

Carl Hetherington
Deputy Director, RME



Becky Lumlock
Group Director Transformation, Network Rail
cc DfT, Transport Scotland and Welsh Government
Sent by email

8 July 2019

Dear Becky

Network Rail has been discussing its '100 day review' and subsequent 'Putting Passengers First' programme with us since early 2019. In May 2019, a few days before ORR issued our Opinion¹ under the Managing Change Policy, we became aware of plans for further devolution from the System Operator (SO) to the Scotland region that had not previously been discussed with us. As such, this issue was not addressed in our 24 May 2019 Opinion.

The Managing Change Policy sets out how Network Rail should engage with ORR when considering changes to accountability or budgets. The changes Network Rail wanted to make for Scotland were reported to us late and lacked a degree of transparency. The issue should have been discussed with us earlier to allow Network Rail to take into account our views during its decision making process. It is important that Network Rail learns lessons from this and, going forward, advises us of other proposed programme changes in a more timely manner. Since then, we have had productive discussions with Network Rail in which it has explained the planned change and its implications to us.

Based on the information provided we now understand that Network Rail has decided to devolve certain activities to create a whole-rail-system project client and sponsor capability based in Scotland. The changes being made mean that Network Rail in the Scotland region will control all stages of investment project development and delivery. It considers that this will better align with the requirements of the Scottish Ministers High Level Output Statement for control period 6 (CP6, which will run from 1 April 2019 to 31 March 2024) and Transport Scotland's enhancement pipeline process.

The functions devolved to the Scotland region (but not to other GB regions) from the SO from 24 June 2019 include:

- determining the capability requirements of the rail system in the longer term based on funder objectives and desired outcomes; and
- bringing together the long-term strategy for the development of the network and the medium-term investment priorities and understanding the impact of

¹ Published on 24 May 2019 and available on our website at:

https://orr.gov.uk/data/assets/pdf_file/0016/41146/managing-change-policy-letter-2019-05-24.pdf

the investments on demand and the economics of the railway as part of a Strategic Business Case/Strategic Outline Business Case.

The Annex, provided to us by your colleagues, shows these changes in more detail.

We are mindful that the licence contains specific obligations regarding the SO business unit, particularly with regard to the SO taking primary responsibility for establishing and maintaining long-term plans for the whole network. In carrying out its functions, the SO may be assisted by any route business or any other business unit of the licence holder.

Network Rail has confirmed that it is putting in place internal processes (including the creation of a new Network Integration Board for Scotland chaired by the SO), which it considers will enable the SO to continue to meet the licence requirements. Network Rail has stated that these processes will enable the SO to retain primary responsibility and accountability for long-term plans for the whole network and ensure that the SO has sufficient oversight of what is happening in Scotland to facilitate the integrated operation and development of the whole network.

We have made it clear to Network Rail the importance of these licence requirements and confirmed that we will use our existing monitoring processes to ensure Network Rail remains compliant with these requirements. We are likely to use Independent Reporters as part of this assurance process.

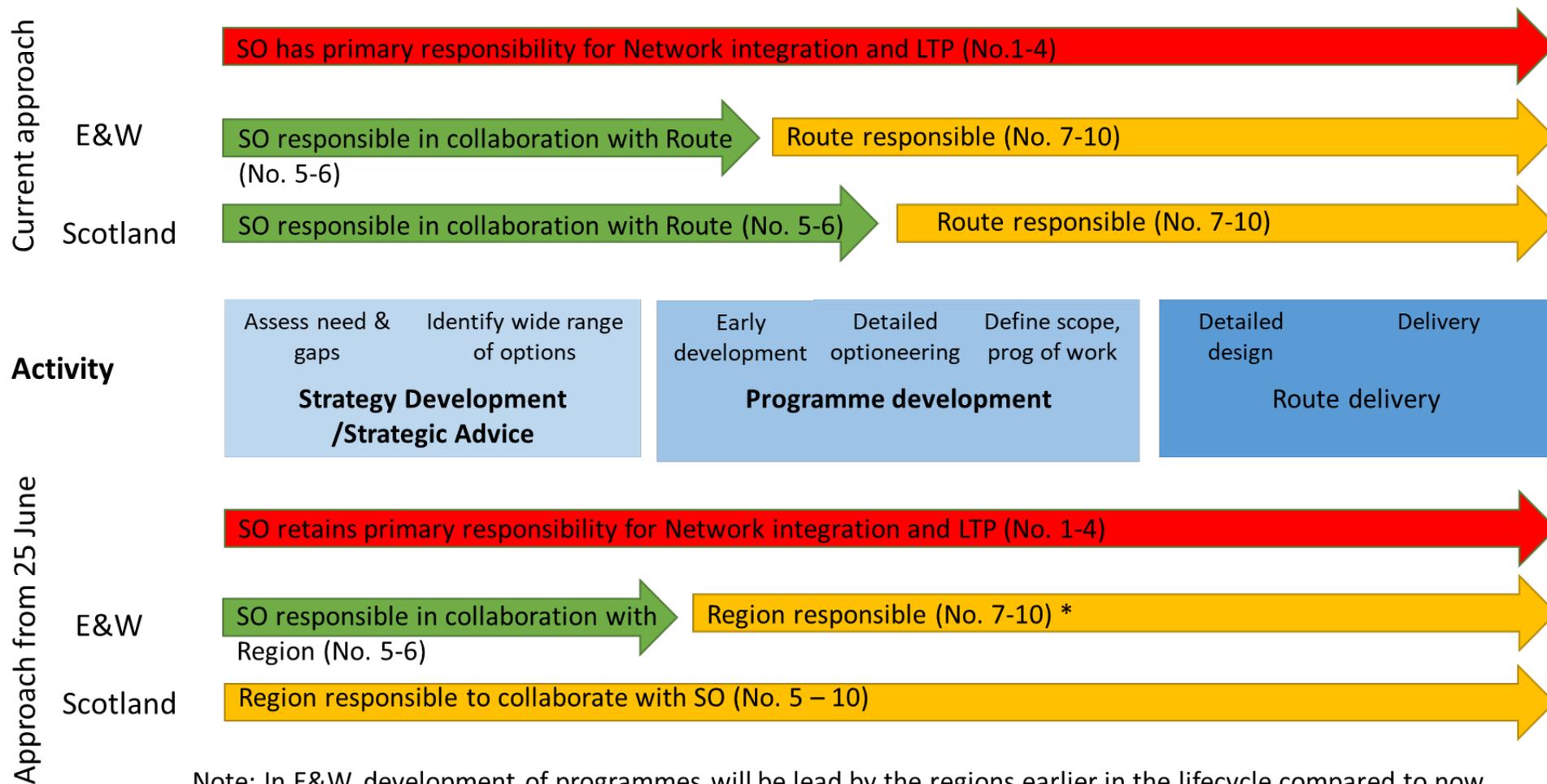
In the meantime, we will continue to work closely with Network Rail as it implements its Putting Passengers First programme. It is essential that, if there are any material changes in its proposals or there are issues with the changes, Network Rail engages with us as soon as practicable.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carl Hetherington', written in a cursive style.

Carl Hetherington

Annex: Further detail provided by Network Rail on functions being devolved to the Scotland region (relative to England & Wales)



Note: In E&W, development of programmes will be lead by the regions earlier in the lifecycle compared to now

No	Strategic development / advice - responsibility	As is (GB)	To be (E&W)	To be (Scotland)
1	Framework & process owner for long-term planning for GB railway	System Operator	System Operator	System Operator
2	Network integration / compatibility of strategy & advice across GB	System Operator	System Operator	System Operator
3	Understanding the long-term prospects of different markets across GB – commuting, business, leisure	System Operator	System Operator	System Operator
4	Understanding the demand geographically across GB	System Operator	System Operator	System Operator
5	Based on funder objectives and desired outcomes translating this into the capability requirements of the rail system in the longer term	System Operator	System Operator	Region
6	Bring together the long-term strategy for the development of the network and the medium-term investment priorities and understand the impact of the investments on demand and the economics of the railway as part of a Strategic Business Case/Strategic Outline Business Case	System Operator	System Operator	Region
7	Provide input to strategic advice in terms of operational constraints	Region/Route	Region/Route	Region
8	Identifying / developing options to enhance the capability of the railway including concept / early stage development of potential enhancements and order of magnitude costs	Region / Route Investment Projects	Region/Route	Region
9	Identification and development of local investment opportunities including LEPs, third parties and identifying synergies with proposed enhancements and renewals	Region/Route	Region/Route	Region
10	Own medium-term Route Asset Management Plans and consistency / interdependencies between these plans and strategic advice	Region/Route	Region/Route	Region

Note: No's 1-4 SO is providing that input and guidance to development.