Network Rail's response to ORR's PR18 working paper 4: Outputs Framework

16 September 2016

Executive Summary

Network Rail welcomes the opportunity to respond to ORR's working paper on the PR18 outputs framework. Our response builds on the points made in our response to the initial PR18 consultation and complements our response to the working papers on implementing route-level regulation and system operation. No part of this response is confidential and we are content for it to be published in full.

Context and challenges

We have an established devolution programme to move more decision making from the centre to our route businesses. This programme established the new operating model that we adopted in 2016.

At the heart of devolution is the principle that empowered leaders will be able to focus more precisely on the needs of our customers, take decisions faster and innovate more effectively.

The Shaw Report welcomed and endorsed our approach, but encouraged us to go further and faster. We agree and are rebalancing operational responsibility, pursuing deeper devolution to routes that are equipped with the skills, capacity and resources that allow them to run as effective customer-focussed businesses. Our central teams will continue to play a critical role in supporting the routes and ensuring the network operates as a single integrated system through the System Operator function.

By establishing the Freight and National Passenger operators' route (the 'virtual route'), we are also strengthening our relationship with our freight and national passenger customers who run services across the network, ensuring their needs are balanced with those train operators who operate wholly or predominantly on a single route, with a primary relationship with one devolved business.

We have recently published our ['Delivering for our Customers' Transformation Plan](#) which sets out the overall transformation journey that Network Rail has been on and what we will do next to accelerate the pace of change. It also explains how we are integrating the conclusions of the Shaw Report into these plans. Our response to this working paper seeks to build and develop on the matters outlined within our Transformation Plan.

What should an outputs framework achieve in CP6?

Since privatisation in the early 1990s, the regulatory framework that has operated in the GB rail sector has been centred on the regulator determining outputs that the infrastructure manager must then deliver. Over the past two decades this model of regulation has achieved a great deal including increased levels of investment and a period of extraordinary growth on our railway. However, we believe that this model of regulation does not support deeper devolution and therefore there are clear opportunities for significant reform.

A **key objective of devolution is to increase our focus on our customers**. We consider that fundamental change is required to the current outputs framework to effectively support this delivery.

Our routes and the System Operator will work with our customers and funders to agree our core priorities for CP6. These priorities will form the basis of scorecards which will enable our businesses to set, track and achieve their objectives. This approach should enable Network Rail to focus on the

priorities of its customers and funders rather than on meeting detailed requirements set by the Office of Rail and Road (ORR). The current model of regulation, in which ORR determines what Network Rail must deliver over the course of a control period, drives behaviours that focus on ORR as Network Rail's primary customer. Therefore, **scorecards agreed with customers should be the basis of the outputs framework for CP6**. As soon as we can, we want to see **our scorecard output targets becoming aligned with our customers' targets** to support our focus on our customers' priorities. It makes sense for all parts of the railway to be pulling in the same direction.

We believe that **each scorecard output should have a defined regulatory status** so that each output is regulated in the most appropriate way and so that it would be very clear when ORR may take regulatory action. For example, some outputs may have formal targets, while others may have minimum thresholds of required performance or ranges of acceptable performance to reflect the uncertainty in forecasting targets. Other output areas may have no formal targets or thresholds as they do not relate to ORR's economic regulation of Network Rail. In addition, we may choose to include within our scorecards measures of internal company performance (for example employee engagement) which are core to delivering for our customers. Such measures would not have any regulatory status but may nevertheless be critical enablers of our success.

Prior to the start of CP6, ORR will have an important role to input to the development of the shape of our scorecards and in providing assurance that the scorecards will deliver the requirements of funders and long-term industry objectives. In addition, there may be instances during the control period where we are not able to agree with our customers and/or funders a change to the scorecards. In such circumstances we consider that ORR will have a key role to play.

As stated in our response to ORR's PR18 initial consultation, the **outputs framework needs to support flexibility** in our regulatory outputs to be able to respond to the possibility of changing customer requirements and the inherent uncertainty and complexity in forecasting expected outputs over the control period.

We also believe that public reporting by ORR on Network Rail's performance should be focussed on the delivery of scorecard measures and that our scorecards should be the primary means by which our performance is monitored. We consider that **performance should be assessed 'in the round' as a balanced assessment** rather than a binary assessment against individual outputs where we are judged to have passed or failed each one.

As discussed in our response to ORR's implementing route-level regulation working paper, we consider that ORR's approach to enforcement needs to be reformed to reflect the fact that Network Rail has been reclassified as a public sector body and should focus more on reputational impact and 'shining a light' on both good and poor performance. Greater use should be made of reputational tools with **regulatory action being a backstop if we are abusing our monopoly position**.

Structure of response

The rest of this response reflects the structure of ORR's working paper on the outputs framework. Noting that ORR's working papers are intended to facilitate a more dynamic process of engagement and to support an iterative approach to policy development, our response highlights our emerging thinking in a number of areas.

We welcome ORR's approach in this regard and look forward to continuing discussions on the implementation of the outputs framework with ORR, customers, funders and other stakeholders during PR18. Over the coming months it will be important to move from the conceptual discussions towards being able to assess and analyse the practical implications of the outputs framework in greater detail.

1. How will outputs be determined for CP6?

Scorecards

The Shaw Report sets out that 'ensuring that the ORR has a clear focus on its core responsibilities will help tackle the perception that the regulator is Network Rail's customer'. In line with this, we believe that it is essential that our devolved businesses are enabled to focus on their customers rather than on meeting detailed targets set by ORR.

In 2015/16 Network Rail introduced national and route-based scorecards which set out performance and delivery targets. Our scorecards allow Network Rail employees to focus on what is important to our customers, and mean that the reward structures for all our employees are tied to meeting those needs.

This year, for the first time, we have consulted TOC and FOC customers to develop bespoke, customer-led scorecards for each devolved business. In our 2016/17 national scorecards, 40 per cent of the measures – in train performance and customer measures – are locally driven. This step has been welcomed by operators, ORR and DfT. We recognise that the 2016/17 route scorecards were developed quickly and we will continue to improve our approach to developing route scorecards over CP5 to ensure our business is driven by customer needs and we will create route-based action plans to support the scorecards.

In parallel, over the coming months, we will develop initial CP6 scorecards for the System Operator and routes (including the virtual route). In developing our CP6 scorecards, we will need to balance customer priorities, long-term requirements of the industry, financial and resource constraints and also consider the need to establish forward-looking objectives (as recommended in the Shaw report). We will need to work in close collaboration with our customers and wider stakeholders to deepen our understanding of customer priorities so that our scorecards are developed in a meaningful way. The measures included in our scorecard not only need to reflect stakeholder priorities but also the part we play in the end user experience. To create greater transparency and to drive internal behaviour, they should be simple to understand.

In addition, we may choose to include within our scorecards measures of internal company performance (for example employee engagement) which are core to delivering for our customers. Such measures would not have any regulatory status but may nevertheless be critical enablers of our success.

In developing our scorecard outputs, we will need to ensure that the requirements and objectives of the following are central:

- funders through the HLOS process
- train and freight operators, and through them, the end user requirements

- local funders
- funds set up to achieve specific aims
- regulatory requirements driven by ORR's duties.

Whilst we envisage that scorecards will be derived through route and System Operator engagement with customers, Network Rail's centre will play an important role in providing guidance, ensuring consistency and deliverability at a national level, and providing assurance to our Executive Committee and Board.

Our emerging views as to how the process to develop and agree CP6 scorecards will work is described below in Box 1. We will develop this thinking further and would welcome further discussion with ORR and the industry through the NTF working group to develop a suitable process.

Box 1: CP6 scorecard development process

Stage 1: Develop the CP6 scorecard shape

We will develop CP6 scorecards with our customers and funders. ORR will have a key role to play in providing assurance that these deliver the requirements of funders and long-term industry objectives. We will also need to agree the regulatory status of each scorecard output with ORR.

Stage 2: Develop scorecard forecasts

We will develop forecasts for each scorecard measure and agree these with our customers.

Stage 3: Scorecard consistency with HLOS and SoFA

Following the agreement of scorecard measure forecasts with customers, ORR will have a role to provide independent assurance that the overall plan is consistent with the HLOS and SoFA (Statement of Funds Available).

Stage 4: Ongoing scorecard development throughout the control period

Forecasts within our scorecards should be updated annually as part of our business planning process, so that we are responsive to customer and funder needs, to changing circumstances and to reflect actual performance to date. There may be instances where we are not able to agree with our customers and/or funders an element of the scorecards. In such circumstances we consider that ORR will have a key role to play if our customers and/or funders are not satisfied with the outcome.

Our CP6 scorecards will be the tool that we use to monitor and report our delivery against the high level priorities contained within our business plan. They will contain performance trajectories spanning multiple years, in line with our business plan, with targets updated annually through customer and funder engagement.

Delivery of outputs should be directly incentivised through scorecards and the impact of over- or under-performance should be linked to elements of employee remuneration. As noted in our response to ORR's PR18 initial consultation, we need to consider the extent to which incentives for

employees in routes and the System Operator should be based on their respective scorecard performance, while recognising their importance in delivering Network Rail company-wide objectives.

2. What could outputs look like?

Structure

To be effective, scorecard outputs need to (a) be within the control of Network Rail, (b) be of value to stakeholders, (c) drive behaviour and (d) be measurable. If these criteria are not met, we believe there should not be an output on the scorecard.

Scorecards allow an organisation to focus on its key priorities rather than spreading its focus too thinly and we believe that the benefits of this focus should be replicated in the CP6 outputs framework such that the number of CP6 outputs is limited to key priorities.

Whilst input-based measures will be included within our scorecards we do not think that these should have regulatory status. To have formal regulatory status would reduce opportunities for innovative approaches to deliver outputs and reduces the opportunity for our customers to influence the most suitable approach. The action plans that we develop will set out our approach to deliver the scorecard outputs and any changes to these plans will need to be transparently agreed with customers.

We agree that the approach to the way that indicators are used, from a regulatory perspective, needs to change in CP6 to ensure we focus on our customers' priorities. The current regulatory model perpetuates a strong internal perception that ORR is our key customer. Indicators and enablers which are used to help inform Network Rail decisions should have no formal regulatory status. However, we agree that ORR has a regulatory role to monitor our performance and to highlight early risks to the delivery of an output. We consider that the management information we use to guide decisions is useful to ensure that ORR can fulfil its statutory duties. We propose to work with ORR ahead of CP6 to update our joint Memorandum of Understanding (which sets out how we co-operate and work with one another in relation to data collection activities) to clarify and capture the requirements that ORR has, such that it can fulfil its duties. Ideally prior to the start of CP6 we would agree with ORR what information it will routinely require from Network Rail to be able to monitor our performance, such that ad hoc requests for information become much less frequent. If a risk to the delivery of an output is identified, there would be an agreed process by which ORR could request additional and relevant information from Network Rail.

Flexibility

In CP5, ORR determined (and Network Rail accepted) a number of outputs that Network Rail will not meet. The nature of our business means that there is inherent uncertainty and complexity in forecasting expected outputs, particularly over an entire control period. In CP6 we believe that the outputs framework should be more flexible, allowing, for example, for:

- changes to outputs arising as a result of new circumstances or amended customer requirements
- different regulatory approaches to be taken in relation to each scorecard output
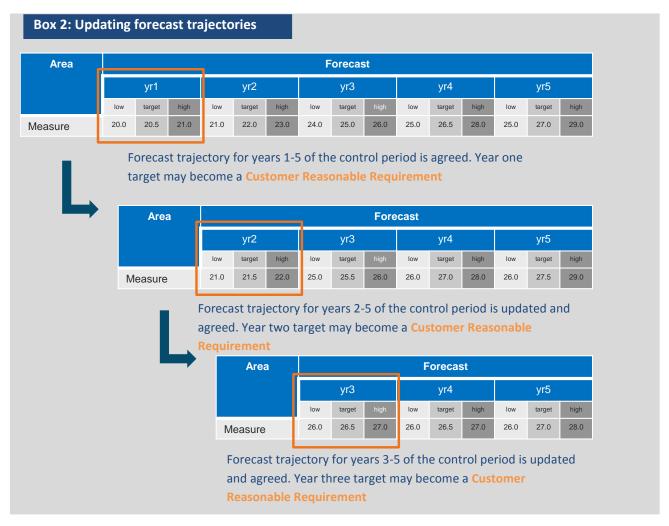- changes in the number, role or responsibilities of individual routes.

These issues are explored in more detail below.

<u>Change control</u>

Forecasts within our scorecards should be updated annually as part of our business planning process, to ensure that we are responsive to customer and funder needs. Scorecard output targets should be sufficiently flexible (both upwards and downwards) to:

- respond to changes in customer priorities over a control period
- respond to a change in circumstances compared to that assumed in our initial forecasting
- acknowledge our actual performance to date.

The forecast trajectories for the remainder of the control period would be updated every year, in consultation with our customers and stakeholders, with some forecasts for the year ahead becoming Customer Reasonable Requirements (although not all, as our scorecards may also include measures of internal company performance). Box 2 sets out how we believe this process would work throughout a control period.

Box 2: Updating forecast trajectories

Area	Forecast														
	yr1			yr2			yr3			yr4			yr5		
	low	target	high	low	target	high	low	target	high	low	target	high	low	target	high
Measure	20.0	20.5	21.0	21.0	22.0	23.0	24.0	25.0	26.0	25.0	26.5	28.0	25.0	27.0	29.0

Forecast trajectory for years 1-5 of the control period is agreed. Year one target may become a **Customer Reasonable Requirement**

Area	Forecast											
	yr2			yr3			yr4			yr5		
	low	target	high	low	target	high	low	target	high	low	target	high
Measure	21.0	21.5	22.0	25.0	25.5	26.0	26.0	27.0	28.0	26.0	27.5	29.0

Forecast trajectory for years 2-5 of the control period is updated and agreed. Year two target may become a **Customer Reasonable Requirement**

Area	Forecast								
	yr3			yr4			yr5		
	low	target	high	low	target	high	low	target	high
Measure	26.0	26.5	27.0	26.0	26.5	27.0	26.0	27.0	28.0

Forecast trajectory for years 3-5 of the control period is updated and agreed. Year three target may become a **Customer Reasonable Requirement**

To credibly flex targets (particularly downwards) we will need to transparently demonstrate why this is appropriate and that we have customer and funder support to do so. Action plans may also need to be updated in order to reflect progress to date and changes to scorecard output prioritisation and

level. We will produce some worked examples for different scenarios to demonstrate how change control could work in practice. As with the initial development of the CP6 scorecards, we believe that ORR will have a key role to play in circumstances where we are not able to agree with our customers and/or funders a change to the scorecards.

Differing regulatory approaches to outputs

Our scorecards will need to include the outputs that are important to our stakeholders as well as longer-term industry and funder aims. These outputs will cover a range of areas and we believe that each scorecard output should have defined regulatory status so that each area is regulated in the most appropriate way and so that it would be very clear when ORR might consider some sort of intervention. For example, some outputs may have formal targets, others may have minimum thresholds of required performance or ranges of acceptable performance to reflect the uncertainty in forecasting targets. Other output areas may have no formal targets or thresholds recognising that we have wider legal obligations (for example in relation to safety) or that there are areas that pertain specifically to additional internal management priorities (for example in relation to people measures).

We will further our thinking in this area in line with the timeframe to develop the CP6 scorecard so that we engage with our customers and funders to devise not only the measures and trajectory targets, but also propose the regulatory status of each scorecard output.

Organisational change

As discussed in our response to the implementing route-level regulation working paper, Network Rail may, for cost or operational reasons, wish to change route boundaries or the number of routes during CP6. The CP6 regulatory framework needs to support such changes and should not hinder Network Rail's ability to make changes to its business in order to improve financial or operational performance. A recent example of this is that at the time of the PR13 Final Determination we had a ten-route structure in place. ORR's cost and income assumptions were presented on that basis. For operational reasons, this structure subsequently changed to eight routes. However, we are required to continue to report against the PR13 Final Determination assumptions which is inconsistent with the way in which the business now operates. This is both confusing and creates an unnecessary reporting burden. We are concerned that adjusting results for regulatory reporting purposes means that the reported data will not be recognisable to each route / function and increases the risk of data integrity issues arising.

Any changes to route boundaries or the number of routes will be done transparently and the effect on route scorecards and their outputs would need to be fully explained. Network Rail may also make changes to the ownership of certain outputs such that they move from being a route-owned output to a System Operator output and vice versa. Again, any such changes will be entirely transparent.

3. Route level regulation

National versus route-level outputs

As described above, route scorecards will be developed for Scotland and each of Network Rail's geographic routes in England & Wales and also for the newly created 'virtual route' for rail freight and national passenger operators.

Role of government in facilitating route level regulation

We agree that any requirements within the England & Wales HLOS and the Scotland HLOS will need to be articulated such that variation at route level is recognised and also so that comparisons between routes will be possible.

In addition to the role of government in setting the HLOS and SoFA, it has a key role in setting targets and agreeing deliverables for franchised TOCs. As soon as we can, we want to see our scorecard output targets becoming aligned with our customers' targets to support our focus on our customers' priorities. It makes sense for all parts of the railway to be pulling in the same direction. We are keen to work with DfT and Transport Scotland to explore how franchise targets can be better aligned with Network Rail targets and we would welcome ORR support in progressing these discussions.

Ongoing monitoring and enforcement

Reporting and Monitoring

We have developed our internal reporting framework over the first two years of CP5 to enable our Board and Executive Committee to more effectively monitor performance against key priority areas and hold the business to account through our scorecards. Our internal reporting framework for CP6 will continue to be based on scorecards, and the way in which we publicly report on our performance will mirror this, in order to clearly demonstrate our progress in delivering the priorities of our customers and funders.

As discussed in our response to the implementing route-level regulation working paper, we believe that were the current regulatory reporting and monitoring framework rolled out across a route-based model, there could be significant implications from a cost, headcount and management distraction perspective. The framework needs to recognise, therefore, the importance of ongoing customer engagement and encourage a more prioritised risk-based approach by ORR. We would expect this to lead to a slimmer, more strategic regulator rather than an enlargement of ORR's current reporting and monitoring activity.

We consider that there is scope to reduce the scale of Network Rail's formal reporting (for example the annual Regulatory Accounts and Annual Return). Instead, more data could be provided as supporting material to ORR rather than through formal publications. This would significantly streamline regulatory reporting.

We believe it is vital that there is a clear line of sight from our internal and external reporting to the public reporting on Network Rail's performance by ORR. This ensures a consistent and coherent narrative to the industry and the public. We therefore think that ORR's reporting should be focussed

at route level, rather than national level so that there is a much clearer picture of Network Rail's performance.

In order to report and monitor in a consistent way, we will need to agree with ORR how route and System Operator performance will be assessed from a regulatory perspective. The current outputs framework is based on a series of specific outputs that are assessed individually. Instead, we believe that there needs to be a balanced scorecard approach, with assessment of them together (rather than individually) at a scorecard level. The assessment should be based on our customers' and stakeholders' views rather than data interrogation by ORR against individual measures.

Benchmarking

To run our business effectively we have to be able to:

- identify where improvements are required
- analyse how high performance levels are achieved
- use this information to improve performance.

We need to be able to benchmark our routes to help us to achieve these objectives. Ensuring there is some consistency in measures across route scorecards will facilitate this process. This will also provide our customers with meaningful comparisons of levels of performance across routes to enable them to hold us to account to deliver our scorecards. We have started work to look at the practical use of benchmarking between routes, although this is still in its relative infancy. Consistent with the significant issues that we have previously encountered in respect of international benchmarking comparisons, we are also mindful of the need to normalise structural differences between routes. As with all benchmarking, it will be important to understand and normalise any structural differences between routes to allow for meaningful comparison.

Enforcement

We consider that a much broader discussion is required on the role of enforcement in CP6. In the last decade, ORR has imposed fines on Network Rail in excess of £70 million. This is money that has effectively been extracted from the railway and could otherwise have been spent on delivering end user benefits. We believe that this form of regulatory enforcement is now inappropriate particularly following the reclassification of Network Rail in September 2014. We note that NHS England, and the regulators NHS Improvement and the Care Quality Commission announced in July 2016 that fines for missing targets in certain areas have been scrapped in order to relieve pressure on NHS finances. Fines have been replaced with trust-specific incentives linked to performance improvement trajectories.

We consider that the resolution of issues should, in the first instance, be driven by Network Rail working with our customers and funders. We advocate a greater reliance on the role of regulatory reporting to transparently highlight issues. We firmly believe that the resultant reputational impact is a strong driver of behaviour alongside incentivising employees through links to elements of remuneration linked to scorecard performance.

We are keen to review, with ORR, the interpretation of licence breaches, particularly for the non-delivery of outputs, to explore options for the most appropriate course of action. Enforcement should

be used as a backstop if we are actively disregarding the conditions of our network licence or abusing our monopoly position.

We consider that the change to the regulatory framework in CP6 may mean it is prudent to review whether any changes to our network licence are required. We will work with ORR to decide whether this is necessary.

The role of customer and end-user engagement

Network Rail must become closer to our customers (the TOCs and FOCs) and it is our responsibility to ensure that we engage with our customers in a meaningful and collaborative way.

We will continue to evolve and develop the customer engagement process throughout CP5 but we need to be realistic about what can be achieved through this periodic review. There are limited industry resources and timing constraints which may mean that the engagement process is not fully developed by CP6. We note that in other regulated industries (notably water and aviation) the process to embed customer engagement took place over more than one control period, and indeed, continues to evolve.

With regard to end users, it is important that the way we measure the performance against our scorecard objectives realistically reflects the end user experience. The relationship with end users is owned, not by Network Rail, but by TOCs and FOCs. We therefore believe that the engagement process with end users should be led and owned by TOCs and FOCs and that they will represent the end users in the determination of priorities. By way of example, the customer engagement to develop the 2015/16 route scorecards led to route-specific metrics that are a better reflection of what TOCs believe is important to their customers – such as delay minutes and right time arrival.

4. Central Network Rail activity

System Operator

We think it is important for the Network Rail System Operator to have its own regulated outputs. These outputs should be based on scorecard measures that are informed by customers (routes and train operators). Details and potential areas of inclusion are still likely to evolve with work to clarify the scope and remit of the System Operator forming part of our transformation strategy. We would expect to work closely with industry and ORR over the next 12 months in order to identify a suite of measures that is appropriate to monitor the activities that the System Operator and its customers consider are the most important. Initial discussions suggest that qualitative measures are likely to be of more practical use than quantitative measures. We believe that route activity within system operation should be reported at route level, whereas the System Operator functional scorecard will be focused on the outputs of the network-wide function.

System Operator regulation should be capable of allowing the System Operator to evolve in CP6 and be flexible in size and shape. Just as Network Rail should have flexibility to move resources from one route to another – or other national activities – it should also have flexibility to move resources between a route and the System Operator where there is a more efficient and effective way of working available.

Some of the System Operator's activity requires a clear level of delivery and customer service. However these requirements are, in many areas of activity, set out in contracts and codes and while compliance could be reported, the outputs themselves are relatively fixed. System Operator regulation could focus on encouraging the right behaviours, performance and process improvements, and effective incentives to drive quality customer relationships and efficient use of the infrastructure.

We are developing the proposed structure and outputs of the System Operator function in the 'System Operator: Fit for the Future' programme and will share these with ORR in due course. Further information is contained within our response of 24 August 2016 to ORR's PR18 System Operator working papers.

Central core

Network Rail may create a scorecard for our route services directorate and other areas of the central core in order to articulate the priorities of the central core and incentivise our employees in the same way that route and system operator employees are incentivised. Our thinking in this area will be developed through the PR18 process. However, we agree with the working paper that we do not see a case for setting regulated outputs for the central core as the activities of our central functions support the delivery of our route objectives.

5. Potential outputs

Introduction

Section 4 of the working paper discusses output areas and possible metrics themselves, alongside asking for responses on the level of disaggregation necessary for each output area. Whilst we see this as useful in order to prompt discussion, we are currently developing proposals for our CP6 scorecards and believe that the outputs areas will be driven by our customers' and funders' priorities, as reflected in our scorecards. In addition, the work that NTF is conducting to derive cross-industry valued metrics for particular output categories should form the basis for setting the appropriate metrics. Notwithstanding this, we set out initial comments relating to the specific output areas in the working paper below. In line with the key points of our response above these comments focus on our emerging thoughts in two areas:

   i)   Do we believe the measure should be included in our scorecards?
   ii)   What do we believe the regulatory status of the measure should be – i.e. should the measure be a regulated output?

Health & safety

Safety is key to the success of Network Rail and our focus on safety means that we believe this must form a core part of our scorecards. Whilst we firmly believe that safety is integral to scorecards, we agree with the working paper that Network Rail should not be accountable both under health and safety legislation and separately under the economic regulatory framework, therefore we would expect this area to have no formal regulatory status.

Network Rail is committed to promoting and protecting the health and wellbeing of all our employees and we will continue to monitor, report and improve awareness and understanding of key

occupational health risks. These are internal measures and our emerging views are that they would not be on our scorecards and we would not expect any of them to have regulatory status.

Sustainable development

In our CP5 Delivery Plan we committed to developing a range of sustainable development key performance indicators (KPIs) to report against in CP5. These KPIs include environmental, workforce and community measures and we have reported against this in our Annual Return submissions for CP5. In addition, ORR's CP5 Final Determination set out a number of environmental indicators. We believe that sustainable development is much broader than our environmental impact and should reflect our own workforce and how the rail industry connects with its communities. We will therefore continue to monitor performance and publically report against our KPIs in CP6.

As we work with customers and other stakeholders to develop our CP6 scorecards, we will agree how sustainable development fits into our scorecard priorities. The treatment of sustainable development from a regulatory perspective requires further work and we will develop our thinking in this area alongside our stakeholders and ORR throughout the periodic review process.

Environmental and sustainable development targets are integral to rail franchise agreements. These targets are typically set at levels that differ from Network Rail's KPIs. We believe that, as an industry, we will achieve environmental and sustainable development targets most effectively if we are working with our stakeholders on a consistent basis. Therefore, any outputs set should be consistent across industry. We will work with DfT and Transport Scotland to understand how the industry can best align on sustainable development targets.

Asset management capability `

We recognise the importance of high quality management of our assets. Management of the railway infrastructure is fundamentally about delivering the outputs valued by our customers, funders and other key stakeholders in a sustainable way and our national scorecard therefore contains two measures for asset management; the Composite Reliability Index (CRI) and the delivery of seven key renewals volumes. The CRI is a measure of the short-term condition and performance of our assets including track, signalling, points, electrification, telecoms, buildings, structures and earthworks. Our continued focus on this area over successive years has led to the best ever reliability levels of our assets and we will continue to monitor and report on our reliability performance. The seven key volumes metric measures delivery against budget of the seven key renewals volumes. Asset management is crucial to enabling devolved route businesses to make sound risk-based decisions and therefore will be a key component of our route scorecards in CP6 and we will work with customers, funders and ORR to derive the best way to represent this area.

In CP5, we have undertaken a number of initiatives to improve our asset management capability as demonstrated by assessment through the Asset Management Excellence Model (AMEM). We need to review whether any changes are needed to the measure that we currently use. In CP6 we will measure capability on a route-by-route basis and will look for opportunities to benchmark across routes to facilitate the sharing of best practice. We do not believe that the output of such assessment should be included on our scorecards or have regulatory status.

Asset data quality is currently assessed using confidence grading of data reliability. We propose to continue to assure ourselves of the quality of our asset data at a network-wide level and, in addition,

to conduct route level risk-based assessments of governance. These assessments will make use of leading indicators to predict and prevent data quality risk. We do not foresee asset data quality being a scorecard measure.

Our Technical Authority (TA) within our Safety, Technical and Engineering (STE) function has set out well developed asset policies and a strong governance framework. ORR reviews our compliance with these asset policies and seeks assurance of the governance arrangement we have through its own assurance and by using independent reporters. We believe that the obligation to maintain asset capability is already addressed though our existing network licence requirements. For example, Licence Condition 1.20 obliges Network Rail to maintain 'appropriate, accurate and readily accessible information about the relevant assets, including their condition, capability and capacity' – and as such it might be reasonably inferred that this licence condition already obliges Network Rail to maintain accurate information about the capability of the network such that a specific output obligation is superfluous to requirements.

In conclusion, while asset management is a fundamental priority for us and will continue to be included on our route scorecards, we need to consider (with ORR) whether this area should have regulatory status beyond regulation through our network licence and the assurance of our internal processes and governance.

Network operation

The System Operator section of our working paper response sets out our current thinking in relation to System Operator regulation more generally and our response to Working Paper 3 contains further details.

We agree with the working paper that any outputs in this area will be system operation level outputs, unless our routes are accountable for the specific activity in question. We would expect to work closely with industry and ORR over the next 12 months in order to identify a suite of measures that is appropriate to monitor the activities that the System Operator and its customers (routes and train operators) consider are the most important. Initial discussions suggest that qualitative measures are likely to be of more practical use than quantitative. We will then work to establish the agreed regulatory status of the System Operator scorecard outputs.

Enhancements

The outputs framework should support the core principles set out in the Memorandum of Understanding between Network Rail and DfT. Joint decision points between the funder and Network Rail will make sure there is clarity of the commitments being made as schemes progress through the project lifecycle from early stage planning, to development, to design and ultimately to delivery. We believe these principles should be applied to all enhancements, irrespective of the funder, given that it represents best practice.

While we agree with the working paper that any scorecard output relating to enhancements is likely to be focused on milestones, the approach will require a more flexible framework that facilitates a 'pipeline' process for the enhancements portfolio with the ability to implement change control on programmes and projects in and out of the pipeline at these key stage gateways. These gateways are stop/go points and it could be decided that projects do not proceed to the next stage of the lifecycle if they are not value for money, affordable or deliverable.

It is envisaged that outputs, timescales and funding would be agreed stage by stage and the outputs framework would need to be designed to facilitate this approach.

Network performance (passenger)

Network performance is a crucial measure for our customers and will be a key component of our route scorecards. We agree with the view outlined in the working paper that PPM is no longer a suitable measure of performance and that it is likely that alternative metrics to measure performance, that more accurately reflect passenger experience, should be devised for CP6. We welcome the fact that the working paper acknowledges and is supportive of the work that NTF has led on developing new metrics.

We do not see any need for a national target (although national performance will continue to be reported). Delivery of performance will be managed at a route level, and therefore should be regulated at a route level. With differing customer priorities across different routes, we would expect to have a different emphasis on each metric in different routes. Our scorecard performance outputs should align to franchise commitments on performance and we will need to work with DfT to address the issue of variances between scorecard outputs and franchise commitments to ensure industry aligned targets.

Given the uncertainty in forecasting levels of performance in a complex industry with numerous contributing factors, we believe the regulatory treatment of passenger performance should not focus on point targets, but should reflect this uncertainty. Setting realistically achievable performance target ranges will better motivate the industry to work together effectively. This would avoid the situation we have faced in CP5 whereby targets were set (and we agreed to) that were too ambitious and challenging.

Network performance (freight)

With the creation of the freight and national passenger operators' route (the 'virtual route'), it is even more relevant to measure freight performance on a national basis so that performance measurement aligns to our organisational structure. We agree that the national level FDM metric should remain because it is well understood by the industry and it is effective.

To ensure routes continue to focus on their freight operator customers, each route will have its own freight plan alongside a freight and national passenger operator route plan. We have recently produced a disaggregated version of FDM for routes which requires further refinement throughout CP5, but we would advocate the use of this measure on route scorecards, rather than another metric being introduced, to ensure continuity and a common basis of understanding across geographic routes and the virtual route.

Network Availability

In CP5, our Network Availability performance is primarily measured using the Possession Disruption Index (PDI). The PDI measures quantify the impact of planned engineering work on passengers (PDI-P) and freight traffic (PDI-F), but are complex measures to understand, do not drive our business planning decisions and are not used by our customers. PDI is also only recorded at a national level.

We are already fully incentivised to optimise the availability of the network through the Schedule 4 regime. This regime drives our route businesses to plan engineering possessions with minimum disruption to train operators. Schedule 4 works effectively at a route level and route teams are already fully engaged with this regime because there is a direct link to their performance targets.

Beyond Schedule 4, the NTF working group on network availability has not identified a potential replacement measure that would fit all requirements – i.e. a measure that is easily understood, relates directly to routes, drives positive behaviours, encourages collaboration within the industry and supports optimised possession planning.

We are finalising our "Access Framework Principles" which are a set of planning guidelines, and a governance structure to support it, that allows all of those involved in planning access to understand when is the most optimal time to close the railway for engineering work based on service demand. These principles are being developed in conjunction with our customers and are based on a set of operator rules as to what is acceptable in terms of disruption to passenger flows, and limits of access on routes. The objectives of the access framework are to:

- establish access principles which Network Rail and operators can plan work within before access has been requested and finalised
- incentivise advance planning within operators' preferred access options, minimising disruption and reducing the need to approach operators
- reduce assumptions around acceptable access, thereby reducing the potential of operators disputing the access
- increase the certainty of delivering the intended work by understanding the access constraints.

These factors combined mean that we do not believe that Network Availability should be on our scorecards or that there should be a specific measure.

Network Capacity

Initial discussions suggest that qualitative measures are likely to be of more practical use than quantitative measures. While we note, and will continue to collaboratively support, the work being carried out by TRL (Transport Research Laboratory) on the subject of capacity measures, we recognise the internationally accepted limitations of simple numerical attempts to define a concept as complex as railway infrastructure capacity (UIC Leaflet 406).

On a given infrastructure, capacity is based on the interdependencies existing between the number of trains (per time interval, e.g. trains per hour), the average speed, the stability (i.e. resilience to perturbation), and the heterogeneity of services. It is therefore extremely difficult to construct an effective numerical output that would be suitable for regulatory purposes. We believe that it would be preferable to have no output than one that is ineffective and may lead to inappropriate decisions being taken.

We believe that route activity within system operation should be reported at route level, whereas the System Operator functional scorecard will be focused on the outputs of the network-wide function.

Network Capability

The capability of our network is assessed by way of reference to track mileage and layout, line speed, gauge, route availability and electrification type. Given the identification of previous discrepancies between the actual and published capability of the network we recognise that, in the absence of other oversight, a network capability output may provide external stakeholders with assurance that Network Rail cannot reduce the capability of the network without going through the formal industry processes.

Notwithstanding this, and as outlined in ORR's working paper the network capability output is rather different to other outputs in that it obliges Network Rail to maintain capability rather than drive any specific improvement and, as such, we do not consider that network capability should be a scorecard output.

We believe that the obligation to maintain network capability is already addressed though our existing network licence requirements. For example, Licence Condition 1.20 obliges Network Rail to maintain 'appropriate, accurate and readily accessible information about the relevant assets, including their condition, capability and capacity' – and as such it might be reasonably inferred that this licence condition already obliges Network Rail to maintain accurate information about the capability of the network such that a specific output obligation is superfluous to requirements.

The Network Code then obliges Network Rail to go through formal network change processes in the event that we wish to alter the capability of the network. To ensure transparency, information about network changes is published on our website (and is also currently summarised in the Annual Return).

Asset condition

As noted in ORR's working papers, station condition, as measured by the Station Stewardship Measure (SSM), is the only asset for which there is a regulated output in CP5. However, the 'value' of this output as a measure of Network Rail's performance has been somewhat diluted in recent years as a number of stations that we own are now managed and maintained by train operating companies (notably Abellio Greater Anglia and Virgin Trains East Coast) under full repair and renewal lease arrangements. In addition Network Rail is currently reviewing its ongoing ownership of its managed stations which could result in future changes to the current operation model. Any future measure of station condition would need to be sufficiently flexible such that it only captured those stations for which Network Rail is accountable for maintaining.

In considering whether it is necessary or appropriate to set output measures covering the condition of other assets it should be noted that our own Composite Reliability Index (CRI) already forms a key measure of our performance as detailed on our corporate and route scorecards. The CRI measures the short-term condition and performance of our assets including track, signalling, points, electrification, telecoms, buildings, structures and earthworks and is a key driver of overall network performance. In addition the Composite Sustainability Index measures the longer term sustainability of key assets. We expect that a measure of asset performance and reliability will continue to form a key element of our CP6 route scorecards such that it should not be necessary for ORR to set specific outputs relating to asset condition.

Financial performance

Financial performance is included in our CP5 scorecards and will continue to be a priority within our CP6 scorecards. We will continue to report financial performance at a route level through our route scorecards. Our scorecards will form the fundamental basis by which we will monitor and report on our financial performance.

Network Rail provides a vast amount of information on its financial performance each year – much of this is at a route-level – to allow robust regulatory assessment. We agree with the working paper that publication of detailed reports on our financial performance and efficiency strongly incentivises us to focus on financial performance. We therefore believe that the regulatory treatment of financial performance should be consistent with our scorecards and that ORR's approach should continue to focus on reporting and monitoring against our forecasted trajectory. This approach will allow us to concentrate on achieving the targets within our customer-focused scorecards. We do not believe that a change to the status of financial monitoring measures for CP6 will further increase the importance of these measures as they are already prioritised on our scorecards. We also consider that were Network Rail to fail to meet a financial performance target, enforcement action in relation to financial efficiency would have very limited impact beyond the existing reputational impact of the regulatory reporting framework.

We will develop our thinking further in our response to ORR's financial issues paper, which is expected to be issued in December 2016.

End user experience

Passenger satisfaction has been included as a measure on our national scorecard throughout CP5 and is measured through the National Rail Passenger Survey (NRPS), commissioned by independent body Transport Focus. The survey provides a network-wide picture of passenger satisfaction with rail travel.

The relationship with end users is owned, not by Network Rail, but by TOCs and FOCs. We therefore believe that the engagement process with end users should be led and owned by TOCs and FOCs and that they will represent the end users in the determination of priorities. By way of example, the customer engagement to develop the 2015/16 route scorecards led to route-specific metrics that are better reflection of what TOCs believe is important to their customers – such as delay minutes, right time arrival. The national scorecard reflects the aggregate results for local measures. In relation to freight end users, we believe that the volume of freight business is a better reflection of freight customer satisfaction than an intermittent freight customer survey.

We see network outcomes extending beyond passenger and freight end users. We have undertaken significant work with our lineside neighbours to determine how we can best work alongside them. We have developed a measure on our 2016/17 scorecard to monitor railway work complaints and we intend to monitor the impact of our work on our lineside neighbours over CP5. We have also committed to reducing the time that is takes us to close lineside neighbour complaints (and complaints about managed stations).

Our reputation is shaped by the performance of the rail industry as a whole as many passengers do not make a distinction between Britain's infrastructure and TOCs. We therefore do not think that end user experience should have regulatory status as this measure reflects end user views of satisfaction with rail travel which is a measure that is not wholly owned by Network Rail.

TOC/FOC customer experience

Customer satisfaction is an assessment of how well Network Rail engages with its customers; principally passenger and freight train operators. At the beginning of CP5, we identified the need to provide a more regular, route-based measure of customer satisfaction. We undertook the first Customer Service Maturity Measure (CSMM) assessment in January 2015.

We consider that it is important that a measure of customer satisfaction is included on our route and System Operator scorecards to assess their relationship with their customers. We believe each route and the System Operator should establish the metric that is most appropriate in collaboration with their customers. We do not think that customer satisfaction should have regulatory status as we are accountable directly to our customers and incentivised through our scorecard performance.