

Carl Hetherington
Deputy Director, RME



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

19 December 2019

Dear Becky

Following on from ORR's Opinion on Network Rail's "Putting Passengers First" (PPF) programme, which we issued on 24 May 2019 (our Opinion) and subsequent updates in June and July 2019, this letter updates our position regarding Phase 2 of the PPF programme, and highlights a number of outstanding issues.

We appreciate the time and effort Network Rail has taken to engage with us, and note that overall the implementation of the programme appears to be going well. However, as we set out below there are some areas (such as stakeholder engagement and scorecards) where we consider that improvements can be made.

PPF Phase 2

We are pleased to note that the new regional structure is now operational with key roles filled. Network Rail continued to engage with us in a helpful and positive way and provided us with detailed information in the lead up to Phase 2 going live on 11 November 2019. This included detailed discussions on the changes to Infrastructure Projects (IP) teams and a change in accountabilities between the System Operator (SO) and the regions. We look forward to continuing this productive engagement throughout the remainder of the project.

Overall, the implementation of Phase 2 seems to have gone smoothly with the transfer of accountabilities not causing significant issues. We understand that during recent months, Network Rail adjusted its planned implementation timeline (for example, the dates the new routes came into being) to help ensure that the changes did not cause unnecessary disruption. We welcome this approach.

We previously set out our expectation that the implementation of the programme should not have a negative effect on Network Rail's delivery of the first and second years of control period 6 (CP6). This includes frontline delivery, but also some more strategic work (e.g. achieving transparency on scorecards). We note that there has been an impact on the period 8 re-forecast (RF8) business planning. For example, the provision of narrative with the plans.

Devolution of long-term planning to Scotland

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

- determining the capability requirements of the rail system in the longer term based on funder objectives and desired outcomes; and
- bringing together the long-term strategy for the development of the network and the medium-term investment priorities and understanding the impact of the investments on demand and the economics of the railway, as part of a Strategic Business Case/Strategic Outline Business Case.

As stated in our July 2019 letter, we are mindful that the licence contains specific obligations regarding the SO business unit, particularly with regard to the SO taking primary responsibility for establishing and maintaining long-term plans for the whole network (in doing this it may be assisted by the routes/regions). At the time of our last update, Network Rail confirmed that it was putting in place internal processes (including the creation of a new Network Integration Board (NIB) for Scotland chaired by the SO), to enable the SO to continue to meet the licence requirements.

Network Rail has continued to engage with us on this issue and we have been invited to observe the NIB meetings.

As this change (and associated measures) will soon have been in place for six months, we think it is an appropriate opportunity for Independent Reporters to review the change as part of our assurance process. We expect this work to take place early in the new year and we will publish our conclusions in spring 2020.

Stakeholder engagement

When we published our Opinion, we asked stakeholders for feedback on how well Network Rail engaged with them on this programme. We noted in our June 2019 update, that the level and quality of engagement on PPF reported by stakeholders was mixed, with some providing positive feedback whilst others reported a lack of engagement or felt that Network Rail's consultation appeared to be a 'tick-box exercise'. However, we are mindful that some of the concerns raised may reflect the uncertainty that change inevitably brings and may naturally be resolved as the programme is implemented.

Over the autumn, we have followed up on the points raised by stakeholders. This included views on the quality of Network Rail's stakeholder engagement and in some cases the need for improved transparency. These discussions indicate that although Network Rail's engagement has improved in some areas, with more regular progress updates, there has still been considerable variation in the level of engagement by region and function. There remains scope for all regions - and Network Rail's central functions - to be more proactive in consulting stakeholders about proposed changes due to PPF (subject to confidentiality considerations), and communicating the outcome of these processes in a timely and transparent manner.

We will continue to engage with stakeholders and take account of their views and urge Network Rail to continue to build on the progress made so far. We understand that Network Rail will shortly be conducting another 'listening exercise' with its stakeholders, which we welcome.

Scorecards

In 19 June 2019, we wrote to Network Rail setting out the regional baselines and floors. In that letter, we restated our 2018 periodic review (PR18) final determination decision to make use of Network Rail's scorecards in ORR's monitoring and reporting, if they met our requirements. We highlighted continued concerns about the lack of transparency around scorecards. We also said we would consider the way in which scorecards were being used and adapt our approach to holding Network Rail to account if necessary.

We have been working with Network Rail to understand its new regional and route level scorecards (created as a result of the PPF changes). We welcome the work that Network Rail has done to improve the way that regional scorecard information is presented and its associated streamlining of its data processes internally (both of which should limit the number of errors we are seeing). We also welcome its production of a guidance document to help stakeholders understand what scorecards are actually showing.

However, we still have concerns about the extent of quality assurance, and how effectively the needs of external stakeholders are being captured in the scorecards. Further improvements in these areas, should allow stakeholders to be able to meaningfully interpret scorecard data. We consider that the improvements being made to regional scorecards could be rolled out to route-level scorecards, which Network Rail's train operator customers will also see.

We note that Network Rail is now reviewing the structure and format of scorecards for Year 2 of CP6 and has started to engage with us on this. If we continue to use scorecards as one aspect of how ORR holds Network Rail to account, we will need to be assured that the process for setting them incorporates:

- consideration of measures that meet the needs of key stakeholders – driving collaboration and alignment between Network Rail and its customers where possible;
- targets that are sufficiently challenging – providing a consistent level of challenge across Network Rail (particularly the regions); and
- data that is accurate.

Safety

ORR's Railway Safety Division (RSD) has been working closely with Network Rail to scrutinise its management of change during the PPF programme. We began a formal inspection of the arrangements in November 2019 and will give immediate feedback should we find any areas for improvement.

A representative from RSD has been observing the operation of Network Rail's Safety Validation Panel. The process has been satisfactory so far. We have also been dealing with a number of concerns from Staff Safety Representatives and have noted improved engagement and more open communication from Network Rail in its more recent consultations with staff.

Network Rail is now entering the most significant phase of its planned changes from a safety perspective, as these present the most substantial challenge to maintaining effective levels of safety management. We will pay particular attention to the way in which some functions and accountabilities, currently within the Safety and Technical Engineering department (STE), are transferred to routes and regions, leaving the residual roles within the new Technical Authority. It is important to ensure that there is clarity of accountability and that roles are well understood. The scale of these changes is likely to trigger a requirement for Network Rail to submit a request for an amended Safety Authorisation under the ROGs legislation, which we would consider in due course.

Now that tranche 2 of PPF is complete, we will be scrutinising Network Rail's monitoring of the effectiveness of its implementation. In particular, Network Rail is required to demonstrate that there has been no adverse impact on safety management as a result of the devolution of IP Track and Signalling to the regions. This reorganisation has prompted a significant number of experienced staff from IP to retire or move elsewhere and ORR has voiced concerns at the possible effect of this loss.

Next steps

We look forward to continuing to work closely with Network Rail as it implements the remaining stages of its PPF programme.

Yours sincerely

A handwritten signature in black ink, reading "Carl Hetherington". The signature is written in a cursive style with a large initial 'C'.

Carl Hetherington