

28 July 2022

Dear Stakeholder,

**Update on our Periodic Review 2023 (PR23) programme and our work on rail reform, July 2022**

In support of PR23, as well as our wider work with the UK Government on reforms to the structure and operation of the rail industry, we have today published four key documents:

- 1) [\*\*A policy consultation on outcomes, infrastructure performance and managing change\*\*](#), which sets out how we intend to hold the infrastructure manager for the national rail network (currently Network Rail) to account for the funding it receives for the next control period (CP7, which runs for five years from April 2024) and to manage change over that period;
- 2) [\*\*A technical consultation on the measures in our proposed CP7 outcomes framework\*\*](#). This is designed to support our consultation on the policy framework for outcomes, infrastructure performance and managing change;
- 3) [\*\*Guidance to Network Rail as the infrastructure manager on the preparation of its Strategic Business Plan \(SBP\)\*\*](#). We expect Network Rail to submit its SBP in February 2023. It will set out, based on governments' decisions about CP7 funding and outputs, what it intends to deliver for CP7. Our guidance details our requirements for the SBP; and
- 4) [\*\*Response to the Department for Transport's \(DfT\) consultation on Legislation to Implement Rail Transformation\*\*](#). The UK Government is currently consulting on changes to legislation to implement rail reform. This includes the creation of a new body – Great British Railways (GBR) – that will both own the railway infrastructure and let and manage the passenger rail contracts currently awarded by the DfT. Our response sets out our views on the proposed legislative changes. It is part of our wider work to support effective implementation of rail reform plans.

This letter provides an overview of the key proposals set out in our PR23 documents and explains how they relate to each other and the proposed rail reform plans. It also provides an update on next steps.



## **Context**

Work on PR23 and on rail reform is taking place during a challenging time for the wider economy and the rail industry. Decisions about the level of funding the network receives over CP7 will be made in light of the prevailing fiscal and inflationary pressures. Decisions will also need to reflect that the number of passenger journeys and industry revenue remain below pre-pandemic levels, as well as the work industry is undertaking to deliver savings, including with respect to its workforce.

As noted above, the UK Government continues to progress implementation of rail reform, including the creation of GBR. Other reforms to the industry are already taking place. For example, concession-style arrangements – whereby operators receive a management fee for providing specified services – are now the dominant model for most passenger train operators in England. Furthermore, the Wales & Borders and ScotRail services are both now operated through direct public ownership.

Under these changes, and as recently reaffirmed by the UK Government in its June 2022 consultation on legislative reform, ORR will continue to lead the periodic review process. This sets – with considerable input from both the UK and Scottish Governments as funders of the network – the funding the infrastructure manager will receive over a five-year period and what, in return, it is required to deliver. In doing so, it seeks to protect the value of national railway assets for current and future users by ensuring there is an enduring focus on safety, performance, asset sustainability, and efficiency.

As part of its legislative proposals, the UK Government also recently reaffirmed that PR23 will continue as planned and that, when created, GBR will take on full responsibility for the PR23 commitments. As such, our proposals in today's PR23 publications relate to both Network Rail and GBR. They are designed to support the transition to a reformed industry structure.

Table 1 below sets out an explanation of how PR23's key components relate to rail reform. It is worth noting that, under rail reform, Scottish Ministers continue to be responsible for passenger services in Scotland (unless choosing to delegate to GBR), meaning that GBR's role would be more limited in Scotland.

**Table 1: Components of PR23 and interactions with rail reform**

	<b>Components of PR23</b>	<b>Interactions with rail reform</b>
1)	Determine the level of funding needed for infrastructure management activities in CP7 in both England & Wales and in Scotland, and what should be delivered in return for this	<ul style="list-style-type: none"> <li>• Our work to date has focused on the infrastructure funding and output requirements that are needed regardless of whether the network is owned by Network Rail or GBR.</li> <li>• Notwithstanding this, we and Network Rail will engage with the GBR Transition Team (GBRTT, which has been tasked with supporting rail reform) as Network Rail develops its CP7 plans.</li> </ul>
2)	Establish how Network Rail / GBR will be held to account for delivering the commitments determined through PR23	<ul style="list-style-type: none"> <li>• Our proposals are based on the current industry structure, though we have developed them with a view to rail reform. We will continue to reflect the existing legislation and industry structure until the new legal framework is in place, whilst supporting the direction of rail reform and creation of GBR as far as possible.</li> <li>• Once GBR is established, ORR will continue to hold GBR to account for the commitments made through PR23 (which will reflect each funder's requirements).</li> <li>• We consider that the majority of our proposals should provide a sound basis to hold GBR to account for infrastructure funding in CP7, although we anticipate reviewing and evolving our approach once we know more about the structure and governance around GBR.</li> </ul>
3)	Set the frameworks for the contractual charges and incentives regimes that will apply in CP7	<ul style="list-style-type: none"> <li>• In reviewing these frameworks, we have taken account of the direction of rail reform and likely changes to industry arrangements, while continuing to reflect the existing legal requirements underpinning them. We have taken a proportionate approach, focusing on making a limited number of incremental changes which will continue to be relevant once GBR is established.</li> </ul>

### ***Today's PR23 publications***

The three PR23 publications we have issued today represent an important step forward in the development of the CP7 regime for Network Rail / GBR. Specifically:

- Our **policy consultation on outcomes, infrastructure performance and managing change** sets out our proposals on how we intend to provide

Network Rail (and in the future GBR) with the right long-term incentives to deliver the objectives of PR23 (namely, a safe, sustainable, high-performing, and efficient rail network), as well as reflecting what is important to funders, rail users and wider society.

We are not proposing to make significant changes to our overall policy framework and how we hold the infrastructure manager to account. We consider that our approach remains largely fit for purpose, albeit we have made changes to it over CP6 to reflect wider industry developments, including changes to how most contracts for passenger services are let and managed.

We seek views on the key aspects of the regulatory approach. This includes our regulation of the infrastructure manager and the individual business units; the role of stakeholders in informing key priorities and activities; the framework we will use to help ensure that the infrastructure manager delivers for the funding it receives; and our proposed changes to the Managing Change Policy, which is designed to provide transparency and oversight over changes to regulatory settlements.

For each of these areas, we also discuss how we currently expect our approach to evolve under rail reform.

- Our **technical consultation on the measures in our proposed CP7 outcomes framework**, which, building on the consultation discussed above, provides further details on the measures we propose to use to hold the infrastructure manager to account in CP7.

We propose using a three-tier outcomes framework in CP7. This includes eight top-tier 'success measures', such as 'On Time' (to capture passenger train performance) and the Composite Sustainability Index (CSI, which is a measure of Network Rail's asset condition). These will be complemented by 'supporting measures' and 'additional assurance' measures.

We have designed these measures in a way that takes account of rail reform. While we intend (where possible) to use whole-industry measures that can be readily applied to GBR in the future, we have also designed the framework to enable us to monitor Network Rail. We will continue to keep our outcomes framework under review as we transition to regulating GBR.

- Our **guidance to Network Rail on the preparation of its SBP**, which sets out our expectations of the scope and content of the SBP, as well as the process Network Rail follows in producing this. Guidance to Network Rail in

this area is designed to ensure that Network Rail (with GBRTT’s input) develops a robust and well-evidenced CP7 plan that, within the funding available, reflects governments’ and customers’ priorities. This, in turn, will enable us to determine appropriate funding allocations across business units/priorities and the associated outcomes to be delivered (as discussed above). We are publishing this document so that stakeholders have sight of what we require from the SBP.

Taken together, and complemented by our wider PR23 work discussed below, our proposals are designed to deliver against our PR23 objectives, as well as to reflect funders’ priorities and what is important to passengers and freight customers. Our proposals have also been designed with a view to rail reform and (as noted above) we consider that the majority of our proposals should work in regulating GBR or, at the very least, represent a sound basis on which further policy can be developed.

### ***Update on our work under the PR23 key components***

Our PR23 work is wide-ranging and extends beyond the publications we have issued today. Table 2 sets out an update on our work for the key components of PR23.

**Table 2: Update on our PR23 work (as of July 2022)**

	<b>Components of PR23</b>	<b>Update on our work</b>
1)	Determine the level of funding needed for infrastructure management activities in CP7 in both England & Wales and in Scotland, and what should be delivered in return for this	<ul style="list-style-type: none"> <li>• We continue to work with the UK and Scottish Governments on their forthcoming decisions on CP7 funding and outputs, which we expect to receive by 28 October and 30 November 2022 respectively.</li> <li>• We issued formal advice to governments over May and June and are providing supplementary advice on certain targeted areas over the summer.</li> <li>• Looking ahead to Network Rail’s SBP, we have (today) issued guidance to Network Rail on our expectations regarding the SBP.</li> </ul>
2)	Establish how Network Rail / GBR will be held to account for delivering the commitments determined through PR23	<ul style="list-style-type: none"> <li>• Our consultation on the proposed CP7 policy framework (as discussed above) sets out, for consultation, our proposals on how we intend to hold to account for CP7 funding and outputs.</li> <li>• We will publish our initial conclusions on how we plan to hold to account in December 2022, summarising the views of stakeholders in response to the consultation and seeking to confirm our broad approach to regulating the infrastructure manager.</li> </ul>
3)	Set the frameworks for the contractual	<ul style="list-style-type: none"> <li>• We published further consultations in April, and we are currently reviewing responses.</li> </ul>

charges and incentives regimes that will apply in CP7	<ul style="list-style-type: none"><li>• We expect to publish our conclusions in autumn 2022, which will confirm the frameworks for the charges, possessions and train performance regimes in CP7. These precede the detailed recalibration of these regimes for CP7.</li></ul>
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### ***Work over 2023 and 2024***

Over 2023, and following governments' decisions on the level of funding they will provide to Network Rail over CP7 and the outputs they expect it to deliver, our work will focus on developing our determination for Network Rail. We expect to consult on our determination (our 'draft determination') in June 2023, before issuing our final determination in October 2023.

Our draft determination will:

- set out our draft decisions on what we will hold Network Rail (including the regions, the System Operator and Network Rail as a whole company) to account for delivering over CP7. It will also set out how funding should be allocated across Network Rail's different business units and priorities, based on our assessment of its SBP;
- explain how we will hold Network Rail to account for delivery and, reflecting the context in which PR23 is taking place, how this is likely to apply or transition to GBR. This will build on the consultation we published today; and
- summarise our key conclusions on the charges and incentives frameworks and provide an update on the recalibration of the regimes and the implementation of any changes to these regimes for CP7.

Please refer to Annex A for the PR23 timeline.

### ***Responding to our consultations***

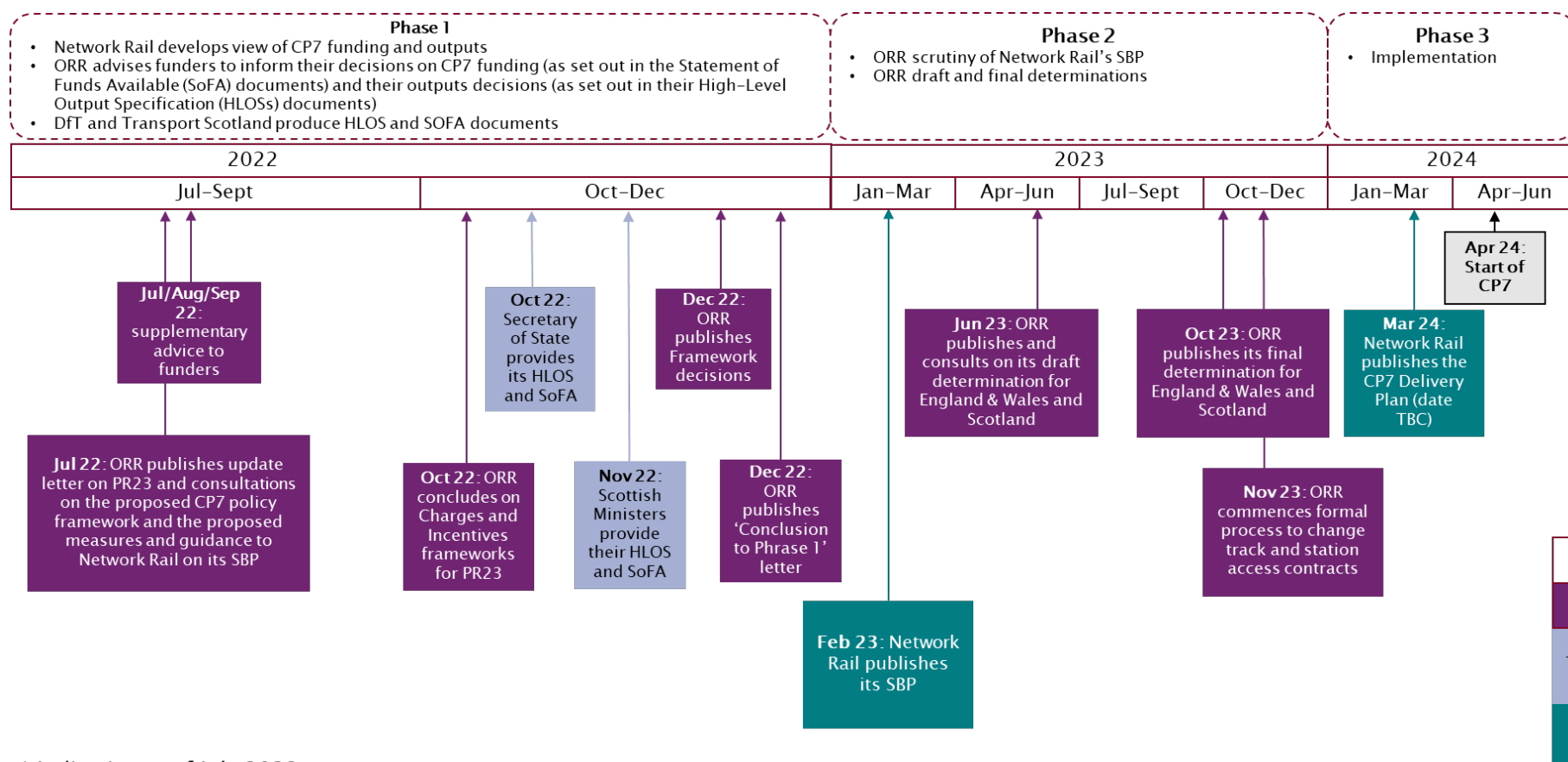
Please send consultation responses to our PR23 inbox address ([PR23@orr.gov.uk](mailto:PR23@orr.gov.uk)). **We welcome these by 30 September.** Further details are set out in the accompanying consultation documents.

Yours faithfully,



**Will Godfrey**

## Annex A: PR23 forward-looking timeline (as of July 2022)



\* Indicative as of July 2022

\*\* Timeline may change to, for example, enable us adapt as the implementation plan for the Williams-Shapps Plan becomes clearer.