



Managing Change Policy

ORR policy for CP6

Version 1.0, 16 November 2018

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Foreword

This document sets out our Managing Change Policy, which Network Rail¹ will be required to comply with under its network licence².

Why a Managing Change Policy is needed

In the [2018 periodic review](#) (PR18), we made changes to how we regulate Network Rail. We put a greater focus on route-level regulation and a targeted approach to regulating the System Operator (SO). Each route³ and the SO has a separate settlement which outlines what they are each expected to deliver for their customers over control period 6 (CP6)⁴, and the funding they require to do this. Together, the settlements form part of Network Rail's overall determination for England & Wales and for Scotland.

Things will change during CP6, and some of these changes may affect route and/or SO accountability or funding. These changes could be driven by decisions within Network Rail itself or by external factors (including changes in government policy). Given the importance placed on the route and SO settlements for CP6, there needs to be a process in place to ensure changes relative to these settlements are managed appropriately.

Our approach to managing change is designed to balance:

- the need for Network Rail as a whole to be able to respond flexibly to changing circumstances (e.g. managing risk across its activities in England & Wales); and
- the need to:
 - provide some certainty for the routes and the SO (and their customers and funders) regarding their responsibilities and funding; and
 - hold the routes and SO accountable for delivering against their commitments for CP6.

Our policy will support us in making comparisons across the routes' performance, and across the CP6 period and beyond. To do this, it is important that we are able to collect appropriate data and know what changes might have affected the comparability of that data. This will help provide better incentives on the routes and SO to deliver outcomes for passengers, freight and funders. In doing this, we are mindful of the need to avoid adding unnecessary regulatory burdens.

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

² Subject to the statutory process to modify Network Rail's licence that we expect to commence in December 2018.

³ Including the Freight and National Passenger (FNPO) route.

⁴ CP6 will run from 1 April 2019 to 31 March 2024.

Our policy will increase transparency and support stakeholders in playing a larger role. In particular, the stakeholders affected by changes to Network Rail's plans should be involved sufficiently early in the process so that their views are taken into account. This should include appropriate engagement with funders.

This policy applies to the routes' and the SO's funding and outputs associated with the PR18 determination, which sets out what Network Rail should deliver in respect of its role in operating, maintaining and renewing the network. Decisions on changes to enhancements will be made through separate processes, led by the relevant funder(s). However, the PR18 Managing Change Policy will be used to reflect the consequences of those enhancements on the core business and how this should be reflected in business plans and ORR's monitoring and reporting.

The requirements related to funding changes do not apply to Scotland as its funding is ring fenced and transfers between England & Wales and Scotland are not allowed. However, the treatment of other changes (such as any shift in accountability between the Scotland route(s) and the SO) is relevant for Scotland.

Principles for managing change

The policy manages change in a way that supports route-level regulation whilst avoiding unnecessary regulatory burdens. It is based on the following principles.

- Proportionality: not all changes are 'relevant' or in-scope. Instead, we will focus on changes that have the most important impact on the settlements.
- Consistency: similar changes should have similar treatment, both over time and across different types of change (unless there are good reasons for differences).
- Transparency: stakeholders should be able to understand what changes are happening, the reasons for the changes and the process that has been followed.

Interaction with Network Rail's licence

Network Rail operates under its network licence. The licence conditions underpin how we hold Network Rail to account, setting out the company's obligations and providing a formal set of requirements that supports our regulation of the company.

Alongside our [PR18 final determination](#), we are proposing to make a number of changes to that licence. Condition [3] of the revised network licence will mean that Network Rail must not make a 'Relevant Change' unless it complies with the Managing Change Policy in making a change and after the change. This condition introduces the ability for ORR, in exceptional circumstances, to direct Network Rail not to make a Relevant Change or only to make the change if it complies with specified conditions.

In this document we set out what 'Relevant Changes' are; what Network Rail needs to do when making 'Relevant Changes'; and the types of changes where ORR may issue a direction to prevent certain 'Relevant Changes' from being implemented.

Reflecting the fact that the Managing Change Policy is new for CP6, we expect Network Rail to engage more closely with ORR in producing its CP6 delivery plan and in the early years of the control period. This will enable early examples of managing change to inform the development of an enduring approach that works for ORR, Network Rail and its stakeholders. In the event that ORR considers Network Rail has not complied with the Managing Change Policy (including significant misclassification of changes), we would consider the appropriate regulatory intervention.

The status of this policy

In light of experience, we may issue amendments to this policy during CP6. Any changes to the policy would be subject to consultation with Network Rail and, where appropriate, stakeholders more generally. This policy will be in effect until it is superseded.

We will continue to work with Network Rail to implement the Managing Change Policy in a proportionate way, making use of existing processes where possible.

1. Scope of Managing Change Policy

Summary

Relevant Changes are those that affect the accountability or funding of a Route Business and/or SO. Relevant Changes can be categorised as Level I, Level II or Level III depending on their impact and significance.

Relevant Changes

- 1.1 Network Rail will be required to comply with the Managing Change Policy (when it is making Relevant Changes) as a condition of its licence. This policy sets out the process that must be followed for Relevant Changes. The definition of 'Relevant Change' is:
- 1.2 Changes which may reasonably be expected to impact:
 - **Route Business⁵ and/or SO accountability** (including changes to route boundaries, route and/or SO functions and the outputs to be delivered); and/or
 - **how much funding a Route Business and/or the SO has available to it to deliver what it is accountable for in the control period** (including changes to annual budgets);
- 1.3 Changes that are not expected to affect either: the Route Business or the SO accountability (relative to the position underlying the final determination); or the funding available to it are not Relevant Changes for the purpose of this policy. The processes set out in this policy would therefore not apply in such cases. However, we would expect Network Rail to have appropriate processes in place to support its decision-making and keep appropriate records for changes that are outside the scope of this policy.
- 1.4 The following changes are outside the scope of this policy (i.e. not Relevant Changes):
 - decisions on enhancements (or changes to those enhancements) that are not included in the final determination. These decisions will be made through separate processes, led by the relevant funder(s);
 - changes to scorecards. As set out in Chapter 3 of the final determination overview document⁶, we expect Network Rail's scorecards will, where

⁵ The term Route Business is used here to mean the business unit responsible for a geographical route.

⁶ This can be accessed [here](#).

appropriate, be revised and updated over CP6 to reflect customers' changing priorities, or to reflect external events; and

- changes in how a Route Business or the SO allocates its annual core route budget (including the route's or SO's contribution to the group portfolio fund (GPF)⁷) within the route or the SO.

- 1.5 However, where these changes have a knock-on impact on accountability and/or funding (as set out above), this would constitute a Relevant Change, meaning that the applicable parts of this policy must be followed. For example, whilst decisions on changes to enhancements will be made through a separate process, any changes to core route funding⁸ provided for in the PR18 settlements caused by those enhancement decisions are Relevant Changes.
- 1.6 Similarly, although changes to scorecards are generally outside the scope of the Managing Change Policy, there is a set of related changes that would affect our ability to use comparison to hold Network Rail accountable. Reflecting this, changes to the calculation of consistent route measures are Relevant Changes. This includes any proposed substitution of the consistent route measures or changes to the methodology for these measures⁹. Other changes that could reduce our ability to make route comparisons would also be Relevant Changes, such as changes to reporting and/or data collection.
- 1.7 A change which is outside the control of the Route Business and which fundamentally undermines the relevance of a CP6 baseline trajectory for a consistent measure could occur. In such circumstances, we would take account of this in how we monitor and report on Network Rail (or the relevant route), and may choose to agree an alternative trajectory against which to measure future delivery.
- 1.8 In the event that there are any changes to the licence during CP6, these will need to follow the statutory licence change process. However, we expect the Managing Change Policy to be the mechanism through which any licence changes related to accountability, proposed by Network Rail, are considered. Therefore, such potential

⁷ GPF is a fund, referred to by Network Rail in its Strategic Business Plan (SBP) for CP6, that allows financial risk to be efficiently managed during CP6. Network Rail proposed that each route should have control of some risk funding, and contribute an additional amount to a centrally-held group portfolio fund.

⁸ This is the core operations, support, maintenance and renewals (OSMR) budget and route controlled risk funding as described in our final determination.

⁹ We have set a CP6 baseline trajectory for certain key measures, including Consistent Route Measure – Passenger Performance (CRM-P), the indication of the route level contribution to overall Freight Delivery Metric (FDM-R) and Common Safety Indicator (CSI). We will use this to inform our monitoring and reporting in CP6. Through its business planning process and agreement of annual scorecards with stakeholders, Network Rail's annual targets may vary from this CP6 baseline trajectory, which we would take into account in our monitoring and reporting.

changes that would need a licence change in order to be implemented are Relevant Changes and will follow the Managing Change Policy.

Levels of change

1.9 The appropriate way of managing a potential change¹⁰ will be determined by:

- its impact on our ability to regulate Network Rail and hold it to account effectively, including being able to compare performance between the Route Businesses (and SO where appropriate);
- its materiality in terms of its monetary impact and potential impact on outcomes delivered to customers, end-users and funders; and
- whether the Route Businesses and/or SO impacted by the change 'agree' to it.

1.10 Agreement by the Route Business and/or SO in this policy means the Route Business(es) and/or SO confirms that:

- 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
- no changes to the requirements set out in the PR18 final determination¹¹ are being sought.

1.11 To support the principle of proportionality, this policy splits changes into three categories: Level I changes; Level II changes; and Level III changes (including Exceptional changes).

1.12 The different levels of change are summarised in Figure 1.

¹⁰ Where this policy refers to 'changes' it means 'Relevant Changes'.

¹¹ The requirements on Network Rail are discussed in the final determination. These are varied and will be reflected on Network Rail's scorecard, as well as wider reporting. For example, Network Rail (or specific business units) are required to take the lessons learnt from the May 2018 timetable change into account; to confirm that it has the appropriate level of analytical resource in Scotland; and to produce an annual engineers report that provides an assessment of Network Rail's progress towards meeting its end-of-CP6 network sustainability target.

Figure 1: Summary of the levels of change (excluding exceptional changes)

	Funding Change	Change in accountability
Level III	Change that brings the funding for the Route Business/SO below 'core route funding' set out in the FD *	Changes where ORR has concerns about comparability across CP6 or between Route Businesses/the SO
Level II	Change that brings the funding for the Route Business/SO below 'Core route funding' + 'contingent asset management' set out in the FD *	Changes that materially impact who is accountable or what a Route Business/the SO is accountable to deliver **
Level I	Changes to 'Group risk' funding relative to the FD	Changes that would not impact on ability to hold Route Businesses and/or SO to account and make comparisons

* Where a Route Business (and/or the SO) 'agrees' as set out in paragraph 1.10 this would be lowered to level I

** Where a Route Business does not 'agree' as set out in paragraph 1.10 this would be increased to level III

1.13 The following changes during CP6 will be **Level I**:

- changes to the allocation of the centrally held GPF;
- other changes to budget that are 'agreed' by the affected Route Business(es) and/or SO (as set out above): and
- changes to accountability that do not impact reporting arrangements, which are agreed by the affected Route Business(es) and/or SO (such as immaterial Route boundary changes or movement of minor SO or central team function to a Route Business).

1.14 The following changes during CP6 will be **Level II**:

- changes that bring the funding for route businesses/SO below the core route and contingent asset management funding as set out in the final determination; and
- changes to accountability that can be appropriately mitigated and are agreed by the affected Route Business(es) and/or SO.

1.15 The following changes during CP6 will be **Level III**:

- changes that bring the funding for route businesses/SO below the core route budget, including GPF as set out in the final determination;

- changes to funding that a Route Business does not 'agree' to (unless the route considers them immaterial);
- changes to accountabilities that require a change in Network Rail's licence;
- changes to budgets or accountabilities that are expected to result in regulatory floors being breached; and
- changes to accountability where there are concerns about the ability to mitigate the impact on reporting and comparisons.

Exceptional changes

1.16 In exceptional circumstances, where we need to prevent a Relevant Change being made, we would issue a direction for Network Rail not to make the Relevant Change. Alternatively, we may require that it can only make the Relevant Change if certain conditions are met. In the event Network Rail chose to implement the Relevant Change against such a direction, we would take appropriate action.

1.17 This would only happen if the Relevant Change is so fundamental that it undermines the route and/or SO level settlements in a way that cannot be mitigated. We would expect exceptional changes to be extremely rare.

1.18 The following are examples of Relevant Changes during CP6 which we will regard as exceptional:

- a change in accountability across a number of routes that ORR considers (after discussion with Network Rail) cannot be mitigated and therefore fundamentally undermines the route-level settlements and/or frustrates our ability to make comparisons between routes or across CP6; and/or
- a fundamental change to the funding of a Route Business or the SO such that it has no prospect of delivering a reasonable proportion of its customers' commitments and/or its requirements against the final determination settlement.

The managing change process

1.19 We expect Network Rail to engage with its stakeholders about changes relative to its settlement. This will help Network Rail understand the potential impact of the change (and any mitigations) on stakeholders, make those stakeholders aware of the change and give them an opportunity to influence it (including how it is delivered and/or its impact mitigated). Network Rail's approach should be consistent with the principles of good stakeholder engagement (namely, the engagement should be effective, inclusive, well governed, and transparent). However, in line with our wider approach to Network Rail's stakeholder engagement, we are not prescribing how Network Rail should engage.

- 1.20 In addition, we expect that Network Rail explicitly considers and addresses any implications of proposed changes on the safety of its railway.
- 1.21 When considering making a Relevant Change, Network Rail¹² will need to categorise the changes as set out above (for example Level I, Level II etc.). Where there is any ambiguity over the level of the change or if Network Rail has any concerns, it should discuss the issue with ORR as early as possible in its decision-making process.
- 1.22 Additional information about the potential impact of a change may emerge during the decision making process. Therefore, it is important that the categorisation of a change is kept under review.

¹² This could be done by the Route Business/SO or by the centre.

2. ORR's involvement in managing change

Summary

ORR's involvement in the managing change process will be proportionate. Level I changes must be reported to us annually. Level II changes must be discussed with us, whilst Network Rail must seek our opinion for Level III changes. ORR will only intervene in exceptional circumstances by issuing a direction that means the change should not be implemented, or it may only be implemented if certain conditions are met.

- 2.1 Given the importance of route-level regulation for CP6 and the creation of a distinct SO, it is critical that Network Rail engages appropriately with ORR when considering changes that could have an impact on the accountability or funding (as set out above) of the Route Businesses and/or SO compared with the PR18 settlements.
- 2.2 The level of ORR's engagement with Network Rail will vary for each level of change.
- 2.3 Wherever possible, this engagement will take into account Network Rail's business management processes and make use of existing communication channels.

Level I changes

- 2.4 **Network Rail must inform ORR about Level I changes.** This will provide transparency around what a route/the SO is accountable for and the level of funding it has over the control period. This will help us to make comparisons between routes (and the SO, where relevant) and across the control period in a way that supports route-level regulation and our regulation of the SO.

Level II changes

- 2.5 **Network Rail must discuss Level II changes with ORR before a decision is made.** Where a change is instigated by Network Rail and/or where it has been involved in the process leading up to a change (e.g. in respect of enhancements), these discussions should happen early enough in Network Rail's decision-making process to allow ORR to consider the implications of the potential change. These discussions should allow ORR an opportunity to raise any concerns, thus helping to reduce the risk of us raising concerns on Network Rail's decision-making process at a later stage. It also helps ORR to capture the change in its approach to monitoring and reporting on Network Rail's performance in an orderly manner (e.g. to reflect the impact of a change in a route's accountabilities in its performance metrics).
- 2.6 Although the formal requirement to discuss these changes with us is new, in reality this is something that generally already happens through regular engagement.

Level III changes

- 2.7 **Network Rail must seek ORR's opinion of Level III changes.** In these circumstances, we expect Network Rail to discuss the changes with us in much the same way as for Level II changes, but providing an opportunity for us to give a formal opinion on the change before a decision is made.
- 2.8 This opinion will set out any concerns ORR has about the implications of the change. We expect Network Rail, including its route businesses and the SO, to consider our opinion carefully when making a decision.
- 2.9 Early engagement will need to consider and agree a timeline in which ORR will give our opinion, taking into account how this fits into the wider decision-making process, including the need for ORR to discuss the proposals with funders and stakeholders.

Exceptional changes

- 2.10 Engagement with ORR on exceptional changes will be similar to that for other Level III changes. However, when a change is deemed exceptional, we can direct Network Rail not to make the change or place conditions on the change being made.
- 2.11 Early discussions should enable clear expectations to be set in terms of:
- whether a change is likely to be considered exceptional; and
 - the timescale on which ORR will issue our direction.

Reflecting wider developments in the managing change process

- 2.12 Additional information may emerge about the potential impact of a change that alters its categorisation. If this results in the level of the change increasing (e.g. from Level II to Level III), then Network Rail must inform ORR of this in a timely manner.
- 2.13 There may be circumstances where Network Rail needs to make changes urgently to respond to unfolding situations (e.g. following an asset failure). The 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 for the change as soon as possible;
 - advise us about the expected scale of the change once this becomes apparent; and
 - identify an appropriate time to engage with us.

3. Further detail on the process

Summary

This chapter provides further detail on the process for each level of change. Examples of Level I, II and III changes are given.

Level I changes

- 3.1 The process of managing Level I changes will be entirely handled by Network Rail. We expect Network Rail to engage with its stakeholders about such Level I changes, as appropriate.
- 3.2 Network Rail must submit a Change Log¹³ to ORR annually. This should include all Relevant Changes made in the relevant financial year (1 April to 31 March of each year) and summarise the reasons for and effects of the change as well as when the change took effect. Submission of the Change Log should align with other regulatory and financial returns at year-end (i.e. July of each year). An example of a Level I change is given in Box 1.

Box 1: Example of Level I change

A Route Business may agree to reallocate some of its annual contingent asset management budget to another Route Business. This could be because, for example, the 'donating' Route Business is not in a position to spend its allocated asset management budget on account of having insufficient staff to deploy, but the 'receiving' Route Business is in a position to spend those funds (over and above its own contingent asset management budget).

Assuming both Route Businesses agree that the change can be incorporated into their business plans, such that they can still deliver against commitments to customers and the requirements set out in the final determination, this change would be a Level I change.

Level II changes

- 3.3 Network Rail should inform ORR of Level II changes in advance of a decision being made and keep appropriate records of its discussions with ORR.
- 3.4 This engagement should make use of existing communication channels such as route-level, enhancement and finance meetings. There may be need for a specific

¹³ or other formal record agreed by ORR.

‘early engagement meeting’ between ORR and Network Rail where either party deems this appropriate.

3.5 Network Rail will provide ORR with information about the potential change. This must include:

- the reason for the potential change;
- which Route Businesses and/or SO the potential change will impact;
- the expected impact on those Route Businesses and/or the SO (including any impact on Route boundaries); and
- an explanation of any other options that are being considered.

3.6 Through these discussions, ORR will raise any concerns it may have identified, based on the information provided.

3.7 We expect Network Rail to engage with its stakeholders about Level II changes, and for this engagement to be reflected in the information it provides to us. This should include information about the reason for the change, its expected impact and the mitigations that are being explored and/or pursued.

3.8 Having assessed the options, and taken on board all the feedback from its stakeholders and ORR, Network Rail will make a decision as to whether the change should go ahead and how it should proceed with this¹⁴. It will notify ORR of its decision, including through regular communication channels where possible. The Change Log submitted to ORR annually should include: any Level II changes made; a summary of the reasons for and the relative effects of the change; and when the change took effect. An example of a Level II change is given in Box 2.

¹⁴ In some circumstances, Network Rail may not have discretion as to whether a change takes place. For example, this situation could arise because of a decision taken by government as its shareholder. However, in such cases, Network Rail may still have discretion in respect of how the changes are implemented.

Box 2: Example of Level II change

Two Route Businesses may agree to change the geographical boundary between them (i.e. a change in the geographical Route). This could, for example, be driven by operational needs or large enhancement projects.

Impact on accountability

The movement of a sizable proportion of a Route Business's assets would give rise to a material change in the route's accountability and may undermine our ability to compare the Route Business's performance (including over time and with other Route Businesses). Therefore, such a change would typically be a Level III change.

However, it might be that the early discussions with ORR reveal that, although the change will impact on reporting, the Route Businesses should be able to manage this in such a way as to enable comparisons across the control period (e.g. the SBP was produced in such a way as to enable the assets to be 'removed' from or 'added' to the plan with a clear line of sight as to the effects of the change). In such circumstances, the change would be classed as a Level II change in terms of changes to accountability.

Impact on funding

The change in boundaries of the geographical Route would also mean a change in funding for the Route Businesses concerned. The change in funding could trigger the process for a Level III change. However, if the change in funding is 'agreed' by the Route Businesses, the change would be classed as a Level II change in terms of funding.

Expected level of the change

Therefore, in the circumstances set out above, this change would be treated as a Level II change.

Level III changes (including exceptional changes)

3.9 Network Rail should inform ORR of Level III changes in advance of a decision being made and keep a record of the engagement with ORR.

3.10 A key outcome of this early engagement should be a timeline (agreed by both parties) in which ORR's opinion will be provided. This timeline should take into account Network Rail's decision-making process.

- 3.11 **Level III changes** require extensive up-front ORR engagement due to their materiality and potential impact relative to PR18 route settlements. Following these discussions, we will give a formal opinion on the proposed change. Network Rail should take our opinion into consideration but can decide to 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.
- 3.12 Any **Exceptional changes** will be identified through this extensive engagement. In the event of an Exceptional change, we could issue a decision to direct Network Rail not to make the change, or that it can only make the change if certain conditions are met).
- 3.13 Network Rail will provide ORR with information about the potential **Level III change**. This must include:
- the reason for the potential change;
 - which Route Businesses/SO the potential change will impact;
 - the expected impact on those Route Businesses and/or the SO (including any impact on Route boundaries); and
 - an explanation of any other options that are being considered.
- 3.14 We require Network Rail to engage with its stakeholders about potential Level III changes, and for this engagement to be reflected in the information it provides to us. This should include information about the reason for the change, its expected impact and the mitigations that are being explored and/or pursued.
- 3.15 If a change is likely to be deemed **exceptional**, ORR will confirm this formally during the engagement process in a timely manner. We would expect to consult stakeholders (and engage with funders) ahead of any direction.
- 3.16 The process outlined in Annex A sets out the main activities that are required as part of the Managing Change process for Level III changes. An example of a Level III change is given in Box 3.

Box 3: Example of Level III change

Any reduction in the number of Route Businesses is likely to be a Level III change.

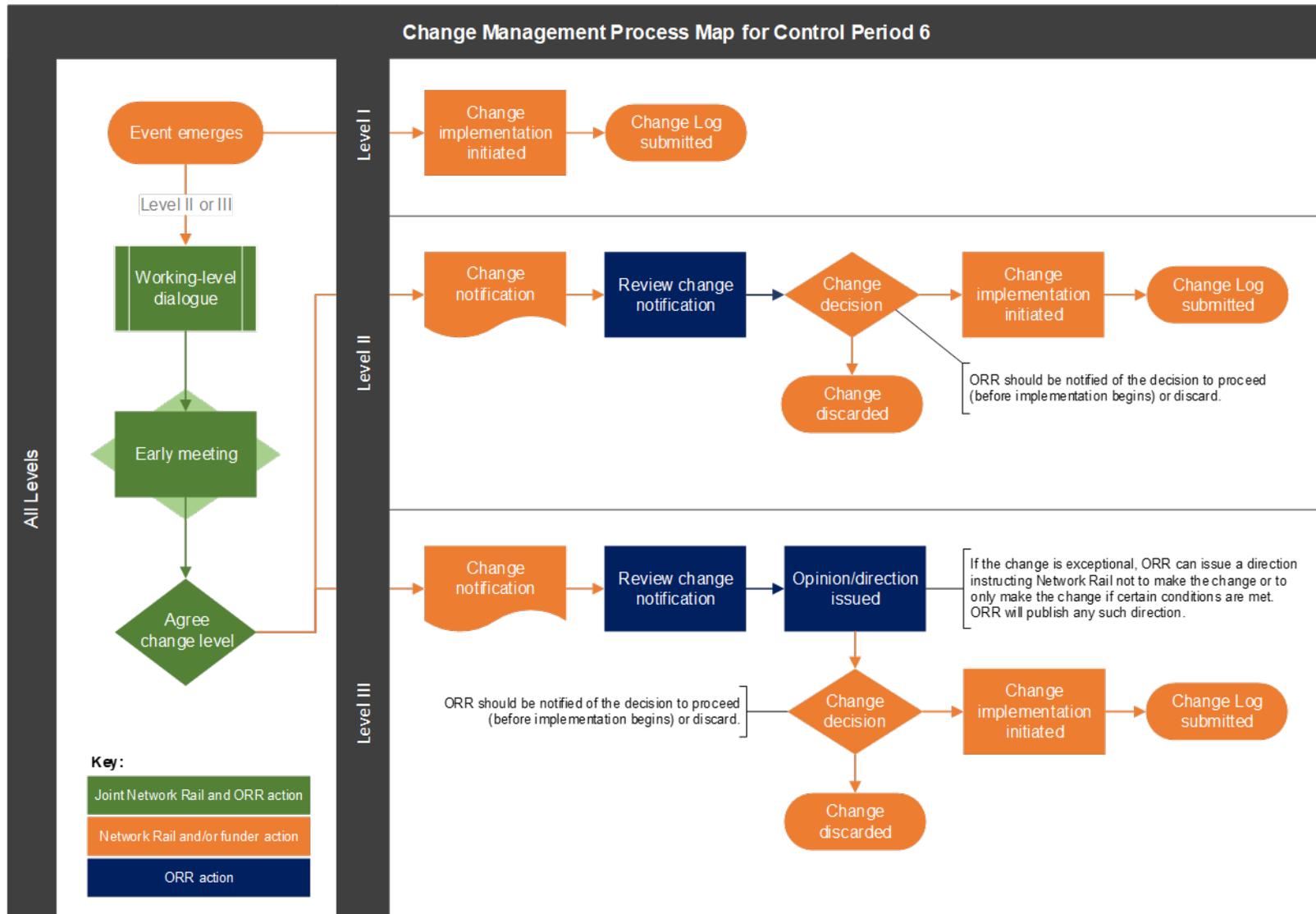
Even where Route Businesses were to agree to the change, it may be considered a Level III change if the reduction in the number of Route Businesses had an adverse impact on our ability to compare Route Businesses (including over time and with other Route Businesses), as this could undermine our ability to regulate Network Rail. The change could be material, given that it is likely that it would impact what each Route Business is expected to deliver to its customers. It would also have implications for each Route Business' funding.

However, it may be possible to manage the change in such a way that it could be treated as a Level II change. For example, Network Rail may be able to demonstrate that the reduction in the number of Route Businesses would not adversely impact our ability (or that of its customers) to make comparisons across the Route Businesses and/or over time. The materiality of the change may also be manageable if Network Rail can demonstrate that the commitments to customers can be delivered.

However, where ORR has concerns about the impact on comparability, we would need to give its formal view on whether these effects could be mitigated or not.

If ORR's view is that the change cannot be mitigated, in that there is no practical way of mitigating the significant impact of the change on our ability to compare the routes, the Level III change would be considered 'exceptional'.

Annex A: Outline process map





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