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Dear John

## **Potential Contravention of National Highways' Licence and Delivery of the Second Road Investment Strategy (RIS2)**

Thank you for your letter of 22 May 2024. We welcome the opportunity to respond prior to your recommendations being made to the ORR Board.

National Highways values the role of ORR as our statutory monitor. We welcome your acknowledgement of the level of cooperation and engagement from National Highways with your Investigation. We appreciated ORR's structured approach during the Investigation which allowed us to address the issues raised in an efficient manner.

As set out in your letter, the purpose of the ORR Investigation was twofold.

1. To determine whether National Highways was compliant with the Road Investment Strategy ("RIS") (2020-2025) as required by section 3 (6) and section 10 (2) of the Infrastructure Act 2015<sup>1</sup>; and
2. To determine whether National Highways has contravened its Licence<sup>2</sup> contrary to the requirements of sections 6 (3) and 10 (2) of that Act.

We have structured our response as follows:

**Part A** – The potential contravention of our Licence - Conditions 4.2 (a), (b), (c) and Condition 5.6 (b) (leading on from Condition 4.2 (c)), and Condition 7.3 (e).

**Part B** – Addressing areas for improvement and ORR's concerns regarding future potential contraventions of the RIS.

**Part C** – National Highways' conclusions and representations in relation to formal enforcement action being instigated against National Highways.

In summary:

- We agree there is more we can do to make our reasoning for key decisions more visible to ORR when queried, and we want to work with ORR to achieve that.
- We agree there should be a clearer framework between National Highways and ORR for the provision of information, so that ORR considers it is always able to properly discharge its monitoring function and statutory duties. We will build upon existing work underway between our teams to agree this clearer framework.

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<sup>1</sup> [Infrastructure Act](#)

<sup>2</sup> [Strategic Highways Licence](#)

- For the reasons set out in this letter and Annex A, we do not consider National Highways to be in breach of its Licence, or the RIS.
- Therefore, we do not consider there is a case for formal enforcement.

In Annex A, we include a technical and detailed response to the matters raised and the summary findings of the Investigation, which we hope is helpful.

## Part A - Potential Contraventions of Licence Conditions

### Condition 4.2(a), (b) and (c) on exercising functions and complying with legal duties, and Condition 5.6(b) (leading on from 4.2 c)

You state in your letter that you are concerned that National Highways is potentially in breach of Conditions 4.2 (a), (b) and (c), which state that National Highways:

*“...must, in exercising its functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to:*

- Ensure the effective operation of the network;*
- Ensure the maintenance, resilience, renewal, and replacement of the network;*
- Ensure the improvement, enhancement and long-term development of the network;”*

Condition 5.6(b) relates to our duties to take an informed approach to the improvement, enhancement and long-term development of the network.

National Highways has an established corporate governance framework as required under the terms of the Framework Agreement. This is routinely reviewed for effectiveness and alignment to externally recognised good practice. This includes a defined approach for how we record decisions.

We believe that we have a governance framework and decision-making approach that is logical, reasonable and evidence led. It enables decisions to be made that are best calculated to achieve the outcomes set out in Licence Condition 4.2, recognising this requires a balancing of competing factors and an exercise of judgement.

We do, however, acknowledge that there have been occasions when the reasoning and evidence base behind a decision has not been sufficiently visible to ORR when queried.

With regard to the matters you highlight:

- In relation to **Pavement Condition KPI**, there was no ‘decision’ made not to pursue meeting the KPI for 2023 – 2024, as evidenced by the fact that we have met the target at the end of the year. We accept that our Executive papers could have been clearer. In our initial discussions with ORR we recognised there was a risk that the KPI may not be met. Although this issue had been properly considered at an operational level, we recognise that this was not demonstrated well enough to ORR when queried.

Subsequently, the additional information we sent to ORR as part of Enhanced Monitoring sought to demonstrate how we were doing everything we reasonably could to hit the KPI, including the timeline of inputs to our Executive paper and the actions we were taking to meet our KPI, which were ultimately successful.

- In relation to **Corporate Carbon KPI**, this has been a more challenging programme than originally thought, and highlights some of the trade-offs we are having to make between achieving this KPI, the effective operation of the network and historic asset information regarding the LED Programme.

- In relation to **Average Delay KPI**, we have a Delay Action Plan, and we are delivering our planned interventions. However, most causes of delay are outside our control, such as changes in traffic composition and flows (which in RIS2 have been significantly impacted by Covid 19 and subsequent increase in speed-limited vehicles, e.g. HGVs). This makes it exceptionally difficult to assess likely impact of our interventions on the KPI metric, as described in further detail in Annex A.

We are an organisation that continuously strives to improve, as we hope ORR would recognise. Whilst we consider that we have an established framework and decision-making model, we have taken the following actions to bring further transparency and visibility to our decision making:

- We have introduced a new Executive and Board paper format in January 2024 which includes a requirement to set out the strategic context for each decision, including if it impacts on KPIs and notable risks or issues.
- The Company has launched a new end-to-end outcome led approach to business planning (which replaces our previous more financially led business planning process) which will drive greater, more consistent collaboration between directorates at all levels, and show how decision making is effectively joined up across the business to maximise effectiveness and efficiency. This should enable us to provide ORR with better information related to decision making and action plans when requested.
- Although this was not covered in the Investigation, work is ongoing to ensure we have an improved Records Management System. This is supported by mandatory online training which outlines what records need to be retained and where and outlines individual roles and responsibilities.
- We have established a Quarterly Business Review (QBR), which assists the Executive in enhancing company performance and business planning through establishing and aligning accountability for planning, controlling and managing company performance and resources. Deep dives on performance are a regular feature, with discussions and decisions informed by evidence.

We do also recognise that the Rebel Group work on Licence compliance found that while *“National Highways is, on the balance of probability, compliant with the Licence Conditions assessed in this exercise”*, there were a number of recommendations as to how our approach to demonstrating and evidencing compliance could be strengthened.

We value the findings of this study and would want to work with ORR to address these actions in the context of Conditions 4.2(a), (b) and (c) and 5.6(b) and wider Licence compliance.

**Condition 7.3 (e) of the Licence on the provision of data and information to ORR that it may reasonably require where relevant to the fulfilment of its statutory functions**

You have stated that we are potentially in breach of Condition 7.3 (e) of the Licence, which states that National Highways must collect, record and provide,

*“Any other data or information that Transport Focus or the Highways Monitor may reasonably require, where relevant to the fulfilment of their statutory functions.”*

We recognise the importance of data provision, and we currently provide monthly, quarterly and ad hoc data and information to ORR. Most of the time this is without issue.

Since May 2022, following joint agreement of our respective Executives and Boards, we have made significant progress to improve the transparency and timeliness of information provided.

This has included accelerating the delivery of the monthly Corporate Performance Reports post Executive Committee meetings, rather than post Board meetings, meaning ORR now has sight of the monthly data a week earlier each month.

In the course of the Investigation, we provided ORR with over 300 items of information. We acknowledge that some of this could have been provided to you earlier as part of Routine or Enhanced Monitoring, but also included information you would not have expected to see.

In our view, the highly structured approach adopted by ORR in the Investigation helped to identify the types of information ORR required. The structure of the questions in the Case Study interviews made it more straightforward to collate what was needed. We think this way of working is a positive outcome from the Investigation and would be happy to work with ORR to adopt this approach going forward.

With that in mind, we want to work more closely with ORR to develop a clearer framework for ensuring we understand the scope of information required at the start of a monitoring exercise, particularly in relation to any area of concern. This will ensure a smoother process and that we can collate and assure the relevant information to facilitate timely exchange where it relates to matters outside the normal Routine Monitoring activities.

We are already working jointly with the ORR Highways Team to review the existing methods for data and information sharing between the two organisations with a view to developing improved principles and processes to manage these requests and sharing.

There will be instances where we do not have the information requested, or it may be in draft/working form, and we will need to work with ORR to understand how we will manage these issues.

We hope that Annex A and our joint work with ORR on data will address ORR's concerns that you are not receiving the data and information from us that allows you to carry out your statutory obligations.

## **Part B - Areas for Improvement**

### **Early Warnings of Potential or Actual Licence Non-Compliance (Condition 8.5)**

We thank you for your observations in relation to the above and have responded in detail to the points in Annex A. We were pleased with the outcome of the Rebel Group work that ORR commissioned on Licence self-assurance and look forward to having a Recommendations Meeting with ORR to agree the next steps.

### **Potential Contravention of RIS2**

Further, we welcome your view that ORR considers that National Highways is compliant with RIS2. We will continue to work with ORR both through Routine and Enhanced Monitoring for the rest of the Road Period to demonstrate and evidence that we are doing everything within our power to maintain compliance.

We have provided further details of our actions and of those areas outside our control in Annex B. This also includes the high-level plans we have shared with ORR to address KPI performance, and we will continue to work closely with you in relation to their delivery.

## **PART C - National Highways' Conclusions and Representations in Relation to Formal Enforcement Action Being Instigated Against National Highways**

We hope this letter and the annexes give you confidence as to how seriously we are taking your concerns raised in the Investigation.

You outlined in your letter that you considered there to have been potential contraventions against Conditions 4.2 (a), (b) and (c), 5.6 (b), and 7.3 (e). We believe that the case outlined in your letter does not demonstrate that there has been a Licence contravention.

The ORR-commissioned work from Rebel Group on Licence Compliance stated:

*“Through the application of the risk-based principles within the ORR Holding to Account policy, and the nature of the Licence as being subjective to interpretation and needing to be on a case-by-case basis depending on the prevailing context; we consider that compliance is a relatively low bar. It would take a clear and material deviation for there to be consideration of ‘non-compliance’.”*

With respect to Conditions 4.2 (a), (b) and (c), 5.6 (b), you have stated that you would want National Highways to be able to demonstrate:

*“Its decisions are logical and reasonable and enable National Highways to carry out its functions and to deliver the specified outcomes to which it has committed”.*

*“It is taking decisions based on clear and robust evidence, appropriately recording, and acting on those decisions and considering their full implications on users and network performance (5.6(b)); and*

*“Its decision making is effectively joined up across the business, to maximise effectiveness and efficiency”.*

We agree with these principles and acknowledge they represent a best practice approach to making decisions. However, we would note the need for proportionality, given that Condition 4.2 covers all decision making across the company, and that these statements are not, in themselves, in the Licence.

As set out in Section A, we recognise that the transparency and visibility for ORR of the reasoning behind some of our decisions can be improved and we would want to work with you to deliver these improvements in line with our action plan.

However, we do not believe that the examples provided in your letter demonstrate a ‘clear and material deviation’ that demonstrate we have not “act[ed] in a manner which it considers best calculated”, or, specifically when planning network improvements, enhancements and long term development, we have not had a “clear understanding of the pressures upon and impacts of” its network and we were not “aware of the actions needed to improve conditions for users, and manage or mitigate existing problems.”

With respect to Condition 7.3 (e), your letter stated that you:

*“identified instances where the company held material that it could, and should, have shared with ORR sooner, or where it told us it did not hold data or information that we needed to effectively carry out our statutory functions (and that we consider that the company should reasonably have held in order to carry out its own statutory functions).”*



Again, as set out in Section A, we recognise that there are areas where the approach to transparency and information sharing can be improved. The majority of examples in your letter relate to proactive information sharing of information that feeds into other data and reports that are already shared with ORR. The examples given where we do not hold data refer to a desire to quantify the impacts of our activities on the Average Delay KPI metric, which we do not believe is possible, and quantification of the impact of Designated Funds on KPIs, where we hold some information, but it is incomplete.

In this context, we believe it is important to also note Licence Conditions 7.1 and 7.4, which outline that the Monitor should specify its requirements in guidelines, and Section 3.6 of the Memorandum of Understanding between the Highways Monitor and the Department for Transport, which outlines the principles for ensuring monitoring and reporting requirements are proportionate and how requests for new data and reporting should be discussed and agreed.

We are very happy to work with ORR to support its data requirements. It is not surprising that matters discussed in the course of the Investigation surfaced information not previously shared. We do not believe this amounts to a '*clear and material deviation*' from Licence Condition 7.3 (e).

Whilst we do not consider these constitute a breach of our Licence Conditions, it does not in any way impact on our desire to continue to improve and address the areas of concern you have set out. We accept as a government owned company, entrusted with significant public funds to operate and maintain a critical and strategic national asset, that we should rightly be held accountable for our performance.

National Highways operates in a complex regulatory landscape, and we do not always have perfect information and a lot of the decisions we have to make are much more difficult than originally envisaged when Roads Reform was set out. We recognise this presents challenges for you as our Monitor. The steps we have outlined above and in Annex A are intended to address how these challenges can best be overcome and how we can work better together. As we come to the end of RIS2 and prepare for RIS3, this is the appropriate time to do this.

National Highways, like ORR, is committed to performance and efficiency, and delivering better outcomes for road users and taxpayers. We wish to maintain a relationship with ORR that supports positive and constructive engagement that reinforces this ambition.

Yours sincerely

Nick Harris  
Chief Executive

[REDACTED]

CC – Emma Ward – Department for Transport

## Annex A

### National Highways' Response to Specific Points Raised in ORR's Case to Answer Letter

- This Technical Annex sets out our response to the points raised in the letter of 22 May 2024, and highlights where we agree or disagree (fully or partially) with the findings of the investigation, and where we disagree, the rationale for why.
- This Annex also sets out actions we will undertake to address ORR's concerns, and these are listed below.
  - In order to progress these and any other actions required, we would like to propose a Workshop in July with ORR to review and agree how these can be taken forward between both organisations.
- **Decision Making Actions**
  - **Pavement KPI** – We propose an approach for setting the target on this metric for RIS3 which we believe will overcome the technical challenge and deliver better long-term asset health. We also propose to set out specific concrete road reconstruction schemes as an output in RIS3 to improve visibility of delivery.
  - **Asset Management Strategy** - We have structured the draft Capital Specification for RIS3 to embed the 'strategy' element of asset management into the specific deliverables e.g. setting out specific structure schemes and outputs for structural investigations to understand risks, setting specific concrete road scheme outputs and a commitment to asset health/serviceability metrics.
- **Data and Transparency Actions**
  - **Data Provision** – we will develop a data sharing protocol to improve the structure of data sharing and align to the Licence and Memorandum of Understanding requirements. We will include this as a commitment in our annual Delivery Plan Update.
  - **Corporate Carbon KPI** - We would be happy to provide ORR with case study evidence on specific examples of the challenges to on the ground delivery through our Enhanced Monitoring meetings and discussions.
  - **Missed Enhancements Commitments** - We would be happy to address the perceived reticence, on behalf of National Highways, regarding the monthly performance reports as part of a wider understanding of the nature of the information ORR would like/ needs in Routine Monitoring and interactions going forward.
  - **Designated Funds** - Moving forward it may be useful to consider how the KPI benefits are made more visible and whether we can work with ORR on that as part of the Performance Specification for RIS3. We will need to recognise however, there may not be a straightforward input-output relationship in some areas.
  - **Asset Management Strategy** - In the proposed RIS3 Capital Specification, we have included specific output on drainage and data. We think there is a similar discussion on the information for on-road technology which is a highly complex asset base.

- **Average Delay KPI** - We are not sure if knowing the named owners for interventions or the change control forms is useful, or if it is better to work at the outcome level. We would be happy to work with ORR, to provide this information in more detail, or in ORR's preferred format going forward.
- **Regulatory Framework Actions**
  - **Licence Compliance** - We will work with ORR on how the recommendations of the Rebel Group report are taken forward, as well as on the planned Licence review this financial year.
  - **Missed Enhancements Commitments** - We would be happy to work with ORR to consider whether this existing framework for enhancement commitments are providing the correct and proportionate visibility of potential risks for year 5/going into RIS3 and whether the existing early warning mechanisms are providing the correct and proportionate visibility of potential risks.
- **Review of 10 years Since Roads Reform and Licence Review**
  - We believe it would be helpful to commence a wider review of the successes and areas for improvement following 10 years since Roads Reform and complete a review of our Licence ahead of RIS3 with ORR, DfT and Transport Focus.



## National Highways Response to Specific Points Raised in ORR’s Case to Answer Letter

**ORR’s Finding – Licence Condition 4.2 - National Highways has not been able to demonstrate consistently and reasonably, with evidence, the basis upon which it has taken decisions and the consequences of doing so on users and network performance.**

### ORR Point

National Highways told us that it had taken a decision not to “chase” the Pavement Condition Key Performance Indicator (KPI) for 2023-24. It could not provide evidence for this claim or decision.

The company was unable to evidence the basis on which it traded-off between compliance with its asset management policy, delivering pavement renewals in a whole-life cost efficient way, and achieving the national KPI target

### Comments/ NH Response

We consider this point has omitted some information that was recorded in the Pavement Condition interview. The term ‘not to chase’ was used verbally, by the East Regional Director, and we believe has been taken out of context in this Case to Answer letter. ORR’s formal record of this interview on 21 March 2024 includes:

*“NH explained they are mindful of the KPI, for instance they might extend schemes where this helped address the KPI. However, NH have made a conscious choice not to chase the KPI in the East region above overall asset condition. For Eastern region, KPI3 doesn’t align well with how concrete deteriorates, making this trickier.”*

As stated in our letter to Rachel Gittens on 22 March 2024,

*“our renewals programme is designed in advance to drive safety, customer and performance outcomes, and we look to deliver it efficiently, for example, by combining work... only 8% of our pavement renewals activity directly impacts on the KPI, and so we would have had to cancel other planned pavement renewal schemes to prioritise renewals on KPI-impacting stretches of road in 2023 – 2024.”*

The above provides important context to demonstrate the regard that is had to our obligation, both in the RIS and our Licence in determining a course of action.

For the 2023/24 financial year, the Pavement Condition KPI has been met and we have set out a possible way forward for this metric for RIS3 that addresses, in part, the challenge that typically <10% of activity on pavement affects this metric and that asset deterioration may vary year on year.

National Highways' ability to learn lessons on how to ensure it achieves its Pavement Condition KPI is unclear. For the last two years the company struggled to evidence in-year whether it will achieve its target.

For 2023-24, it shared information that identified that the programme was at risk based on recent trends in deterioration rates. However, the company did not account for this in its programme or appear to put in place additional check points during delivery

National Highways was unable to provide evidence that each regional plan for pavement renewals is intended to help achieve the national target as agreed at the outset of RIS2

To date we have met the target each year of the RIS. The interview discussed the planning approach and the challenges on this metric.

It is correct to say that there was a risk to delivering the KPI in 2023-24. In 2022-23 we saw significant deterioration rates, due to the high summer temperatures. Extensive discussions were had as to whether to factor in this new observed deterioration in to the 2023/24 forecasts or stay with existing forecasts. This was evidenced by the QBR discussions (PC12 & PC19).

A learning point could be to over-programme delivery of KPI impactful renewals, in order to guarantee meeting our target based on the previous year's deterioration rates. However, this could lead to unintended consequences where that resource may have been better directed to achieve higher benefits elsewhere if that need was not to have been met.

In section 4.2 of our Licence, we are required to make decisions that seek to balance a portfolio of competing needs and obligations and as part of that exercise, the decision at the time was to not over programme.

#### **Actions (Decision Making)**

- We have met the KPI in 2023/24. However, to address the issue on uncertainty, we have proposed a way forward on this metric for RIS3.
- In the draft Capital Specification for RIS3 we are also proposing to set out specific concrete roads schemes in a way similar to enhancements. Concrete roads performance – particularly in the East – is one of the key issues that drives poorer performance on this KPI.

The amount of pavement renewal that affects 'red sections' which drive this KPI is known by each Region.

However, the KPI only accounts for <10% of the total pavement activity undertaken. Each region knows where their respective sections are, however, what pavement activity is done has to take into account other factors e.g. road space availability.

How each region affects the national KPI is reviewed. In our response to PC3, we set out how the Operations Performance Board provides a monthly forum within which regional performance is reviewed by the Executive Director of Operations and all Regional Directors.

A key purpose of the Operations Performance Board is to discuss each regions' position against KPIs and agree remedial actions where needed. Although the Pavement Condition KPI is a national level KPI, it is recognised that the performance of each region contributes to achieving the overall target.

At the start of each year, a pavement renewals programme is defined, this contains a planned number of lane KM of renewal activity on specific network locations within each region, with the overarching aim of achieving the national level Pavement Condition KPI. Further details of our approach can be found in the Pavement Condition KPI Performance Plan.

We will continue to improve the ways in which we manage and align the requirements of this KPI to our overall operational delivery. Our new outcomes-led annual business planning process currently underway is giving better line of sight in this area.

National Highways is forecasting to miss its RIS2 Corporate Carbon KPI. The company has told us that the amount of work required to achieve the KPI target in the final year of this road period would be detrimental to road users and would not be an efficient use of public money, but it has been unable to provide any analysis or evidence to support this decision

This has been discussed in Enhanced Monitoring and we have addressed this point, most recently in our responses to ORR's CAR17 Questions. For completeness, key points are summarised below.

In relation to the LED Programme, which is the main element of the plan, we have increased the volume of the programme in 2023/24, and are focussing on mitigating the blockers to delivery set out below

- **Network Availability** – this is a genuine challenge, with higher priority works such as the National Emergency Area Retrofit (NEAR) Programme and HS2 increasing that challenge. Where possible we will always seek to use existing closures but that is not always possible. Special safety consideration must be given due to the LED upgrades involving working at height and needing a suitable margin from other activity.

In Enhanced Monitoring, ORR has suggested that our Roadworks Network Impact KPI indicates network availability is not a constraint for the LED Upgrade programme. However this is a network wide measure and does not give consideration that road lighting tends to be on our busier routes and junctions where renewals and maintenance activity tends to be focused so access is not always straightforward and is often impacted by emergency works.

- **Asset Condition** - As we progress with the programme it is becoming increasingly clear that the road lighting asset is older and in worse condition than our data originally indicated.

Capital renewals for lighting is required to sit alongside the Designated Funds (DF) to deliver LED upgrades on the older assets. This makes acceleration in the last year of Road Period 2 (RP2) more difficult even if more DF becomes available as we would need additional capital renewals too, which is simply not available due to financial constraints.

The LED programme has been much more complex than originally thought and there are interlinking factors (e.g. the location of the luminaires, existing planned works and congestion) that impact on the work. As yet we have not collated sufficient data to be able to present this to ORR at an overall programme level or the input-output relationship at all locations in England.

#### **Action (Data and Transparency)**

- We would be happy to provide ORR with case study evidence on specific examples of these through our Enhanced Monitoring meetings and discussions.

National Highways produced a Delay Action Plan setting out its approach to achieving its Average Delay KPI ambition, but it has been unable to evidence the impact of its planned interventions or justify how it prioritises spending in these areas.

We have a Delay Action Plan which has been discussed in Routine and Enhanced Monitoring meetings. Actual performance on this metric is affected by a range of factors – most notably number of vehicles, speed and type. It is recognised that approximately 80% of these are driven by factors outside National Highways' control.

It did not proactively look into the sections of the network that are performing worst against the KPI or consider the impact of its interventions at these locations until pressed to do so by ORR

In RP2 it has been affected by Covid-19 lockdowns and changing economic and working patterns e.g. increase in the number of speed limited vehicles (e.g. HGVs & LVGs) and higher delay on A Roads.

It is therefore extremely difficult to provide a quantitative assessment on the individual actions/levers to improve the delay KPI. This is why it was agreed that in the RIS this would be set as an ambition rather than a target.

For many of the actions/improvements it is almost impossible to establish their impacts in isolation and/or to quantify this accurately and consistently, for some items we may be able to build a “sensible” assumption set.

But for most, due to their nature, we would not be able to legitimately say what the impacts may or may not be in isolation. Working with ORR in this area (and the new Journey Time Reliability metric) will be important for RIS3.

What National Highways is able to do is manage delay that is within our control e.g. incidents management and clearance (managed by Operations) and roadworks (managed by Operations and Major Projects). In this way, each business area takes the actions set out in the Delay Action Plan and is delivering these interventions and actions in the best and most timely way for their business area.

National Highways lacked evidence to demonstrate how and if its high-level Asset Management Strategy and organisational level plans are being used on the ground and the benefits and business improvements that are being realised by their implementation

In the Pavement KPI, and the Asset Management (AM) Renewals Planning Delivery Outcomes Case Studies we presented how AM Strategy and Plan tools such as Asset Class Strategies (ACS) and Asset Class Handbooks (ACH) are used operationally and also highlighted the roles of the ‘Tier’ working groups to drive consistency and delivery across the asset classes.

All new starters in Operations are trained on the ACSs and ACHs as part of their inductions and the embedment of our high-level policy and the line of sight from this to activities on the ground is a key requirement of the ISO 55001 standard that we have recently achieved.

We are actively engaged through Operations user communities, seeking feedback on the use and benefits of the ACS and ACH and we have developed an improvement programme on the basis of the feedback received.

We aim to continually improve, especially in some areas such as drainage that have brought new challenges to the business. Those areas implicitly are less well advanced than our traditional activities and the strategy in those areas will take longer to implement.

#### **Action (Decision Making)**

- We have structured the draft Capital Specification for RIS3 to embed the 'strategy' element of AM into the specific deliverables e.g. setting out specific structure schemes and outputs for structural investigations to understand risks, setting specific concrete road scheme outputs and a commitment to asset health/serviceability metrics.

National Highways' monitoring of the impact of its Designated Funds activities on core deliverables such as KPIs is devolved outside the central designated funds team.

There is evidence that performance is being appropriately assessed for some schemes, notably how the LED programme contributes to carbon reduction, but it is difficult for the company to evidence that this is happening across all areas due to absence of central oversight.

Therefore, it is unclear how it is ensuring that designated funds are prioritised to meet the needs they were intended for and generate the anticipated benefits

We are looking to build on the role of the central DF team in RIS3 to cover the governance lifecycle of the schemes. It should be noted that the DF is a mix of activity, so delivery and project definition needs specialist teams for each area. It is not the case that a single team could be the guiding mind on all projects (e.g. the skills needed for safety schemes are different from environmental schemes).

Evidence was provided (in response to DF19) on the Monitoring and Benefits Evaluation Plan but as DF is a mix of schemes, it is not straightforward.

In the recent ORR Review of Benefits Management Maturity, carried out by Costain, the role of Central DF Team was clearly set out as being *'the owners of the fund, but do not deliver the work directly; instead, delivery teams from across National Highways develop proposals, which are then reviewed for fit with the aims of the Designated Funds and approved for funding.'*

We do accept that the role of DF is an area that can be improved. However, the nature of what these funds are means an input-output relationship on benefits may never fully be possible to quantify, and information on the delivery may be more appropriate.



**ORR’s Finding – Licence Conditions 7.3 - National Highways must collect, record, and provide data or information to enable ORR to fulfil its statutory duties. During the Investigation we identified instances where the company held material that it could, and should, have shared with ORR sooner, or where it told us it did not hold data or information that we needed to effectively carry out our statutory functions (and that we consider that the company should reasonably have held to carry out its own statutory functions).**

ORR Point	Comments/ NH Response
<p><b>General</b></p> <p>National Highways provided around 300 pieces of information to us as part of the investigation. This included information that had not been previously provided to us.</p> <p>While we would not have expected to see all this information as part of our business as usual or enhanced monitoring, there was enough across six areas of concern to indicate that there is more information that the company could and should share with us.</p>	<p>We believe this is a critical outcome of the Investigation. Our observation, which is reiterated below, is that the data seen via the Investigation would not have been expected to be seen under normal conditions. This was a function of the process and structure applied to the Investigation by ORR and that structured approach to requesting data could be a template for the future monitoring regime.</p> <p>In this context, we believe it is important to also note Licence conditions 7.1 and 7.4, which outline that the Monitor should specify its requirements in guidelines, and Section 3.6 of the Memorandum of Understanding between the Highways Monitor and the Department for Transport, which outlines the principles for ensuring monitoring and reporting requirements are proportionate and how requests for new data and reporting should be discussed and agreed.</p> <p>This approach taken in the Investigation provided an effective structure for data requests and aligned well to the Licence/MoU in that the level of data should be proportionate to the issue, so would be an approach we would be keen to build on moving forward.</p> <p><b>Action</b></p> <ul style="list-style-type: none"> <li>• <b>Data provision</b> – we will develop a data sharing protocol to improve the structure of data sharing and align to the Licence and Memorandum of Understanding requirements. We will include this as a commitment in our annual Delivery Plan Update.</li> </ul>
<p>National Highways has not shared information that previously would have benefited our role in relation to monitoring pavement condition.</p>	<p>In 2022-23, we issued an Early Warning Notice to ORR on 11 January 2023 and then engaged with ORR on a weekly basis in the run up to the end of the year.</p>

In particular:

1. National Highways had internal discussions on the Pavement KPI and an action plan in both 2022-23 and 2023-24. These actions were not shared with ORR at the time of escalating the concern internally, but they were shared with us as part of the Investigation evidence; and
2. During the investigation, National Highways shared a new approach to assessing pavement condition in its regions (amber analysis). We had not been sighted on this previously or received this as evidence in the first interview we held on pavement condition.

It is unknown why National Highways did not proactively offer this information; particularly given the level of concern we had and continue to have about the delivery of this target and the additional correspondence previously sent to the company.

During the Investigation National Highways shared examples of reports and meetings evidencing the positive work that the company is doing around missed commitments.

This includes details that supported ongoing conversations and assurance around performance, for example a comprehensive monthly performance report.

In 2023 – 2024, we flagged to ORR in December 2023 via the Corporate Performance Reports that we were then forecasting not to hit the target by the end of the year, we then met with ORR in early January 2024.

The internal plans referenced in the Investigation findings letter were internally facing working plans. They were not shared at the time, due to their dynamic nature, and would have required a real-time narrative to explain how the plan adapts week on week as we recovered our performance.

Whilst these types of plans could be shared ‘in real time’ and give confidence that actions are in place, we need to consider if this level of detail is right for a KPI which had not yet failed (and ultimately was successfully met by the end of the year) as opposed to one where there was a serious failing, and a turnaround was needed to protect customers (e.g. as happens in drought management in the water sector)

As detailed in our response to PC15 - The amber ranking was only introduced in February 2024 at the request of Operational colleagues to make the distinction between *actual* and *predicted* defective locations which enables more focused planning, meaning that predicted red would now be classed as amber.

The introduction of an ‘amber ranking’ is a learning point from previous challenges on delivering this metric and provides clearer data to enable more targeted decisions. We see this as a proactive step forward and shared it with ORR as soon as it was available. This is an example of how more focussed questions received from ORR often leads to better outcomes.

Separately from the Investigation, a significant level of data and information was shared in response to ORR’s letter of the Pavement KPI.

We do have a performance monitoring regime in place for Major Projects. On a monthly basis, performance monitoring takes place at every level, from scheme level performance meetings, through to regional portfolio meetings, culminating in national level meetings that feed the CPM reports that ORR receives quarterly.

This information would have been pertinent to addressing concerns that we had raised in December 2023. At interview and in writing afterwards the company was hesitant to share this information with us

#### **Action (Data)**

- We would be happy to address this perceived reticence on behalf of National Highways regarding the monthly performance reports as part of a wider understanding of the nature of the information ORR would like/ needs in Routine Monitoring and interactions going forward.

Also with fewer enhancements in RIS3 this may be simpler moving forward.

National Highways shared during interview an in-year delivery dashboard for asset management renewals that it had not previously provided to us. It showed in-year performance against a baseline position. This would have supported on-going discussions and concerns we have around its performance management.

The data used within the Regional Programme Review dashboards feeds directly into quarterly Operations, Renewal and Maintenance (OMR) reporting. The quarterly OMR reports, provided to ORR as part of Routine Monitoring, show performance against delivery plan outputs, as well as renewals spend against budget. It is the same information which passes through to ORR in our reporting.

National Highways shared during the Investigation monthly Chief Analyst updates on average delay performance. This included named owners for actions in the delay action plan and change control forms where actions are delayed. This information had previously not been shared with us

The evidence referenced had previously been shared in Routine Monitoring in different formats via the quarterly Fast & Reliable Journeys and Customer Service Directors meetings, and in Enhanced Monitoring through the monthly Average Delay KPI meetings.

#### **Action (Data)**

We are not sure if knowing the named owners is useful or the change control forms is useful, or if it is better to work at the outcome level. We would be happy to work with ORR, to provide this information in more detail, or in ORR's preferred format going forward.

National Highways does not hold appropriate data to show the impact of the actions it takes to manage delay on the Average Delay KPI or how it can effectively prioritise delivery to achieve this.

This is information we have been requesting as part of our enhanced monitoring of this issue over the past six months and that we would reasonably expect it to have.

There is also evidence that in Designated Funds the central team does not have data to show how schemes that are designated to support performance deliver the expected impacts on KPIs

In the Enhanced Monitoring, we have shown it is difficult, sometimes impossible, to provide a quantitative assessment on the individual actions/levers to improve delay. *[see response above Licence Condition 4.2, above, that highlights the issue with this KPI – for brevity it is not listed here]*

For many of the actions/improvements establishing their impacts in isolation and/or to quantify this accurately and consistently, it can be possible to build a “sensible” assumption set, but they have to be assumptions.

For most, due to their nature, we would not be able to legitimately say what the impacts may or may not be in isolation.

Whilst National Highways carries out various activities to manage delay on the network - as set out in case studies such as Faster Safe Speeds through Roadworks - there is not a demonstrable direct relationship between these activities and the KPI performance, as there are several externalities that effect traffic volumes and delay that will mask these impacts.

The DF application process requires the delivery teams to highlight the impact on KPIs as part of their application for funding.

Biodiversity Target Action Planning Group (BTAP) & Noise Target Action Planning Group (NTAP) show how DF is contribution to these specific KPIs, and this is validated by our internal Audit and Assurance each year and the data is shared with ORR in Routine Monitoring.

For example, DF have the data on the LED programme and its contribution to the KPI, but this is only a part of the overall activities to meet the Corporate Carbon KPI

#### **Action (Data and Transparency)**

- Moving forward it may be useful to consider how the KPI benefits are made more visible and whether we can work with ORR on that as part of the performance specification for RIS3. We will need to recognise however, there may not be a straightforward input-output relationship in some areas.

**Areas for Improvement - We have not identified a case to answer in relation to Condition 8.5 (early warnings of potential or actual Licence non-compliance) although we do think improvements should be made in this area**

ORR Point	Comments/ NH Response
<p>National Highways evidenced that it knew that it might miss its pavement condition KPI in 2022-23 and 2023-24 before it notified ORR</p>	<p>We do look to notify ORR once we are confident that there is a risk to meeting a KPI.</p> <ul style="list-style-type: none"> <li>• In 2022-2023, we issued an Early Warning Notice to ORR on 11 January 2023 and then engaged with ORR on a weekly basis in the run up to the end of the year.</li> <li>• In 2023 – 2024, we flagged to ORR in December 2023 via the Corporate Performance Reports that we were then forecasting not to hit the target by the end of the year, we then met with ORR in early January 2024.</li> </ul>
<p>National Highways gave less focus to the Average Delay KPI number as it was an ambition and not a target</p>	<p>This is true but needs the wider context of the KPI to be considered on what we do.</p> <p>Performance on Average Delay is affected by many factors outside of National Highways’ control (see previous response on the issues on this KPI). The agreed choice of this (by DfT, ORR and NH) as an ambition and not a target was in recognition of this issue.</p> <p>When Average Delay was discussed in the setting of RIS2, it was recognised that in the round, when you take the three KPIs together (Average Delay, Incidence Clearance and Roadworks Network Impact) they capture our performance together to do all we can to provide road users with fast and reliable journeys.</p> <p>It is correct to say our focus had mainly been on those factors in our control (e.g. incident clearance) because the absolute performance is not within our control and it is correct that as an ambition, it, in our view, does not have the same definition as a target. We think this is right, by way of an example, performance in this period improved markedly in lockdown. If considered as a target we could have stopped all work but that was not the case and that would have been a worse decision in the long-term.</p>

There appears to be a wide range of meetings on missed commitments that feed into quarterly Capital Portfolio Management (CPM) reporting that provide early sight of risks and potential missed commitments.

We were not sighted on these meetings and in some instances, we were not informed of relevant data and information until six months after the fact

We intend to work with National Highways to ensure that we have a clear shared understanding of the company's duties under this Condition moving forwards. This will include implementing the recommendations of the Rebel Group consultancy work we recently completed with the company's co-operation to ensure that it has robust processes in place to comply in future

There is evidence that NH is only partially implementing its Asset Management Strategy and Policy in line with Condition 5.10 of its Licence.

We will continue to closely monitor the company's activities and expect to see clear improvements and evidence of how it is compliant with its asset management policy and strategy implementation, as required under the Condition, and effectively balancing competing asset management priorities under the Licence and the RIS.

The issues of delays to the CPM reporting were discussed through the work of the joint National Highways & ORR Transparency and Provision of Information and Data (TPID) Working Group in 2023. Where possible, we have brought forward reporting and shared 'drafts' reports etc.

Many of the meetings referenced are internally focussed and address risks to the projects that may or may not result in potential missed commitments.

#### **Action (Regulatory Framework)**

- We would be happy to work with ORR to consider whether the existing Early Warning mechanisms for enhancement commitments are providing the correct and proportionate visibility of potential risks.

The recommendations from the Rebel Group work on Licence Self Assurance are helpful.

#### **Action (Regulatory Framework)**

- We will work with ORR on how these are taken forward – as well as on the planned Licence review this financial year.

We would like to understand why ORR feels that we are only partially implementing our Asset Management Strategy and Policy. We have gained ISO55001 accreditation (Findings Summary) and will work with the ORR to address its concerns.

We do not see our certification with the ISO 55001 standard as meeting all of the relevant Licence requirements in totality. However, it is helpful in demonstrating that we meet the requirements of the Licence Condition 5.11 and that we are clearly well on our way to implementing a good asset management system and we are continuing to improve it.

In the Investigation interview, we flagged we see the attainment on ISO55001 as a valuable, clear and independent benchmark of our Asset Management capability upon which we will continue to develop and build. It also should improve the visibility of plan balancing (an early version of that was provided in RIS3 business plan)



## Summary of Investigation Findings - Understanding of Delivery and Performance

### ORR Point

### Comments/ NH Response

#### Asset Management Renewals

National Highways relies on its 3D governance and change control processes. Key limitations include: an apparent absence of ongoing checks around whether benefits are delivered; benefits not being quantified; and ad hoc levels of engineering engagement during delivery.

At the end of a project there are discussions between the project and asset teams to discuss whether the work has delivered the benefits expected.

However, the company struggled to evidence that monitoring planned benefits occurred during earlier stages of the project, therefore not giving it assurance that the intended benefits are those delivered at completion.

The change control process appears to only be initiated by changes to cost and programme and not changes to asset need, or outcome/benefits.

The 3D process, in conjunction with the Capital Delivery Management Tool (CDMT), provides an effective approach to managing scheme delivery across Operations. NH has made positive steps on the journey to embedding 3D in Operations. The first step was to embed consistent use of the process across all regions. With the support of key stakeholders, we will continue to identify opportunities to refine the process, continually improving its use for scheme delivery.

Following a recent Operations-wide review of 3D, updates and refinements have been made to the process within our Quality Management System.

As part of this exercise, the 3D process has been updated to ensure a more effective application of our benefits management process throughout the scheme lifecycle from stage 1 (options assessment) through to stage 6 (scheme closeout). We are working closely with the regions to embed the updated 3D process across Operations.

#### Asset Management Strategy

There appeared to be a lack of clarity as to how far the achievement of ISO55001 accreditation, required under Condition 5.11 of National Highways' Licence, represents compliance with the other asset management conditions, for example.

The company told us that gaining ISO55001 accreditation demonstrates that the company is taking a long-term approach to asset management.

We see our accreditation with the ISO 55001 standard as significant in meeting the Licence requirements, ISO55001 is a good, clear and independent benchmark of our Asset Management capability, covering process, strategy and organisation. It is consistent with demonstrating we meet Licence Condition 5.11 and forms the basis upon which we will continue to develop and build.

Whilst this covers process and strategy and organisation, we do agree that other Licence clauses (like 5.9) have to be supported by other information e.g. systems

But it was not clearly elucidated how this supported and complimented what was in the company's asset management strategy and policy, or how ISO55001 accreditation would support its strategy and policy implementation.

It is important that work to achieve ISO55001 is not seen by the company as a stand-in for complying with other Licence Conditions. This could lead to activity on the ground not necessarily being aligned with helping the company to achieve its legal obligations to implement its asset management policy and strategy.

### **Asset Management Strategy**

National Highways has good evidence of how individual actions have been delivered. However, these actions generally stop with the production of an output, such as the asset class handbooks. The company struggles to demonstrate how these *outputs* are being implemented to deliver the *outcomes* expected.

For example, in the case of the asset class handbooks, there is little evidence to demonstrate how these are being used on the ground and the benefits and improvements to the network that are being realised by their implementation.

Evidence provided in both the Pavement KPI, and the Asset Management Renewals Planning Delivery Outcomes Case Studies demonstrated how AM Strategy and Plan tools such as the ACSs and ACHs are used operationally and also the roles of the 'Tier' working groups.

As part of the post interview evidence submitted, we provided details of the ACS for Vehicle Restraint Systems (VRS) Implementation Plan which included how Operations are using these 'on the ground'. Additionally, we provided details of how feedback is gathered from Operations to explore the effectiveness, reach of the published handbooks and to gather feedback and ideas for the future development of the ACHs and ACSs.

A collaborative Operations/SES approach is being taken to ensure a clear line of sight between our Asset Management Strategy and scheme delivery. A practical example of this is the link established between our Quality Management System and the ACHs, whereby the processes followed by Operations directly reference the guidance within the applicable ACH.

We would also note that an important benefit of the asset management suite of documents was not necessarily to introduce completely new processes, but to improve consistency and efficiency across the regions. We continue to understand best practice and will capture in the common approach in the ACHs and ACSs.

## Average Delay KPI

National Highways has developed its 'Managing Delay on the SRN' plan with the aim to manage delay on the network. It has clear actions and themes that in theory may help minimise delay.

The company's approach that the KPI is an ambition rather than a target also means that it is viewed differently internally compared to targeted performance metrics.

There are significant limitations in the development and implementation of the company's plan as it does not include the quantified benefits of intervention. It therefore is not possible to tell whether the actions that the company is implementing are good value for money and/or effective in reducing delay on the network.

Similarly, while there is evidence of the company taking corrective actions it has not been able to produce evidence to demonstrate that it is taking the "right" corrective actions at the right cost

It is true that our approach to the Average Delay KPI is different, due to the fact it was set as an ambition at the beginning of RIS 2. As set out above there are a number of factors outside of National Highways' control that lead to delay. This situation resulted in it being defined in the RIS as an ambition. The focus has always on doing everything we can to mitigate delay.

When Average Delay was discussed in the setting of RIS2, it was recognised that in the round, when you take the three KPIs together (Average Delay, Incidence Clearance and Roadworks Network Impact) they capture our performance together to do all we can to provide road users with fast and reliable journeys.

As has been stated in Routine and Enhanced Monitoring, it is difficult to provide a quantitative assessment on the individual actions/levers to improve delay.

For many of the actions/improvements it is almost impossible to establish their impacts in isolation and/or to quantify this accurately and consistently.

For some items we may be able to build a "sensible" assumption set, but for most, due to their nature, we would not be able to legitimately say what the impacts may or may not be in isolation.

Nonetheless, we have undertaken quantitative actions to determine where we can have most impact, e.g. through the Delay Action Plan, and our work to address the most delayed routes.

## Missed Commitments.

National Highways told us that a management plan was in place for major projects, developed for the first time in 2023-24. At the time of the investigation, the plan for 2024-25 was still being finalised and so would not be ready for the start of the reporting year.

The company told us that the plan set out the planned improvements and actions for the year – developed both top-down and bottom-up based on its experience of the whole enhancements portfolio (not just missed commitments).

National Highways takes its schedule commitments seriously and are focussed on ensuring we achieve them.

In our written submission, interview and evidence follow-ups, there are a range of initiatives in progress to adjust our methods and approach to minimise this potential of missed commitments in the future. These are based on key lessons learned from delivering the Enhancements portfolio (not only from missed commitments).

We have now finalised our 2024-25 Major Projects (MP) Management Plan and at the time of writing, it is with our internal communications team ready to be issued to all MP staff.

On review, the example plan provided was a list showing what the company had to do in the year, but it was unclear as to how it would achieve the objective for which it was intended. It is a good example of where the company has identified a gap and improved the approach to try and bring together all the plans for the year. However, the contents of the plan were limited. In addition, the impression given in the interview was that commitments are only missed by a few months and as such is it not a significant issue.

The company has identified the need to improve its lessons learnt approach, but this was only implemented from 1 April 2024.

The company has missed open for traffic commitments on eleven schemes in this road period. It has a statutory duty to deliver what it has promised and the delay to learning lessons and implementing change indicates that its prior approach was not wholly effective and should have been re-evaluated sooner. The new plan is an example of the company aiming to implement a new plan or innovation – which is welcome – but the change itself does not appear to deliver on the strategic intent as described.

### **Pavement Condition KPI**

NH has an established model to forecast deterioration of the road surface and identify what the KPI need is, called PIT (pavement investment tool). However, the company does not use this to determine its renewals programme. The company instead uses plans developed by its regions that we are told are in line with the asset management policy.

The regional plans are not initially checked to determine if they will achieve the KPI. Instead, the company reacts to poor KPI performance once surveys have been uploaded to its asset management system at Q2 each year and alters its regional delivery plans and therefore its renewals programme.

It will also be communicated to MP leaders on 6<sup>th</sup> June via a leadership community event, and then to all MP colleagues later in June. This plan will be shared with ORR as part of Routine Monitoring.

It is right to say that we have implemented improvements to our lessons learnt process from 1 April 2024, but a lessons learned process already existed because we recognise the importance of learning lessons. This is not the end of the journey for us; we are committed to continually improving to ensure that we learn lessons and make systemic improvements to our approach to mitigate against missed commitments (or other issues) being repeated. We welcome the opportunity to explore this further with ORR through Routine Monitoring.

We do feel that the perception of missing a target by a few months as not a significant issue is not a fair representation of the interview. Some schemes are delivered early and whilst projects are planned to hit their deadlines, we do need to recognise there are always factors that can cause delays that cannot always be mitigated.

We disagree with the statement that we do not use PIT in determining our renewals programme. This programme is built using PIT in conjunction with other insightful asset information/data - such as that provided in the Pavement Prioritisation Tool (as demonstrated in the Northwest Regional interview).

A collaborative, cross-directorate approach is undertaken between Operations and SES to ensure the Pavement Renewals Programme aims to achieve the Pavement Condition KPI.

Please see page 7 of the Pavement Condition KPI Performance Plan, which sets out how each directorate works in coordination to gather pavement condition data and plan interventions to meet the KPI target.

During our interviews with the company, it provided evidence that it made a conscious decision not to focus on achieving the KPI. The company continues to choose to develop its annual pavement renewals programme not to target achieving the KPI. It uses a reactive approach to correct, but it has been unable to evidence that this is an effective use of funding or the impacts on users. In addition, the company has not proposed any changes to its KPI methodology or updated its asset management policy to align with the KPI commitment within the RIS. Both actions are within its control.

As previously advised to ORR in NH's response to ORR's Pavement Condition KPI letter on 22 March - no decision was made 'not to focus on achieving the KPI'.

## Summary of Investigation Findings – Organisational Issues and Capacity

ORR Point	Comments/ NH Response
<p><b>Asset Management Renewals</b></p> <p>National Highways demonstrated good decision-making evidence using its 3D governance process. However, forums such as the monthly operations performance review, where issues are discussed and resolved regionally including (but not limited to) KPIs, performance indicators (PIs) and programmes undertaken have no terms of reference. The evidence and reasoning upon which a decision was made at these reviews was limited and/or absent and therefore the basis of decision unclear or unknown.</p>	<p>Regional Programme Reviews (RPR) provide a collaborative forum within which each region's performance (both year to date and the upcoming year) is reviewed and discussed between the Regional Director, Regional Leadership Team, Planning &amp; Performance Director and a CDMT expert. The RPR also provide an important opportunity to review how regional performance impacts and contributes to the wider KPI and PI performance at a national level - landing key messages within all regions consistently.</p> <p>The RPRs have been a success since their introduction in mid-RP2, and now serve an important purpose in homing in on each region's planning and performance. However, we recognise that there are further opportunities to develop the RPRs - for example, formalising their use through Terms of Reference and a formal governance process.</p>
<p><b>Average Delay KPI</b></p> <p>National Highways collects large amounts of data relating to traffic flows and delays on its network. It has also set out an extensive list of actions it is taking to mitigate delays on the network in RP2.</p>	<p>We collate a great deal of information about delay through the implementation and delivery of various research projects. This includes analysis on the complex nature of delay, often through various lenses, such as speed limited vehicles e.g. HGVs and delays on A-Roads.</p> <p>We also carry out activities to manage the causes of delay on the network, that are within our control such as Faster Safe Speeds through Roadworks.</p>



However, it is unable to bring these two elements together to evidence the impact of its interventions on KPI performance, and therefore spending, in an effective and efficient manner.

As highlighted in previous answers, it is not always possible to demonstrate a direct causal link between our activities and the KPI. This is because there are many external factors outside our control that affect traffic volumes and delay that will mask these impacts on KPI performance.

### **Pavement Condition KPI**

There are different teams within National Highways that are integral to pavement condition performance. Safety, engineering, and standards (SES) set the standards and report on the KPI; the National Programme Office (NPO) oversees the national performance and reports both up to the company's Board and to regional leads. There is evidence of misalignment between the objectives of each group that does not allow for efficient programme development and prioritisation to meet all commitments.

We believe there are benefits from separation of the analysis of pavement condition and prioritisation against the KPI with the delivery of the renewals programme. It prevents a 'poacher and gamekeeper' model with SES setting standards to be delivered against, and Operations as the main delivery arm.

The two teams do work closely together as demonstrated in our Pavement Letter to ORR on 22 March.

We do think it is important to recognise that the Pavement KPI is only part of what Operations deliver on Pavement (<10% of pavement renewals affects the KPI). To date we do not have a KPI metric for Pavement that could cover all the Pavement needs, or reflect issues like lane availability, in one single KPI. This means there is, and likely always will be, a balancing act on needs. Our challenge is to hit the KPI and all the other needs.

## **Summary of Investigation Findings – Data, Information and Transparency**

### **Asset Management Renewals:**

National Highways captures lessons learnt data on its CDMT (capital delivery management tool). However, we have seen no evidence that the company is systemically using or disseminating these lessons. The company has told us about 'meaningful discussions' but was unable to evidence them

Regional Programme Reviews (RPRs) provide an important forum to review and discuss plans and performance with Regional Directors, Regional Leadership Teams and the Planning & Performance Director.

In attendance at these meetings is the Operations CDMT expert, who is able to provide guidance and support to regional teams in the use of the tool.

The Operational Excellence Programme continues to review the use of CDMT within Operations, identifying areas of further improvement and development on an ongoing basis through engagement with Operations regions.



### Average Delay KPI

National Highways was unable to interrogate delay data to understand the local issues affecting delay compared to before the Covid-19 pandemic, and only began analysing delay data in sufficient detail following ORR challenge.

The company has struggled to understand the causes of delay increasing significantly above pre-pandemic levels, even though overall traffic levels remain slightly below pre-pandemic levels.

Since the beginning of the Road Period, we have developed a research programme looking into the complex causes of delay through various lenses, to address the various hypotheses around the composition of traffic flows and traffic levels. It is incorrect to suggest we only began analysing delay data following ORR challenge.

During the Covid-19 pandemic, we developed and provided a Delay and Traffic Tracker which compared flows and delay to the pre-pandemic period.

We have developed a programme of research based on this data to better understand the impacts of the Covid-19 on the Delay KPI.

Details of this programme and the initial outputs from them have been shared with ORR through our Enhanced Monitoring monthly meetings.

Our work to date shows the cause and effect of delay is very complex and the Investigation is right to flag the challenge on it.

### Designated Funds

Only financial information is collated centrally. The central designated funds function is mostly financial and holds little data or information beyond this, limiting its effectiveness to be a 'guiding mind' for the programme, identify patterns, learn lessons, and disseminate accordingly to realise the benefits for which the funds were intended.

In the recent ORR Review of Benefits Management Maturity, carried out by Costain, the role of Central Designated Funds (DF) Team was clearly set out as being *'the owners of the fund, but do not deliver the work directly; instead, delivery teams from across National Highways develop proposals, which are then reviewed for fit with the aims of the Designated Funds and approved for funding.'*

In addition, evidence was provided (in response to DF19) on Monitoring and Benefits Evaluation Plan.

We recognise some of these challenges, hence the proposals in the draft Strategic Business Plan (dSBP) to build on the role of the central DF team in RIS3 to provide a centralised strategic mind approach covering the lifecycle of the schemes. consolidation the lessons learnt and using these to improve.

Benefits may not be realised within Road Periods, and due to that we already have an evaluation planned to look back at RIS2 in 2025

### **Missed Commitments.**

National Highways has a robust reporting structure to check delivery of major projects. Monthly performance meetings are held at every level in the major project structure that feed up into quarterly capital portfolio management (CPM) meetings (attended by ORR). However, ORR was unaware of the scale of this (acknowledged by the company in the interview). Engagement with ORR between CPM meetings is absent and relies on change control meetings. Therefore, information is not being shared in a sufficiently timely way to allow ORR to hold to account using close most effectively to live data and information and so act in a timely way.

### **Asset Management Strategy**

National Highways acknowledges data deficiency in this area. One of the six charters within its asset management development plan is to improve the quality of its data.

This work is ongoing, but we are unclear how it will resolve this. Deficient data has the potential to limit the company's ability to make consistently evidence-based decisions and assess the benefits its investment generates across all asset types.

We have seen evidence that data quality varies between asset classes for renewals and the need for improvement, for example on the drainage asset and on-road technology.

In the interview, and in the evidence pack, we set out the performance monitoring regime in place. On a monthly basis, performance monitoring takes place at every level. From scheme level performance meetings, through to regional portfolio meetings, culminating in national level meetings that feed the CPM reports that ORR sees quarterly.

This upward reporting allows NH to see issues arising early and identify common themes and system issues. Outputs from these meetings help feed into the CPM report provided quarterly as part of Routine Monitoring.

We believe that the current framework of the monthly Change Control meeting with ORR and DfT along with the early warning mechanism and the quarterly CPM reporting should be sufficient to provide ORR with the data and information required to monitor in a proportionate manner

#### **Action (framework)**

- We would be happy to work with ORR to consider whether this existing framework for enhancement commitments are providing the correct and proportionate visibility of potential risks for year 5 and going into RIS3

We agree that our asset management data is an area which we can improve. We have already shared with ORR the variations in the maturity of data by different asset classes. We have plans in place to improve systems and data, both in the short and long term. We will continue to work with ORR on this and look forward to working on the proposed jointly funded Asset Data Consultancy Project for this year.

#### **Action (data)**

- In the proposed RIS3 capital specification we have included specific output on drainage and data. We think there is a similar discussion on the information on on-road technology which is a highly complex asset base.

## Annex B - KPI Performance - Actions and Externalities

Metric	ORR Concern	Our Action/Areas Outside of NH Control
<b>Safety KPI</b>	Concern that the decrease in KSI of at least 50% by the end of 2025 against the 2005-09 average baseline will not be met	<p>We shared our updated detailed plan with ORR on 28 March.</p> <p>We will continue to meet with ORR on a monthly basis to understand progress.</p> <p>As noted in our detailed plan, we are taking a leadership role in facilitating additional activities beyond our control, working closely with delivery partners such as the National Police &amp; Fire Chiefs' Councils and Driver and Vehicle Standards Agency, along with emergency recovery services and road safety charities.</p>
<b>Average Delay KPI</b>	<p>NH has an ambition for average delay to be no worse at the end of RP2 compared to the end of RP1.</p> <p>ORR want NH to demonstrate that it is doing everything reasonably practicable to minimise delay on the network.</p>	<p>We will continue to meet with ORR on a monthly basis to understand progress.</p> <p>We are also working with ORR and DfT to replace this with a more appropriate Journey Time Reliability metric for RIS3 in recognition that there are challenges linking this metric to company actions.</p> <p>We will continue to provide ORR with examples of where we have used the outputs of our analysis and research to inform and change the actions, we are taking on the network to mitigate delays.</p>
<b>Corporate Carbon KPI</b>	Concern we will not meet our end of RIS2 target.	<p>We have shared our current plans and set out the areas that are limiting delivery.</p> <p>We will take ORR through the remainder of our plans and providing further information and evidence on the 'headwinds' are restricting NH's ability to meet its target and quantify the impacts of these.</p>
<b>Roadworks Information Timeliness and Accuracy KPI</b>	Concern that the current target will not be delivered	<p>We have shared our action plan and providing monthly performance updates and insights into the actions we are taking to meet the revised target of 75%.</p>
<b>Efficiency KPI</b>	Concern that the total £ of efficiency will not be met	<p>Our current forecasts indicate the efficiency total will be met, and this has been supported by the work of Rebel Consultancy which looked at the cases for headwind adjustments. This report was finalised at the end of March 2024 and has provided ORR with some greater assurance over the NH approach to headwinds.</p>

**Pavement KPI  
(24/25)**

ORR has not yet seen the 2024-25 programme that enables target level performance

The 2023/24 target was met. We will share the 24/25 plan by early summer when completed.