



PR23 draft determination:

Introduction

15 June 2023



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About this document

This document introduces our draft determination for the 2023 periodic review (PR23). In this document we:

- summarise the PR23 process;
- provide the background and wider context within which we are making our decisions;
- set out our approach to assessing and grading Network Rail's plans;
- explain the structure of our draft determination; and
- explain the next steps in the PR23 process.

1. Overview of PR23

1.1 In the following sections we introduce the:

- purpose of PR23;
- framework for PR23;
- statements of Funds Available and High-Level Output Specifications;
- draft determination; and
- final determination.

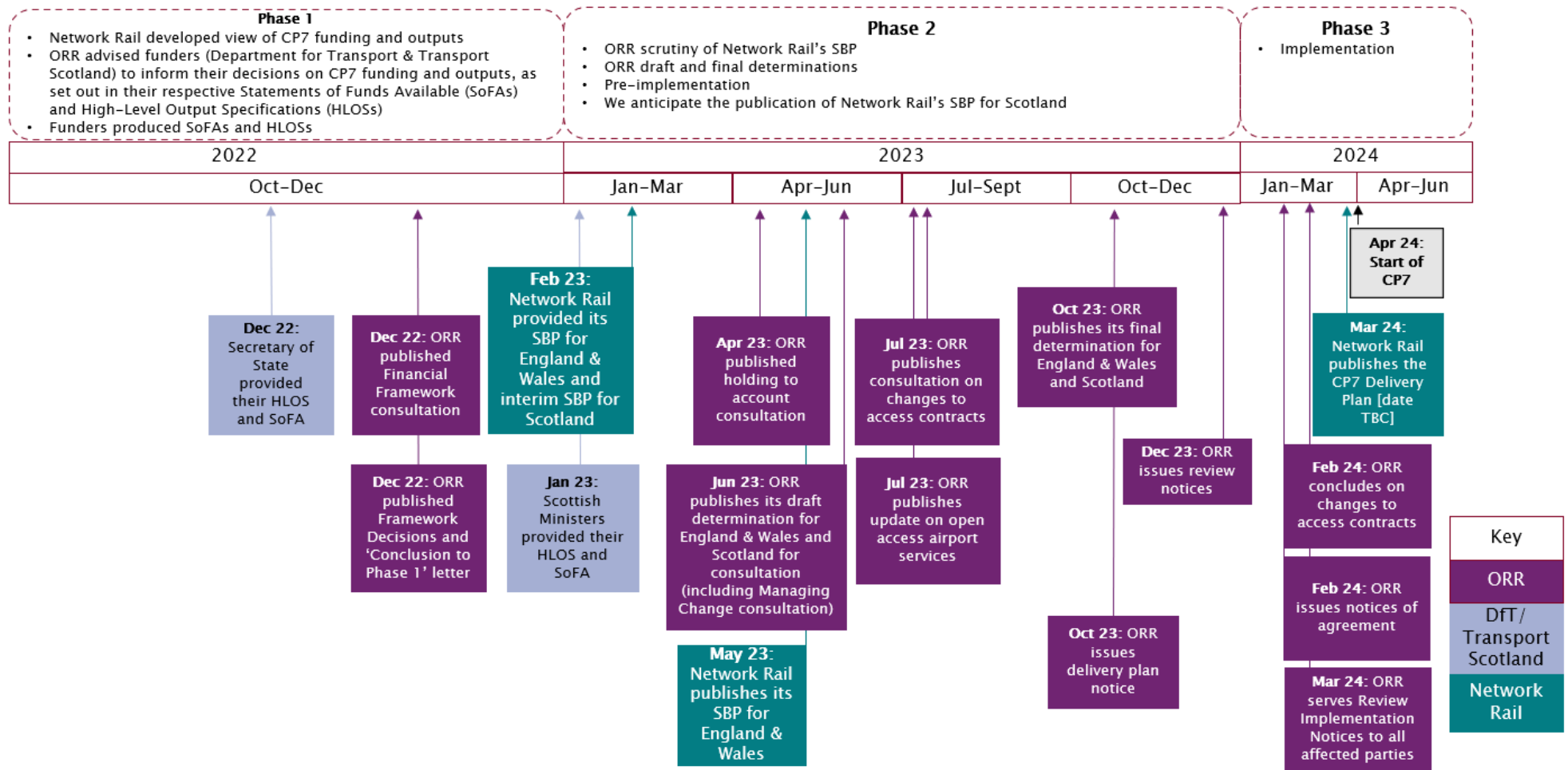
Purpose of PR23

1.2 Through the 2023 periodic review (PR23) we determine what the infrastructure manager for the national rail network, Network Rail, is expected to deliver with respect to its operation, support, maintenance and renewal (OSMR) of the network during control period 7 (CP7) and how the available funding should be best used to support this. This strongly influences:

- the service that passengers and freight customers receive and, together with taxpayers, ultimately pay for; and
- the charges that Network Rail's passenger, freight and charter train operator customers will pay to access its track and stations during CP7.

1.3 The key milestones for PR23 are shown in Figure 1.1 and are explained in the following sections.

Figure 1.1 PR23 milestones



Framework for PR23

- 1.4 We set out our approach to PR23 in an [open letter to stakeholders](#) in June 2021. Our approach builds on our current approach to regulating Network Rail, updated to reflect the current context. Our approach:
- sets an outcomes framework which encourages Network Rail to increase focus on what passengers and users care about;
 - reflects differences between England & Wales and Scotland where appropriate; and
 - identifies requirements for Network Rail as one organisation with one network licence, including settlements for Scotland, its regions in England & Wales and its System Operator.
- 1.5 Since launching PR23 we have provided advice to UK and Scottish governments (the funders) about Network Rail's funding requirements for its OSMR activity for CP7 and what it can deliver for that funding. This has drawn on our existing work to monitor and hold Network Rail to account, as well as our wider engagement with industry and specific work on key aspects of Network Rail's delivery.
- 1.6 Our PR23 programme has also considered our approach to regulating Network Rail during CP7. Specifically, we have consulted with stakeholders and largely concluded on the:
- [overall policy framework](#) we will use to hold Network Rail to account;
 - [outcomes framework](#) including the success measures that we will publicly use to hold Network Rail to account during CP7;
 - applicable access [charges and incentives regimes](#).
- 1.7 Our draft determination sets out the baseline trajectories for the success measures in the outcomes framework. Access charges and relevant incentive benchmarks and rates have been subject to recalibration. We expect Network Rail to publish a draft access charges price list shortly after our draft determination. This will include a full set of new prices for individual track access and station charges for year 1 of CP7.

Statements of Funds Available and High-Level Output specifications

- 1.8 Our advice informed the funders' respective Statements of Funds Available (SoFA) and High-Level Output Specifications (HLOS). Together these set the funding governments have made available for Network Rail's OSMR activities during CP7 and what, in return, it needs to deliver for this. Our original timetable for PR23 anticipated that the UK Government would publish their HLOSs and SoFAs in October 2022 and November 2022 respectively. However, these were delayed. The UK Government's HLOS and SoFA were published in December 2022 and the Scottish Ministers' HLOS was published in February 2023.
- 1.9 The funders' decisions have informed Network Rail's Strategic Business Plan (SBP) which sets out how it will use the available funding and what it intends to deliver over CP7.

Draft determination

- 1.10 Our draft determination is the product of our scrutiny of Network Rail's SBP and our consultations on how we will regulate it. The draft determination sets out our proposals for:
- what Network Rail is expected to deliver for its passenger and freight customers;
 - how its expenditure should be allocated; and
 - changes to our policies on access charges that operators incur to use the network and the incentives that encourage efficient management and use of the rail network.
- 1.11 Our draft determination also includes policy positions on the financial framework and managing change.
- 1.12 We are consulting with stakeholders on our draft determination and welcome views on or before 31 August 2023.

Final determination

- 1.13 We will consider stakeholders' responses to our draft determination before issuing our final determination in October 2023. This will set out what Network Rail is expected to achieve during the five years from 1 April 2024 to 31 March 2029 and

how its funding should be used. During this phase we will also review and approve Network Rail's charges, and benchmarks and rates that will apply in the incentive frameworks.

- 1.14 Following publication of our final determination, we will move to implement it. As part of this Network Rail will issue a Delivery Plan for CP7 that is consistent with our final determination. The Secretary of State signs off the final version of the Delivery Plan having considered the views of Scottish Ministers.
- 1.15 We also will publish review notices setting out the detailed changes that will be applied to access contracts, and benchmarks and rates that will apply in the incentive frameworks. Network Rail will then have an opportunity to decide whether to accept or reject the determination. If it accepts, PR23 will be implemented and CP7 will begin on 1 April 2024.

2. Background to our PR23 draft determination

- 2.1 PR23 is being conducted amid a complex and challenging context for the rail industry: the sector continues to recover from the pandemic against a backdrop of inflationary pressures, industrial action as well as declines in passenger and freight train performance. We also recognise that policy development around rail reform continues. We describe in section 4 on PR23 and Rail reform how we have considered the implications of potential reform in our policy development and decision making.
- 2.2 The sector must also meet the challenges of climate change by contributing to a low-emissions railway and planning for severe weather events. In recognition of this context, our approach to PR23 is designed to deliver a secure basis for Network Rail and its stakeholders to plan, invest and provide services. Consequently, our scrutiny of Network Rail's plans and our draft determination robustly consider the choices Network Rail has proposed to make in delivering on the objectives for PR23. Throughout our draft determination we have been transparent about the impact of decisions on outcomes for the railway during CP7 and in future control periods.
- 2.3 As set out when we launched PR23, we have maintained our focus on the following key objectives:
- **Safety:** the rail network must be maintained in a safe condition for all of its users, workers and the public;
 - **Performance:** the railway must be customer-focussed, making effective use of its capacity to deliver passenger and freight services that are punctual and reliable;
 - **Asset sustainability:** assets must be planned and managed to deliver their greatest value over the course of their operational lives;
 - **Efficiency:** Network Rail (or Great British Railways as its successor body) must be subject to stretching but realistic efficiency targets.
- 2.4 We have also aimed to secure funders' objectives as set out in their respective HLOSs. Both governments' HLOSs expect Network Rail to maintain a strong standard of safety, deliver cost efficiency and achieve value for money for

taxpayers, maintain focus on punctuality, reliability and asset and environmental sustainability, including resilience to climate change. The UK Government's HLOS wants Network Rail to support revenue generation while contributing to national and local growth priorities and levelling up. It also sets requirements relating to security, system operation, stakeholder engagement, and financial management. The Scottish Government's HLOS also expects Network Rail Scotland to set requirements for effective integration of Network Rail Scotland, ScotRail and other industry stakeholders and target investment to contribute towards increasing economic growth.

- 2.5 Network Rail's SBP has been produced to an accelerated timescale because the HLOS and SoFA for both England & Wales and for Scotland were published later than originally planned. As such, the plans we received from Network Rail in February were in places less developed than originally anticipated and, for Scotland, were marked as interim. We have continued to receive information from Network Rail and its plans have evolved since the February submissions. Our assessment of the plans in this draft determination is therefore based on the plans as submitted in February and reflects, to the greatest extent possible, the information and revisions to the plans since.
- 2.6 The Network Rail SBP for England & Wales was published on 19 May. The SBP for Scotland (which is further evolved than the interim SBP we reviewed as part of our draft determination) will be published shortly.

3. PR23 and rail reform

- 3.1 In developing our approach to PR23 we have considered the implications of the UK Government's rail reform agenda, reflected in its consultation in June 2022 on legislative changes to implement rail reform.
- 3.2 Network Rail is currently the railway infrastructure manager. However, under proposals for rail reform we anticipate the creation of a new body called Great British Railways (GBR) which would both own the railway infrastructure and let and manage passenger contracts which are currently awarded by the UK Government.
- 3.3 ORR will continue to be the economic and safety regulator for the railway and will provide whole-sector oversight that transparently holds GBR accountable against its licence and its integrated track and train business plan.
- 3.4 Uncertainty remains about the timing and details of rail reform and Network Rail will continue to operate for at least some of the next control period. Our expectation is that GBR would inherit Network Rail's funding settlement and therefore the outcomes of the periodic review will be broadly applicable for GBR. We will continue to assess the impacts of developments on rail reform on PR23 and CP7 and implement our policy in a way that is adaptive to the changes anticipated.

4. Assessing and grading the business plan

4.1 Our draft determination is informed by our assessment of Network Rail's SBP. We published [guidance to Network Rail on the preparation of its SBP](#) in July 2022 and advised we would consider publicly grading the plans as part of our assessment. Below we describe our approach to assessment and grading.

SBP Assessment

4.2 Our assessment of Network Rail's SBP has challenged whether its proposals overall and for each of its five geographic regions and the System Operator:

- enable it to continue to operate its network safely and meet its legal obligations (although it is not our role to tell Network Rail how to do this);
- are consistent with funders' HLOSs and SoFAs;
- make appropriate choices between maintaining the network, renewing it to raise asset condition and spending to raise performance levels delivered to passenger and freight operators in the near-term;
- consider the views of customers and other stakeholders, e.g. freight operators and the supply chain;
- provide a credible response to challenges which have emerged during CP6 (e.g. on weather resilience); and
- are realistic but sufficiently challenging to provide the right incentives for it to deliver.

4.3 Our PR23 draft determination supporting documents explain our approach to the SBP assessment in the areas of outcomes; health and safety; outcomes; and sustainable and efficient costs (see section 6 on the structure of our draft determination).

4.4 Although Network Rail's SBP has formed the basis for our assessment we have complemented this with other key sources of evidence, for example, assurance reports and intelligence from our ongoing reporting and monitoring activities.

4.5 Network Rail's plans for CP7 have been produced to challenging timescales and continue to evolve. Our assessment of these plans has taken account of this and we have sought to evaluate new information provided to us since we received Network Rail's draft plans at the end of February. In some instances we remain in discussion with Network Rail on the further information provided and will take account of this information in our final determination, alongside any information Network Rail or other stakeholders provide in response to our draft determination.

Grading

4.6 A key component of our assessment has been to compare the region, System Operator and, where relevant, National Functions' plans. This allows us to identify stronger or weaker approaches to activities across the network and could form the basis for grading Network Rail's plans.

4.7 As noted earlier in this introduction, the challenging context in which Network Rail has developed its SBP has meant that it continued to provide evidence during our assessment and has evolved its plans more than we had originally anticipated at this stage in the PR23 process. This is particularly the case for the Scotland SBP, which was presented as an interim plan to ORR in February.

4.8 Consequently, we have not graded Network Rail's plans for the draft determination. We consider that grading Network Rail's plans for our final determination could help drive improvements in the production of future business plans, in particular the CP7 delivery plan and we will review what we publish in this area in time for the final determination.

5. Structure of our draft determination

5.1 The outputs of our assessment of Network Rail's SBP are set out in a suite of 21 documents, including this Introduction. The contents of each document are described below.

Executive summaries and overviews of our draft determination

5.2 We summarise our draft determination conclusions in five documents:

- executive summaries containing our key proposals from our draft determination for [England & Wales](#) and [Scotland](#);
- overviews of our draft determination with brief explanations of those proposals for [England & Wales](#) and [Scotland](#);
- a [consolidated list](#) of our draft determination proposals and actions for England & Wales and Scotland.

Settlement documents

5.3 We have set out our draft decisions in more detail in six settlement documents, one for each of:

- Network Rail's four regions in England & Wales ([Eastern](#), [North West & Central](#), [Southern](#) and [Wales & Western](#));
- [Scotland](#); and
- the [System Operator](#).

5.4 Alongside our draft decisions we summarise in the settlement documents our key findings from our assessments of health and safety, performance, asset sustainability and efficiency, financial risk and stakeholder engagement.

Supporting documents

5.5 We have provided supporting documents on:

- [Outcomes](#);

- [Health and safety](#);
- [Sustainable and efficient costs](#);
- [National functions](#); and
- [Other income](#).

5.6 In these documents we set out how we have assessed Network Rail's SBP in each area, our findings, decisions and proposals for the draft determination.

Policy positions

5.7 In these policy documents we present our policy positions on regulating Network Rail during CP7, specifically the:

- [Financial framework](#), including our expectations for managing financial risk;
- applicable [access charges](#) and the [Schedules 4 and 8 incentives regimes](#); and
- approach we will take to [managing change](#).

5.8 In April 2023 we also consulted on updating the [Holding Network Rail to Account policy](#) for CP7. We expect to publish our final holding to account policy for CP7 after our final determination.

6. Next steps

- 6.1 We seek views from stakeholders on our review of Network Rail's SBP including our draft determination and decisions on its proposed outcome delivery and its plans to secure the condition and reliability of the network. Our consultation is open for stakeholder responses until 31 August 2023.
- 6.2 Responses should be submitted in electronic form to our inbox: PR23@ORR.gov.uk. We request stakeholders provide their response using [this proforma](#). We intend to publish all responses on our website alongside our final determination in October 2023. Annex A of this proforma sets out how we will treat any information provided to us, including that which is marked confidential.
- 6.3 After consulting with stakeholders, we expect to issue our final determination on Network Rail's delivery and funding for CP7 by 31 October 2023.
- 6.4 We will then begin the formal process for implementing PR23 by issuing review notices in December 2023. This will give effect to our determination by changing the relevant access contracts in time for CP7 to commence from 1 April 2024. More information about the implementation process will be included in a forthcoming consultation in July 2023.
- 6.5 In parallel, Network Rail will develop its delivery plan.



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