certain circumstances. The use of such measures was considered to be in line with the remit of other regulators.
- 5.5 DfT considered it to be a vital reserve power, enabling ORR to act when important principles have not been followed as well as protecting comparability and therefore safeguarding the benefits of route devolution. The department noted in particular that ORR may wish to prevent a change from proceeding where effective engagement with TOCs & FOCs has not taken place.
- 5.6 Respondents broadly agreed with the examples of exceptional change suggested within the working paper. TfL proposed that these should be focused on changes that fundamentally undermine the nature of the route-based settlement, such as the centralisation of most route based activity and major changes to funding or outputs that render existing Business Plans obsolete.

5.7 RIA referred to the balance to be struck between providing legal and regulatory certainty against leaving flexibility to cover circumstances that are not currently predicted. It noted that as a result, ORR may wish to not too-tightly define what constitutes exceptional change.

Our response and updates since our consultation

5.8 We note the general support for an ability to prevent certain changes and we remain of the view that it is important for ORR to have this option, even though it may be rarely used in practice.

Exceptional change

5.9 We believe 'exceptional' change is best understood in terms of its impact:

“A change is likely to be judged as ‘exceptional’ by ORR when there is no reasonable means available to us or Network Rail to mitigate the serious impact of the change on our ability to use comparison between the performance of the routes and the SO in a way that provides incentives on the company to improve.”

5.10 What is reasonable or unreasonable in terms of mitigation will be informed in part by the justification for the change, and the benefits it would bring to Network Rail, passenger and freight rail users and taxpayers. We will balance our statutory duties in reaching a decision.

5.11 Examples of situations which have the potential to be regarded by ORR as 'exceptional' changes in certain circumstances are a:

- (i) reduction in the number of routes;
- (ii) substantial diminution of the responsibilities of the routes or the SO; or
- (iii) change which causes comparison with the route settlement to become meaningless across more than one route.

5.12 Stakeholders said that it would be helpful to have as much certainty as possible about the circumstances when ORR might regard a level III change as 'exceptional'. Further detail will be provided in the managing change guidance document which will underpin the new licence condition. However, although we recognise the need for certainty and will work up examples in our policy, we also need to retain some

flexibility so that the policy does not prevent us from acting in an, as yet, unforeseen circumstance which would otherwise fall within the definition of 'exceptional' change.

- 5.13 ORR is proposing a change to the licence which will require Network Rail to comply with ORR's policy on managing change, including in relation to ORR opinions. Our guidance document, as mentioned above, will contain the detail of the managing change process, including the different categories of change and detail on what is likely to be an exceptional change. If Network Rail does not comply with the process, it will be in breach of licence. For example, ORR could provide an opinion on a level III change which states that ORR has concerns about a change because of its serious impact on the ability to compare the performance of the routes, but is content for it to go ahead subject to certain adjustments. If the change proceeds without the adjustments then Network Rail would be in breach of licence and ORR would have recourse to its enforcement powers, if appropriate.
- 5.14 We have considered further the interaction of the ability to prevent 'exceptional' changes with our ability to rely on an existing ('re-opener') provision in part 7 of Schedule 7 of the track access contracts of franchised operators for ORR to conduct an interim access charges review in certain circumstances before the date on which the control period would otherwise end. There may be some circumstances where the balance of our statutory duties supports reliance on this 'reopener' provision in preference to indicating that the change must not progress, and vice versa. As such, we see the two options as complimentary and do not currently believe there is a need to amend the reopener provision, although we will keep this under review.

Failure to comply with the managing change process

- 5.15 The policy underpinning the licence condition will describe the different levels of change and the process to be followed when dealing with changes falling within scope of the policy. This will include the need for appropriate and proportionate stakeholder consultation ahead of a change. A failure to comply with process risks a breach of licence and we will expect Network Rail to remedy a process failure as soon as practicable.

6. Treatment of changes

Overview of our consultation

- 6.1 In our working paper we put forward procedural and reporting requirements for each level of change.
- Changes categorised as level I (and above) would be reported through change logs, with the impacts presented on an aggregated basis to support inter-year comparisons. The reporting requirements would cover a detailed explanation of the change, and articulate the impact on route plans, scorecard targets and/or outturn performance.
 - For level II changes (and above) Network Rail should also engage with us ahead of a decision taking place. This would give us, and others, an opportunity to consider the impact of the potential change and discuss any concerns with Network Rail where appropriate.
 - We will publish a formal opinion on level III changes prior to its implementation and will consider updating baselines against which we monitor performance where appropriate. We referred primarily to changes in the consistent measures on the route comparison scorecard (being the principal measures we will use to compare performance).
- 6.2 For level II and III changes, Network Rail must demonstrate to us that it has completed appropriate (proportionate) stakeholder engagement. This must include the form of engagement, stakeholders' views and how the change was amended as a result.
- 6.3 We set out a 'generic' managing change process but also proposed that, wherever possible, the managing change process would be complementary to the existing business planning and enhancement processes. The proposed 'generic' process would broadly follow five steps:
- The route/SO identifies an upcoming potential level II or III change and engages with ORR through regular channels, as well as with its stakeholders if appropriate;
 - Network Rail submits a Change Notification Template, accompanied by supporting information, requesting amendments to ORR's monitoring baseline if appropriate;
 - ORR will confirm or challenge the categorisation of the change, and seek further information if necessary;

- (Level III only) ORR will publish a formal view on the change having scrutinised the Change Notification Form and compared its net benefits with the impact on the regulatory settlements; and
- (Level III only) if requested by Network Rail, ORR will consider taking the changes into account when assessing performance against the PR18 settlements.

Summary of stakeholder views

- 6.4 There was broad support for the approach outlined within the working paper in relation to the treatment of changes including the procedural and reporting requirements for each level of change.
- 6.5 A number of respondents commented on stakeholder engagement. DfT observed that the managing change process is a major opportunity to embed and support effective stakeholder engagement between Network Rail and its customers, and it wanted to see greater emphasis on stakeholder engagement within the managing change process.
- 6.6 There was interest in how stakeholder engagement would be conducted as part of the managing change process and how the appropriateness of this engagement would be determined. The department did not advocate a highly prescribed process but one which clearly establishes the need for effective, meaningful and informed dialogue between Network Rail and its customers. CrossCountry wished to better understand how the change logs described within the working paper will be shared with operators.
- 6.7 There was general agreement that it may be appropriate to update PR18 baselines associated with the settlements in certain circumstances.
- 6.8 Network Rail sought further guidance on the extent to which ORR may wish to change the settlements and how such adjustments might work in practice. In particular, what happens if there is more than one change to the baseline within the control period.
- 6.9 TfL agreed that it was important that changes to Network Rail's settlements should not be permitted where these stem from inadequate management of risks (including cost and delivery risk).
- 6.10 Transport for Greater Manchester (TfGM) stressed that the existence of a change process must not lead to complacency in setting future business plans, problems in delivering them and a failure to allow genuine comparisons if change occurs too frequently.

6.11 DfT noted that the change control process is focused primarily on ‘downside’ risk and that there could be greater attention paid to ensuring that higher requirements can be set if it transpires, through comparative evidence, that the targets set for a route at PR18 are no longer adequately stretching.

Our response and updates since our consultation

6.12 In light of the broad support received for the treatment of changes through the managing change process, our final policy proposals remain largely unchanged in this area.

6.13 We will work closely with Network Rail to consider the practical application of the proposed approach, including how the managing change process can be “wrapped around” existing processes (e.g. the annual business plan update). Where appropriate, we will provide further detail within our subsequent managing change guidance document.

6.14 However, we would like to provide further comment at this stage on stakeholder engagement and the updating of PR18 baselines.

Stakeholder engagement

6.15 It is essential that Network Rail engages with its stakeholders as part of changes to its settlements in a way that is inclusive, effective, well-governed, and transparent (reflecting our principles of good stakeholder engagement as outlined in our ‘conclusions on the overall framework for regulating Network Rail’ document, which can be found [here](#)). We expect Network Rail to explain to us and to stakeholders the process it will or has followed in engaging with stakeholders, why this approach is deemed to be proportionate (reflecting the nature of the change) and how it is meeting the principles of good stakeholder engagement.

6.16 We will continue to work with Network Rail to support it in developing its approaches to engaging with stakeholders, including as part of managing changes to settlements. This will involve an annual assessment of the routes’/SO’s engagement that includes identifying and sharing examples of best practice. As part of this, we have produced some advice for the routes/SO on engaging with stakeholders which we will be

publishing shortly after our PR18 draft determination. This document⁷ can be accessed [here](#).

Updating PR18 baselines

- 6.17 We would like to clarify that the PR18 baselines will be changed only on rare occasions where a level III change has fundamentally undermined the settlement(s). We will continue to refer back to the original PR18 baselines in our monitoring where it provides a meaningful reference point in order to support discipline and transparency.
- 6.18 Where comparison with the settlements becomes meaningless, we will consider updating the relevant PR18 baselines to allow our monitoring to retain purpose. Comparison to the original PR18 baselines will continue to be published but clearly framed as 'for information' (e.g. in an annex).
- 6.19 In the event that a PR18 baseline needs to be updated more than once during the control period, further changes should be assessed relative to the latest PR18 baseline (assuming that it has been formally agreed through the change control process).
- 6.20 We believe it is right for the managing change process to be more focused on 'downside' risks. These protections should naturally focus more on underperforming areas and it is important that we can hold routes to account where they are not meeting the targets agreed in their settlements. In contrast, where there is out-performance, we would look to rely on wider reputational incentives and, in particular, the ability of customers and routes/the SO to discuss and agree what is a suitable forward-looking trajectory for performance. We would expect these to be reflected in scorecard trajectories, which ORR would also look to report against (while also reporting the out-performance against the original PR18 baselines). In addition, we are mindful that changing baselines due to over-performance could introduce perverse incentives for routes, and weaken reputational incentives to improve.
- 6.21 For these reasons, we do not believe there should be a material shift in our approach (e.g. we will still primarily focus on reductions in route funding). However, we recognise that certain extra-route changes could lead to material positive adjustments in trajectories. Where this is clearly the case, we will take this into account in our monitoring and, for level III changes, we will consider uplifting PR18 baselines.

⁷ *Stakeholder Engagement: Advice for Network Rail Routes and the System Operator*, Steer Davies Gleave, June 2018

Annex A: Our draft determination documents (includes weblinks)*

| PR18 draft determination overview document | | | |
|--|------------------|---|--|
| England & Wales summary | | Scotland summary (and supporting annex) | |
| Draft settlement documents | | Supplementary documents | |
| FNPO route | | SBP assessment | Scorecards and requirements |
| System Operator | | | Health & safety |
| | | | Review of Network Rail's proposed costs |
| | | | Other single till income |
| Route review summaries | | Policy | Stakeholder engagement |
| England & Wales | Anglia route | | Financial framework |
| | LNE & EM route | | Review of network licence |
| | LNW route | | Overview of charges & incentives decisions |
| | South East route | | Infrastructure cost charges consultation |
| | Wales route | | Variable usage charge consultation |
| | Wessex route | | |
| | Western route | | |
| | | | |
| Other documents | | Conclusions to earlier consultations | |
| Glossary | | Conclusions to working paper 8 on managing change | |
| Consultancy & reporter studies | | Conclusions on our approach to assessing efficiency & wider financial performance | |

*Please note that some documents, including consultancy and reporter studies and impact assessments, will be published following 12 June 2018.

Annex B: List of responses to our consultation

Department for Transport

Network Rail

Rail Delivery Group

Railway Industry Association

Transport for Greater Manchester

Transport for London

Transport Scotland

XC Trains Ltd. (CrossCountry)



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