



Draft impact assessment for CP6 outputs framework and scorecards

September 2017

This impact assessment reviews our proposed policy approach to the outputs framework for PR18, which materially differs from our approach in PR13. The impact assessment contains a 'do nothing' approach, and one further option which we assess against the 'do nothing' option.

As proposed in our July 2016 working paper 4, the assessment of the outputs framework for CP6 has been made against the following criteria:

- a) supports the delivery by Network Rail of outcomes for passengers and freight customers (consistent with the PR18 priorities);
- b) facilitates greater involvement by customers and local funders, and the move towards route-level regulation; and
- c) provides greater focus on the performance of the national system operator.

Further background can be found in the annex to this document.

Policy	Outputs Framework policy
Background	<p>ORR’s role and purpose in setting an ‘outputs framework’ is not formally established in the Railways Act, nor in any other formal document. Setting an outputs framework enables us to regulate effectively and to be clear with Network Rail where we might step in to take action.</p> <p>In PR13 we set an outputs framework consisting of outputs, indicators and enablers but we have identified weaknesses with this approach.</p> <p>In CP5, Network Rail has deepened its route devolution, separated the system operator out as a business unit and introduced scorecards to manage its business and allow it to become more closely aligned with its customers.</p>
Which of the PR18 outcomes does this deliver against?	<p>The outputs framework for CP6 should support delivery of each of the PR18 outcomes, and in particular delivery of a network that is ‘reliable’, ‘better used’ and ‘available’.</p>
<p>The problem under consideration:</p> <p>The CP5 outputs framework has weaknesses, which are that:</p> <ul style="list-style-type: none"> • It is seen to encourage Network Rail to focus on the regulator at the expense of its customers and funders, and end users • This approach relies on there being reasonably accurate forecasts for the targets used, with end of control period targets being set 7 years in advance • Network Rail’s status as an arms-length government body has reduced the effectiveness of using penalties for a breach of licence <p>There are other important changes in context, including the devolution of greater levels of decision-making to each of Network Rail’s routes and the creation of a more distinct system operator. Our outputs framework policy should also support and reflect our PR18 focus on route level regulation and improved regulation of the system operator.</p>	
<p>What is the scale of the issue and who is impacted?</p> <p>The outputs framework approach impacts Network Rail and ORR because it is about what and how ORR holds Network Rail to account during a control period, and therefore the relationship between these organisations.</p> <p>However, it also has significant impacts on:</p>	

- Funders, because they will wish to see that their High Level Output Statements are effectively secured by the regulator in return for the funding they provide;
- Network Rail’s customers, because the framework will impact on Network Rail’s priorities, which will impact on the service they receive from Network Rail
- End users of the rail network, because the effectiveness of Network Rail (combined with the effectiveness of operators) impacts the experience that end users have of using the network

To a lesser degree it also affects Network Rail’s wider stakeholders, again because this affects Network Rail’s priorities and effectiveness.

Options considered:

<p>Option 0: Do nothing (i.e. continuation of the approach in CP5)</p>	<p>We would set outputs, indicators and enablers as we did in PR13.</p> <p>Outputs in particular would be set as ‘challenging but realistic’ targets at the periodic review, relying on analysis and projects 7 years in advance of the final year of CP6.</p> <p>We would specify in the final determination further additional indicators and enablers similarly based on analysis undertaken as part of the periodic review.</p>
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<p>Option 1: Use scorecards but also set outputs outside of scorecards where appropriate</p>	<p>To support regulation of the system operator (SO) we would:</p> <ul style="list-style-type: none"> • Place reliance on Network Rail’s creation of a balanced SO scorecard • Require Network Rail to create a balanced SO scorecard and to include specific measures on its system operator scorecard throughout the control period • Make qualitative requirements of the system operator, which would not be included on the scorecard. <p>To support regulation of Network Rail’s geographic route scorecards we would:</p> <ul style="list-style-type: none"> • Require Network Rail to create balanced route scorecards • Require Network Rail to include a small number of measures to both support the creation of balanced scorecards, and to transparently support the comparison
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and encourage competition between routes and throughout the control period

- Set ‘performance floors’ in relation to two areas (network sustainability and route performance – passenger and freight performance)

To recognise the role of the FNPO we may also require certain measures are included on that scorecard.

We will also look to place reliance on:

- Network Rail agreeing realistic but challenging scorecard targets with its customers to reflect their businesses both as part of PR18 and for each year of CP6 through appropriate stakeholder engagement
- Network Rail determining which scorecard measures are linked to its management incentive plans

Our monitoring and enforcement policy for CP6 would reflect the ways we could use scorecards to hold Network Rail to account including that:

- In our routine publications we will rely on assessing Network Rail’s performance against the PR18 baselines
- We will continue to receive monitoring information

We would not expect to make requirements for the scorecards of other parts of Network Rail, unless this were deemed necessary to address material issues following assessment of the SBP.

Option 2:
Set no target based requirements

Under this approach ORR would make various requirements of Network Rail and rely purely on the licence.

Assessment of options

(options assessed relative to do nothing)

Option 1: Use scorecards but

This option meets each of the criteria a), b) and c):

also set outputs outside of scorecards where appropriate

- Supports continuing closer alignment between Network Rail and its customers through use of route and customer scorecards, and the SO scorecard (addressing the potential for Network Rail to act as if ORR is its customer).
- Creates a more flexible approach than CP5 which recognises that franchise targets may not be achievable within the funding available for CP6, and/or that circumstances might change that make them either unachievable or not stretching in nature.
- Supports a framework which enables appropriate management targets to be agreed and amended over time
- Supports the potential of scorecards to 'ratchet up' Network Rail's performance through use of management incentives rather than setting targets based on uncertain long range forecasts. This also provides flexibility to manage significant events such as large enhancements projects during CP6
- This approach is consistent with the greater role that reputation will likely play over CP6. This will be supported through the use of comparisons of route progress against a common set of measures, and against each of the route scorecards
- Protects against worsening of performance in key areas by underpinning the approach with performance floors, while providing an opportunity for routes and customers to resolve day-to-day performance issues.
- Enables continued regulatory monitoring and focus on areas which cannot be reflected on scorecards but which are important for achieving the PR18 outcomes

Potential disbenefits would be:

- There is potentially less clarity at the start of the control period as to what will be delivered by Network Rail (as some of this detail would be agreed or amended during the control period); and
- Operators may feel uncomfortable (or unable to) agree management targets with Network Rail which do not reflect their franchise targets.

<p>Option 2:</p> <p>Set no target based requirements</p>	<p>This option would not meet the criteria because:</p> <ul style="list-style-type: none">• It would fail to provide a clear underpinning of performance targets to protect passengers and freight end users, as it would not involve setting any expectations about performance at the start of the control period. This would make it harder to monitor Network Rail's performance and to understand how changing circumstances might affect what can reasonably be delivered.• It would not actively support route regulation and regulation of the system operator, as it risks encouraging Network Rail to focus on ORR's monitoring and compliance with the licence (rather than focusing on its customers, as a way of meeting its licence obligations).
<p>Recommendation</p>	<ul style="list-style-type: none">• Option 1 should be taken as representing the best option to reflect Network Rail's status, current performance levels

Annex – background

1. Further information and background on our policy approach can be found in the following publications:
 - [Initial PR18 consultation and conclusions](#) – May 2016
 - [Working Paper 4 – Outputs Framework](#) – July 2016
 - [Update on outputs Framework – next steps following Working Paper 4](#) – June 2017
 - [The overall framework for regulating Network Rail](#) – July 2017
 - [Route requirements and scorecards](#) – July 2017
2. In our working paper 4, we said that the outputs framework can play an important role in supporting delivery against a range of the PR18 outcomes (see below). We said that the outputs framework would particularly support delivery of a network that is ‘reliable’, ‘better used’ and ‘available’ and as such we would focus on:
 - improving the measurement of the performance delivered to passengers, so that it reflects more closely the impact of Network Rail’s delivery on outcomes for passengers (which goes to ‘an available and reliable network’);
 - setting outputs at a route level, including changes to reflect Network Rail’s closer engagement with train operators and its stakeholders (which goes to ‘a more efficient network’); and
 - developing better output measures for the national system operator (which goes to ‘a better used network’).
3. We proposed that changes to the regulated outputs framework should be assessed against the following criteria:
 - supports the delivery by Network Rail of outcomes for passengers and freight customers (consistent with the PR18 priorities);
 - facilitates greater involvement by customers and local funders, and the move towards route-level regulation; and
 - provides greater focus on the performance of the national system operator.
4. In doing so, we would need to ensure that the overall framework:

- is affordable within the constraints provided by funders;
- supports transparency and provides confidence to passengers, freight customers and funders that their interests are being delivered;
- complements the wider incentive framework (e.g. the possessions and performance regime, and Network Rail’s overall financial and reputational incentives); and
- supports effective monitoring and enforcement, including by reflecting the principles of clarity, confidence and responsibility (as set out in figure 1.2).

5. We also said that we would be considering opportunities for simplification and ways to limit complexity.

6. Our PR18 outcomes are:

PR18 outcome	Description
MORE EFFICIENT	Taking cost – effective decisions on operating, maintaining and renewing the network.
BETTER USED	Finding ways of improving performance and accommodating more services on the current network.
EXPANDED EFFECTIVELY	Informing decisions on enhancements and delivering agreed projects in a safe, timely and cost-effective way.
SAFER	Maintaining, and finding ways to improve, safety standards on the current network and as it is enhanced.
AVAILABLE	Taking effective decisions around possessions, mitigating the overall impact of these on end users.
RELIABLE	Taking effective decisions to limit delays and cancellations, and their impact on end users.