



Department
for Transport

Network Rail Framework Agreement

September 2014

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Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR
Telephone 0300 330 3000
Website www.gov.uk/dft
General enquiries: <https://forms.dft.gov.uk>

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1. Introduction

This Framework Agreement

- 1.1 This Framework Agreement has been drawn up by the Department for Transport ("the Department") with Network Rail Limited, a body corporate established in March 2002 by incorporation under the Companies Act.
- 1.2 This Framework Agreement (or "this document") sets out how the Department and Network Rail will interact in terms of corporate governance and financial management. The Department and Network Rail have drafted this document on the basis of the Memorandum of Understanding between both parties, to make changes only where they are: required to satisfy Government and Parliamentary budgeting and accountability requirements; or justified to deliver value for money.¹ Therefore the key principle in developing this Framework Agreement has been the preservation of Network Rail's ability to continue to manage its business with enough commercial freedom within effective regulatory and control frameworks appropriate for a company in the public sector.
- 1.3 The document does not convey any legal powers or responsibilities and does not in itself create any binding obligations and must not be relied upon as doing so, but the Department for Transport and Network Rail agree to operate within its terms.
- 1.4 For the avoidance of doubt, statutory provisions (including Acts of Parliament, secondary legislation and directly applicable EU rules), and any order, direction, determination, notice, approval, consent or penalty made under such provisions or by a Court or Tribunal, take precedence over the provisions of this Framework Agreement. Network Rail Infrastructure Limited ("NRIL") shall not as result of this document be required to do anything, or be restricted from doing anything, that would result in it breaching a term of the Licences.
- 1.5 Copies of this document have been placed in the Libraries of both Houses of Parliament and made available to members of the public on the Department's and Network Rail's respective websites.
- 1.6 In this document unless otherwise stated:
 - "Accounting Officer" means the person accountable to Parliament for Network Rail's stewardship of public funds and is usually the Chief Executive;
 - "Annual Plan" is the plan produced in accordance with paragraph 3.19;

¹ 'Memorandum of Understanding between the Department for Transport and Network Rail', <https://www.gov.uk/government/publications/network-rail-reclassification-memorandum-of-understanding>.

- “Annual Report and Accounts” means Network Rail Limited’s published report and accounts, compiled in accordance with part 15 of the Companies Act;
- “Articles of Association” means the Articles of Association of Network Rail Limited;
- “Board” means the board of Directors of Network Rail Limited and NRIL;
- “Business Plan” is the plan produced in accordance with paragraph 3.14;
- “C&AG” means the Comptroller and Auditor General;
- “Chair” means the chair of the Board;
- “Charges Review” means a review of access charges carried out by the Office of Rail Regulation pursuant to the Railways Act 1993;
- “Chief Executive” means the Director appointed to the office of Chief Executive Officer of Network Rail Limited and NRIL;
- “Companies Act” means the Companies Act 2006 as amended or replaced from time to time and including any related regulations;
- “Consolidated Budgeting Guidance” means the HM Treasury publication Consolidated Budgeting Guidance containing guidance on the budgeting framework that applies for expenditure control;
- “Control Period” has the meaning given to it in the Determination;
- “CST” means the Chief Secretary to HM Treasury;
- “Delivery Plan” has the meaning given to it in the Licences;
- “Department” means the Department for Transport;
- “Departmental Accounts” means the annual accounts of the Department;
- “Determination” means the final decision taken by ORR which concludes each periodic review of access charges as described in Schedule 4A of the Railways Act 1993;
- “Director” means a director of Network Rail Limited and NRIL;
- “Estimates Process” means the annual Parliamentary Supply Estimates process that the Department follows to seek authority for its spending plans;
- “FReM” means the Government Financial Reporting Manual;
- “Government” means the UK Government;
- “Group” means the Department for Transport and all of its agencies and arm's-length bodies;
- “Group Accounts” mean the consolidated financial accounts of the Group;
- “HM Treasury” means Her Majesty’s Treasury;

- “Licences” means the licences to operate the rail network and to operate managed stations granted to NRIL by ORR pursuant to section 8 of the Railways Act 1993;
- “Loan Facility Agreement” means the facility agreement between the Secretary of State and NRIL dated 4th July 2014 (as amended from time to time);
- “Management Incentive Plan” or “MIP” has the meaning given to it in the Licences;
- “*Managing Public Money*” means the HM Treasury publication *Managing Public Money* containing rules, guidance and principles for the stewardship of public funds;
- “Member” has the meaning given to that term in the Articles of Association;
- “Membership Policy” has the meaning given to that term in the Articles of Association;
- “Membership Selection Panel” has the meaning given to that term in the Articles of Association;
- “Network Rail” means Network Rail Limited, Network Rail Infrastructure Finance plc and each of their subsidiary undertakings (as defined in section 1162 of the Companies Act) and any person Network Rail Limited is required to consolidate into its accounts, except where stated otherwise;
- “Network Rail Limited” means Network Rail Limited;
- “NRIL” means Network Rail Infrastructure Limited;
- “Nominations Committee” means the Nominations and Corporate Governance Committee, a sub-committee of the Board responsible for assessing and recommending potential Directors;
- “ONS” means the Office for National Statistics;
- “ORR” means the Office of Rail Regulation;
- “PAO” means the Department’s Principal Accounting Officer who is also the Permanent Secretary;
- “Parliament” means the UK Parliament;
- “Rail Investment Strategy” means the Government’s plans for investment in the rail network provided under Schedule 4A of the Railways Act 1993;
- “Rail Period” means Network Rail’s four week accounting period;
- “Remuneration Committee” means the committee of the Board responsible for determining matters related to the remuneration and incentivisation of executive Directors;
- “Remuneration Policy” means the policy that outlines the principles of executive Director remuneration;

- "Scottish Ministers" means the members of the Scottish Executive, referred to collectively as the Scottish Ministers;
 - "Secretary of State" means the Secretary of State for Transport;
 - "Special Member" has the meaning given to it in the Articles of Association;
 - "Sponsorship team" means the Department's team that is the primary contact for Network Rail, and the main source of advice to the Secretary of State concerning Network Rail;
 - "Strategic Business Plans" are the plans produced in accordance with paragraph 3.9;
 - "Whole of Government Accounts" means the consolidated set of financial statements for the UK public sector.
- 1.7** This Framework Agreement will be reviewed on 1 September 2015 and annually thereafter. Any changes will be made after consultation with HM Treasury, the Scottish Government, ORR and Network Rail.
- 1.8** In addition to the annual review referred to in paragraph 1.7, Network Rail Limited, or the Department, may propose amendments to this document at any time. ORR may also propose amendments in light of regulatory change or amendments to the Licences.
- 1.9** Any question regarding the interpretation of the document will be resolved by the Department after consultation with Network Rail Limited and, as necessary, with the Scottish Government, ORR, the Cabinet Office and HM Treasury.

Network Rail and reclassification

- 1.10** NRIL's role is set out in the Licences and is broadly to operate, maintain, renew, replace, improve, enhance and develop the majority of rail infrastructure in England, Scotland and Wales.
- 1.11** Network Rail Limited, of which NRIL is the largest subsidiary, was created in 2002 as a private sector not-for-dividend Company Limited by Guarantee. Due to a change in European reporting rules², the company with all of its subsidiaries (together referred to as "Network Rail") is now classified by the Office for National Statistics ("ONS") as a central government body.
- 1.12** The decision to reclassify Network Rail was a statistical one and was not due to any changes in the circumstances or performance of Network Rail. This decision has led to a new relationship where Network Rail Limited becomes an arm's-length body of the Department.
- 1.13** In December 2013, Network Rail Limited and the Department signed a memorandum of understanding, explaining how the two organisations intended to work together in the run-up to reclassification. The

² In May 2013, the legislative process for adopting the new European System of National and Regional Accounts (ESA10) was completed and this is legally enforceable (Regulation 549/2013) from 1 September 2014 onwards.

memorandum of understanding stated that work would be undertaken to establish how the relationship would function following reclassification, and that the conclusions of this work would be set out in a Framework Agreement. This is that document.

- 1.14** Neither the statistical fact of reclassification, nor anything in this Framework Agreement, is intended to change the railway industry's structure or to affect the day-to-day operations of the rail network. The ONS' decision has no effect on fares, performance, punctuality, safety and timetables. ORR remains the economic and safety regulator for the railways.
- 1.15** The Government and Network Rail have agreed that Network Rail will be subject to the Freedom of Information Act 2000 in relation to its public functions. This requires secondary legislation, which the Government will be bringing forward at the next opportunity.
- 1.16** As part of the transition to the new classification, the Secretary of State has entered into a Loan Facility Agreement with Network Rail to replace previous borrowing arrangements. The Department will make a decision as to whether to extend the Loan Facility Agreement by April 2017.

Geographical scope of this Framework Agreement

- 1.17** This Framework Agreement applies to Network Rail in England, Scotland and Wales and any operations overseas unless stated otherwise.
- 1.18** The Scottish Government has full responsibility for managing its own relationship with Network Rail in the delivery of specified outputs on the Scottish rail network. This relationship is not affected by this Framework Agreement. Where the Scottish Government is specifically involved in any of the areas covered in this document, this is set out in a separate memorandum of understanding between the Scottish Ministers and the Department.
- 1.19** This document, and reclassification itself, is not intended to affect Network Rail's relationship with the Welsh Parliament or its Devolved Administration.

2. Roles and Accountabilities

The Secretary of State for Transport

2.1 The Secretary of State for Transport is accountable to Parliament for the activities and performance of Network Rail.

2.2 The Secretary of State will ensure that Network Rail is guided and monitored in the public and taxpayer interest. In particular, the Secretary of State will:

- be the Special Member as that role is defined in the Articles of Association;
- appoint the Chair of Network Rail Limited and NRIL, and have the power to dismiss the Chair;
- have the right to approve the Board's suggested candidate for Chief Executive of Network Rail Limited and NRIL;
- have the right to appoint a Special Director of Network Rail Limited and NRIL;
- be consulted on non-executive appointments to the Board (of Network Rail Limited and NRIL);
- hold regular meetings with the Chair, to discuss corporate strategy and raise any strategic concerns;
- approve the three-yearly Remuneration Policy for executive directors of Network Rail Limited and NRIL;
- set pay for the Chair and non-executive directors of Network Rail Limited and NRIL;
- agree the Membership Policy with the Board, which will cover the process for selecting members and the competencies they will be required to possess;
- select the Membership Selection Panel;
- have the right to approve the appointment of Members based on the recommendations of the Membership Selection Panel; and
- have the right to remove all of the Members.

2.3 The Secretary of State also has a customer role with regard to NRIL which is governed separately to the role that is set out above. Broadly, the Secretary of State as customer:

- determines the Rail Investment Strategy and Statement of Funds Available which contain the Government's plans for investment on the network, together with the funding being made available for delivery; and

- works with ORR to monitor the delivery of relevant projects to ensure delivery to time and budget and network reliability performance.

The Principal Accounting Officer

- 2.4** The Department for Transport's Permanent Secretary is the Principal Accounting Officer ("PAO") for the Department and its arm's-length bodies, including Network Rail. He or she is accountable to Parliament for the issue and stewardship of any grant-in-aid, government loans or other resources provided to Network Rail by the Department.
- 2.5** The PAO appoints the Accounting Officer for Network Rail who will usually be the Chief Executive. The appointment as Accounting Officer may be withdrawn if the Department's PAO believes that the incumbent is no longer suitable for that role.
- 2.6** The general responsibilities of a PAO are set out in Chapter 3 (Accounting Officers) of *Managing Public Money*. The PAO will issue a letter to the Chief Executive appointing him or her as the Accounting Officer for Network Rail, setting his or her responsibilities and delegated authorities. The PAO must also exercise meaningful oversight of Network Rail's strategy and performance, pay arrangements and major financial transactions.

Network Rail's Accounting Officer

- 2.7** Network Rail's Accounting Officer is personally responsible for safeguarding the public funds for which he or she has charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of Network Rail. In addition, he or she will ensure that Network Rail is run following the principles, rules, guidance and advice set out in *Managing Public Money* and the supporting guidance on spending controls produced by the Cabinet Office, other than where alternative arrangements are detailed in this Framework Agreement or other agreements between government and Network Rail.
- 2.8** The Accounting Officer must act in accordance with Chapter 3 (Accounting Officers) of *Managing Public Money*. In particular, the Accounting Officer must:
- take action, as set out in *Managing Public Money*, if the Board, or the Chair, are contemplating a course of action involving a transaction which the Accounting Officer considers would infringe the requirements of propriety or regularity, or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical;
 - sign the Annual Report and Accounts and ensure that proper records are kept relating to the Annual Report and Accounts and that the Annual Report and Accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State;

- produce a statement of Accounting Officer’s responsibilities, for inclusion in the Annual Report and Accounts;
- sign a governance statement regarding the system of internal control, for inclusion in the Annual Report and Accounts;
- receive and act in accordance with a budget delegation each year from the Department and operate within that delegation;
- ensure that effective procedures for handling complaints about Network Rail are established and made widely known within Network Rail; and
- give evidence when summoned before the Public Accounts Committee or Committee of the Scottish Parliament (where it relates specifically to the Scottish route) on Network Rail’s stewardship of public funds.

2.9 The Accounting Officer will be personally responsible for ensuring Network Rail complies with the requirements issued by HM Treasury in respect of the Whole of Government Accounts.³

The Department’s Sponsorship Team

2.10 The Department’s Sponsorship Team manages government’s corporate relationship with Network Rail. The Sponsorship Team will support the Secretary of State and PAO in carrying out their roles and responsibilities as described in this Framework Agreement. The team will also represent Network Rail’s operational, financial and long-term interests to other parts of Government, for example Shareholder Executive and Infrastructure UK, in order to ensure the best outcomes and best value for the public sector as a whole.

The Scottish Government

2.11 Under current rail legislation, the Scottish Ministers are responsible for setting a strategy for rail in Scotland. This includes setting strategic outcomes for the industry, primarily through NRIL operations and investment and the ScotRail franchise, and defining the level of public expenditure available to support this.

2.12 The Scottish Government will manage its own relationship with Network Rail and ORR in the delivery of specified outputs on the Scottish rail network. That relationship is outside the scope of this document.

2.13 In exercising the different roles and responsibilities under this Framework Agreement, the Department will ensure that the Scottish Ministers are appropriately engaged and consulted to ensure that their interests are accounted for in the areas covered within this document. This is set out in a separate memorandum of understanding between the Scottish Ministers and the Department.

³Guidance to the Whole of Government Accounts, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/301576/Guidance_to_the_Whole_of_Government_Accounts_Year_ended_31_March_2014.pdf.

The Members

2.14 Network Rail Limited has Members whose role it is to hold the Board to account for its management of the company.⁴ In particular, the Members:

- monitor the Board's management of the performance of Network Rail;
- engage with the Board to raise queries or express views objectively and in an informed way where Board performance falls below expected standards, outputs or targets, and acknowledging progress and success where achieved;
- scrutinise the governance procedures and processes designed to facilitate the delivery of the strategic objectives of Network Rail;
- participate actively in the meetings of Members; and
- attend and vote at general meetings of Network Rail Limited.

The Board

2.15 The Board will consist of not more than 17 Directors, contain a majority of non-executive Directors and will include a non-executive Chair and a Chief Executive.

2.16 The Board or its sub-committees will:

- provide oversight of the executive in how it manages Network Rail's day-to-day business and operations and takes decisions, in order to protect the long-term interests of the company in accordance with duties under the Companies Act;
- ensure the company has robust risk management, internal controls and assurance processes that adhere to corporate governance best practice; and
- make recommendations on executive pay and nominations via the relevant sub-committees, subject to the governance arrangements set out in this document and the Licences.

2.17 Individual board members should:

- comply at all times with the *Code of Conduct for Board Members of Public Bodies*⁵ and with the rules relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;

⁴ Further information on the role of the Members can be found on Network Rail's website: <http://www.networkrail.co.uk/asp/5619.aspx>

⁵ *Code of Conduct for Board Members of Public Bodies*, http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-of-conduct_tcm6-38901.pdf.

- comply with the Board's rules on the acceptance of gifts and hospitality, and of business appointments; and
 - act in good faith and in the best interests of Network Rail.
- 2.18** The Secretary of State may directly appoint a Special Director to the Board. The Special Director, if appointed, will communicate the views of the Secretary of State, and the Department's wider strategic interests, to the Board, whilst acting in accordance with his or her duties under the Companies Act.
- 2.19** The Board will include a non-executive public interest director unless otherwise agreed with the Department. He or she supports the Chair in ensuring that the Board is well-informed of the wider public interest when it takes strategic and operational decisions.

The Chair

- 2.20** The Chair, like other members of the Board, must discharge his or her duties and obligations as a Director, in accordance with the Companies Act.
- 2.21** He or she will maintain a close and transparent relationship with the Secretary of State and the Scottish Ministers and advise them on matters relating to Network Rail. Communication between the Board and the Secretary of State (or the Scottish Ministers) will be primarily through the Chair, with regular formal meetings.
- 2.22** The Chair also aims to ensure that the policies and actions of Network Rail support the wider strategic policies of the Secretary of State and the Scottish Ministers and that there is a close relationship between Network Rail and the Department to reflect Network Rail's status as an arm's-length body.
- 2.23** The Chair has particular responsibility for providing effective leadership so that:
- Network Rail's affairs are conducted openly, transparently, and with probity;
 - the Board, in reaching decisions, takes proper account of guidance provided by the Department, the Secretary of State or the Scottish Ministers as appropriate;
 - risks are escalated to the Department as appropriate; and
 - Network Rail does not bring the Secretary of State or the Scottish Ministers into disrepute.

The Office of Rail Regulation

- 2.24** The Office of Rail Regulation ("ORR") is the combined economic and health and safety regulator for the railways in Great Britain.⁶ Its principal economic regulatory functions in respect of NRIL are set out in the Railways Act 1993, and include:
- regulating NRIL's stewardship of the national rail network;
 - licensing operators of railway assets; and
 - approving access granted to stations, track, light maintenance depots and other facilities.
- 2.25** NRIL operates subject to the Licences issued by ORR for its network and for the managed stations that it operates. The Licences contain binding conditions under which NRIL must operate, and are the key regulatory means through which NRIL is held to account for its performance. ORR has the power to enforce the Licences through various means, including the power to impose financial penalties for the most serious breaches. Any approvals, consents and directions given under the Licences by ORR are exercised in accordance with its duties in section 4 of the Railways Act 1993.
- 2.26** ORR undertakes a Charges Review to determine NRIL's regulatory requirements for the Control Period, the charges it can levy and the incentives required to encourage efficiency and outperformance of the outputs required. ORR sets NRIL's regulatory requirements and the charges it can make based on efficient costing of what the Government specifies for the railway and how much funding it has available. ORR then oversees whether those outputs are delivered efficiently by NRIL. The review also considers how NRIL can work with its customers, suppliers and others to reduce costs and deliver better services. The determination is binding on NRIL for the Control Period, and can only be re-opened in certain circumstances.
- 2.27** ORR also has concurrent jurisdiction with the Competition and Markets Authority to investigate potential breaches of competition law in relation to the railways. ORR is also a designated enforcer for certain consumer protection legislation under part 8 of the Enterprise Act 2002. ORR's jurisdiction in these areas includes NRIL's activities delivering rail services.
- 2.28** ORR safety functions are found in the Railways Act 2005, the Health and Safety at Work (etc) Act 1974 and other related railway safety legislation. As national safety enforcement authority it regulates health and safety for the entire mainline network in Great Britain, including NRIL. It is also the National Safety Authority in the context of the European Railway Safety Directive. Inspections, audits, investigations and any associated enforcement (including prosecutions) of NRIL are led by ORR inspectors.

⁶ Further information on the role of ORR can be found on their website at <http://orr.gov.uk/>

3. Governance

Corporate governance

- 3.1 The Secretary of State will appoint the Chair in accordance with the Commissioner for Public Appointment's principles.⁷
- 3.2 The Secretary of State has the power to dismiss the Chair.
- 3.3 The non-executive Directors will be selected by the Nominations Committee, which must consult with the Secretary of State when developing their recommendations.
- 3.4 The Chief Executive will be selected by the Nominations Committee. The Nominations Committee's recommendation will be subject to approval by the Secretary of State, who will also be consulted while they are developing their proposals.
- 3.5 A Membership Policy will be agreed between the Secretary of State and the Board.
- 3.6 The Secretary of State will appoint a Membership Selection Panel which will act independently and recommend Members for selection. The Secretary of State has the right to approve or reject the Panel's recommendations.
- 3.7 Members have the right to re-elect members of the Board as set out in the Articles of Association.
- 3.8 Network Rail will comply with best practice corporate governance requirements, including *Corporate Governance in Central Government Departments: Code of Good Practice*⁸ and the *UK Corporate Governance Code*.

Business plans

- 3.9 In advance of each periodic review process, the Department publishes the Rail Investment Strategy and the Scottish Ministers publish the High-Level Output Specification, setting out the high-level outputs they want NRIL to deliver, along with the funds available to deliver them. Subsequent to this, NRIL produces its Strategic Business Plans for England and Wales and for Scotland, detailing its strategy and the schemes to be taken forward in the Control Period to best deliver against both governments' stated requirements, wider economic

⁷ *Code of Practice for Ministerial Appointments to Public Bodies*, <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-for-Ministerial-Appointments-to-Public-Bodies.pdf>

⁸ *Corporate Governance in Central Government Departments: Code of Good Practice*, <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>

objectives and views of the longer-term needs for the railway. Before finalising these plans, NRIL will discuss with the Department the approach being adopted and any strategic choices being made. NRIL must gain the agreement of the Department before the Strategic Business Plans are published.

- 3.10** ORR's Determination is published following the Strategic Business Plans, following extensive consultation. Following the publication of the Determination and before the start of the Control Period, NRIL will produce two further documents: the Business Plan and the Delivery Plan. Both documents cover all of Great Britain for the whole of the Control Period.⁹
- 3.11** The Delivery Plan sets out the outputs that NRIL is planning to deliver, including the regulated outputs for the Control Period. The Delivery Plan is published and is subject to change control.
- 3.12** Prior to the start of each year covered by the Delivery Plan, with exception of the first year, NRIL will update the Delivery Plan to reflect any revised outputs for the remainder of the Delivery Plan period including outputs relating to commitments entered into that extend beyond Control Period 5.
- 3.13** NRIL will consult the Department on the updated Delivery Plan prior to its publication.
- 3.14** The Business Plan is NRIL's plan for how it will deliver the outputs in the Delivery Plan. It covers the whole of Network Rail and, as a minimum, contains the following (disaggregated to a Scottish level where appropriate):
- a summary of the outcomes that will be delivered;
 - projected performance against key regulatory targets;
 - projected consolidated financial statements for Network Rail for each year;
 - anticipated efficiencies to be achieved;
 - financing strategy including projected borrowing over the course of the Control Period;
 - an assessment of the key risk and opportunities; and
 - a summary of the key milestones within the Control Period.
- 3.15** In the event that NRIL objects to the Determination, it will produce an interim Business Plan that will be considered to be the Business Plan until such time as any objection is resolved or withdrawn. This will be agreed with the Department.
- 3.16** Before developing the Business Plan, NRIL will discuss with the Department the approach being adopted, including likely strategic choices in developing the plan. The Department will set out the high-

⁹ For the avoidance of doubt, it is agreed that the Business Plan for Control Period 5 has already been produced and finalised and forms the baseline for Control Period 5.

level approach that it would expect NRIL to consider when developing the Business Plan to be consistent with NRIL's regulatory commitments.

- 3.17** NRIL will provide a copy of its Business Plan to the Department for comment prior to finalisation. It will be accompanied by underpinning analysis as appropriate for understanding how the Business Plan was developed. The final Business Plan will be agreed with the Secretary of State prior to adoption by NRIL.
- 3.18** Prior to the start of each year covered by the Business Plan, with exception of the first year, NRIL will update the Business Plan to reflect performance achieved to date and any revised proposals for the remainder of the Business Plan period including proposals relating to commitments entered into that extend beyond the Control Period. This will include forecast debt positions at the end of each year of the Control Period with explanations of variances from previous forecasts.
- 3.19** Prior to the start of each year, NRIL will produce an Annual Plan, setting out the financial and performance plans for that year. The Annual Plan is the relevant part of the updated Business Plan for the forthcoming year. The Annual Plan will be accompanied by the following information:
- expected income, spending and borrowing over the year (for each period of the year in question);
 - a statement confirming that the Annual Plan is consistent with the objectives and delivery of the Business Plan agreed prior to the start of the Control Period (or any amendments or deviations subsequently agreed);
 - a statement explaining whether NRIL is on course to deliver the Business Plan (or an agreed revised version) in full by the end of the Control Period;
 - an assessment of risk and mitigation strategies; and
 - a specific section which relates to activities on the Scottish route.
- 3.20** NRIL will consult the Department on the updated Business Plan and Annual Plan. Where there are material differences in outcomes, income, risk profile or expenditure compared to the Business Plan, these will be agreed with the Department. The Business Plan will be revised accordingly. In the case of agreeing any differences, the resulting Business and/or Annual Plan must remain consistent with any of NRIL's regulatory commitments.

Management information

- 3.21** In order to be able to account to Parliament for Network Rail, the Secretary of State requires additional information to that which he or she already receives as customer.
- 3.22** As the Special Member, the Secretary of State is provided with the same information as is currently supplied to the Members, to the same timescales. This includes, as a minimum, Network Rail Limited's and

NRIL's Annual Report and Accounts and copies of the approved minutes of the Board and its committees.

- 3.23** In addition to the approved minutes that are provided to the Members, Network Rail will share the Board's agendas and draft minutes with the Secretary of State. Network Rail will also provide the Secretary of State with specific papers relating to meetings of the Board by request.
- 3.24** Other information flows are required to allow the PAO to fulfil his or her role. This is covered in the further sections of this document, and, as appropriate, in Accounting Officer letters from the PAO to the Accounting Officer.
- 3.25** The main financial reporting requirements are detailed in Annex A.

4. Staff

Staff management

- 4.1** Subject to any provisions in this document, Network Rail has responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff will continue to be that:
- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit: there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
 - the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
 - there is a focus on performance, employees are clear about what is expected of them and Network Rail's performance measurement systems are reviewed from time to time;
 - its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Network Rail's objectives;
 - proper consultation with staff takes place on key issues affecting them;
 - adequate grievance and disciplinary procedures are in place; and
 - whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place.
- 4.2** Core staff terms and conditions should be provided to the Department for information together with significant subsequent amendments.

Reward and remuneration – the Board

- 4.3** The Secretary of State will set pay for the Chair and the other non-executive Directors (and will seek the approval of the CST where necessary).
- 4.4** A three-year Remuneration Policy for the reward and incentivisation of executive Directors will be developed by the Remuneration Committee. The Remuneration Policy, and any subsequent revision, is subject to approval by the Secretary of State and the CST before being voted on by Members.
- 4.5** Network Rail's Management Incentive Plan ("MIP") must be consistent with the terms of the Remuneration Policy. In formulating its MIP, Network Rail shall ensure that it creates an appropriate framework of

incentives to comply with objectives specified by ORR such as safety, sustainability and efficiency. ORR notes Network Rail's incentive payments on this basis.

- 4.6** The remuneration of the Board's executive Directors is set by the Remuneration Committee but must be approved by the Secretary of State and the CST. Network Rail has discretion to determine incentive payments provided that they are consistent with the Remuneration Policy.

Reward and remuneration – all other staff

- 4.7** Network Rail's approach to reward and remuneration should reflect both its role as operator of the nation's rail assets and its responsibility as a steward of taxpayers' money. It should therefore be designed to recruit, attract, develop and motivate suitably skilled staff, taking into consideration value for the taxpayer as well as commercial efficiency and market conditions.
- 4.8** Network Rail will discuss its overarching pay strategy with the Department before each revision to it. Base pay for senior staff at Network Rail must be consistent with public sector pay policy subject to any specific written instructions from the Department or the CST.
- 4.9** Network Rail will publish transparency information on how senior pay (for those earning above £142,500) is structured, including specific details of the roles of the highest earners.
- 4.10** Network Rail may make annual payments outside limits set for central government bodies though will be expected to recognise and give due regard to public sector pay policy.
- 4.11** Network Rail sets out on what basis it calculates and awards staff incentives in its Employee Scheme and will have the authority to determine incentive payments provided they are consistent with this. Any changes to this scheme, with the exception of routine updates to annual targets, will require the approval of the Secretary of State and the CST.
- 4.12** The Employee Scheme is sent to ORR on an annual basis, to ensure consistency with the Licences. As part of its wider review of efficiency, ORR also monitors and reports on NRIL's staff costs and benchmarks pay for different roles at Network Rail against that at similar organisations.
- 4.13** Network Rail will comply with any relevant public sector guidance on tax arrangements for its staff or appointees, including the 'Procurement Policy Note 07/12: Tax Arrangements of Public Appointees'¹⁰.

¹⁰ 'Procurement Policy Note: Tax Arrangements of Public Appointees', <https://www.gov.uk/government/publications/procurement-policy-note-07-12-tax-arrangements-of-public-appointees>

Pensions, redundancy and compensation

- 4.14** Any staff of Network Rail shall normally be eligible for a pension provided by Network Rail.
- 4.15** Any redundancy or compensation payments that are novel or contentious must be approved by the Department, who will involve HM Treasury as appropriate – this includes any proposals for special severance payments made outside of contractual entitlements.

5. Audit

Internal audit

- 5.1** The Chief Executive, as Network Rail's Accounting Officer, is responsible for establishing and operating adequate and effective internal controls (that meet the standards set out in *Managing Public Money*). Network Rail will maintain a framework and remit for its decision-making bodies that sets out clearly how and by whom internal decisions are made, and ensure that they are recorded.
- 5.2** The Accounting Officer will be supported by Network Rail's internal audit function. This function will comply with the HM Treasury guidance *Public Sector Internal Audit Standards*.¹¹ The Head of Internal Audit at Network Rail, following completion of an appropriate internal control self-assessment exercise, will provide Network Rail's Accounting Officer with an annual statement on the overall adequacy and effectiveness of Network Rail's framework of governance, risk management and control that can be used by the organisation to inform its Governance Statement. The Head of Internal Audit at Network Rail will also establish appropriate working protocols for the sharing and provision of reports, plans, assurances and other information to the Group Head of Internal Audit for the Department.
- 5.3** Network Rail's Audit and Risk Committee – which comprises of non-executive directors – will comply with the standards set out in HM Treasury's 'Audit and Risk Assurance Committee Handbook'.¹² The Audit and Risk Committee should support the Board and Accounting Officer by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and the integrity of financial statements and the annual report. The chair of the Audit and Risk Committee will co-operate with the work programme and reasonable requests from the Group Chair of the Audit and Risk Committee at the Department.

External audit

- 5.4** The Comptroller & Auditor General (C&AG) will audit Network Rail Limited's Annual Report and Accounts and, together with his or her report, these will be laid before Parliament by the Secretary of State.¹³

¹¹ *Public Sector Internal Audit Standards*, June 2013, <https://www.gov.uk/government/publications/public-sector-internal-audit-standards>.

¹² <https://www.gov.uk/government/publications/audit-committee-handbook>.

¹³ It is intended that the appointment of the C&AG as external auditor to Network Rail will take effect from April 2015. Until then, Network Rail will continue to ensure that another appropriate auditor will carry out a statutory audit under the Companies Act 2006 and that its annual regulatory financial statement is also suitably audited. Network Rail will also ensure that any necessary information is provided to the C&AG for

Network Rail Limited will ensure that the C&AG has the option to be appointed auditor of any companies that Network Rail Limited controls or who are classified to the central government sector. Network Rail will ensure that all audit information required by NAO from any joint ventures or partnerships will be made available for the purpose of their audit of Network Rail, the Department and Whole of Government Accounts. NRIL will also produce an annual regulatory financial statement as set out in the Licences.

- 5.5** To enable the C&AG to exercise his or her function as the appointed auditor, Network Rail will make available relevant information, documents and access to staff as necessary, including in the period prior to appointment, to develop a sound understanding of the Network Rail business and accounts.
- 5.6** The C&AG may share with the Department information identified during the audit process following the completion of the audit. Once issued to Network Rail, the C&AG may share with the Department relevant audit planning reports, interim progress reports and audit completion reports (together with any other relevant outputs).
- 5.7** The C&AG may carry out value for money studies under the National Audit Act 1983 examining the economy, efficiency and effectiveness with which Network Rail has used its resources in discharging its functions.
- 5.8** Network Rail shall provide in conditions to any grants or contracts, for the C&AG to exercise such access to documents held by grant recipients, contractors or sub-contractors as may be required for its audit and examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

6. Financial management

Background

- 6.1 Network Rail's corporate planning arrangements will reflect the principles of Treasury guidance as set out in *Managing Public Money* and the Consolidated Budgeting Guidance.
- 6.2 The Consolidated Budgeting Guidance and the Financial Reporting Manual ("FReM") issued by HM Treasury, describe the budgetary control and reporting framework that Network Rail must apply as part of central government.
- 6.3 Details of the practical application of these reporting requirements can be found in Annex A.

Planning and budgeting

- 6.4 Network Rail will support the Department's annual corporate planning process, which usually takes place during the autumn of each year. The process requires some high-level financial information from all arm's-length bodies to support the Government's financial planning.
- 6.5 Network Rail will provide financial and non-financial information to support the Department's annual Estimates Process. Network Rail will meet with the Department's Group Finance team at least monthly and more often as key Treasury deadlines approach.¹⁴
- 6.6 As part of this process Network Rail will provide financial forecasts, including the potential range in which actual expenditure may fall, and any limitations in the calculations. This information will be used to set Parliamentary control total limits. It should be noted that breaching the limit set at the Supplementary Estimates would lead to the qualification of the Departmental Accounts by the auditor.
- 6.7 Network Rail is permitted to update its forecasts in line with the agreed annual timescales as part of the Supplementary Estimate which is then fixed as part of the Parliamentary control total.
- 6.8 Transfers between Network Rail's Estimates expenditure categories of Resource and Capital will require Treasury approval.
- 6.9 Network Rail will notify the Department as soon as reasonably practicable if forecast expenditure under any expenditure category is likely to exceed limits agreed as part of the Estimates Process. Network Rail will discuss with the Department how the overspend will be avoided or managed.

¹⁴ HM Treasury normally issues a timetable in October for the forthcoming financial year.

- 6.10** Once the expenditure limits are agreed, they, and related conditions, will be issued by the Department to Network Rail in a delegations letter from the PAO. The conditions include:
- Network Rail will comply with the conditions regarding novel, contentious or repercussive proposals, as set out in *Managing Public Money*;
 - any planned and approved expenditure included in the Chancellor of the Exchequer's Budget shall not remove the need to seek formal approval from the Department where any proposed expenditure is outside the delegated limits; and
 - restrictions will apply where they are set out in statute, in this document, or applicable to the wider public sector (unless otherwise stated in this document or in specific written instructions from the Department or, as appropriate, HM Treasury or the Cabinet Office).

Financial reporting

- 6.11** Network Rail will work with the Department to support the production of timely and accurate reporting including:
- annual Whole of Government Accounts returned to HM Treasury via the Department;
 - monthly¹⁵ Public Expenditure Returns, including outturn and forecasts as required by HM Treasury, the Office of Budget Responsibility and ONS;
 - annual accounts information to the Department for consolidation and six and nine month consolidation exercises;
 - regular budget reporting to the Department as detailed in Annex A; and
 - monthly and daily cashflow forecasts submitted monthly to the Department, as set out in the Loan Facility Agreement.
- 6.12** Network Rail is subject to Parliamentary reporting requirements. These are set out in more detail in Annex A.

Financial control

- 6.13** The financial framework within which Network Rail is required to operate is set out in more detail in Annex B. As well as operating within the guidance of *Managing Public Money*, the provisions set out in this document may be supplemented by guidelines or directions issued by the Department, the Cabinet Office and HM Treasury, in respect of the exercise of any individual functions, powers and duties.
- 6.14** The Secretary of State entered into the Loan Facility Agreement with NRIL to provide finance to the business for Control Period 5. This contains certain restrictions on the financing activities of NRIL. In

¹⁵ Where M is a calendar month and P is a Rail Period, M1=P1 and so on to M11=P11. M12=P12+P13.

addition to this, there are restrictions on Network Rail's borrowing and lending activities that apply to all cash from whatever source. These are set out in Annex B.

- 6.15** Except where agreed in this Framework Agreement or elsewhere, any new commercial business that Network Rail undertakes where a new transaction or venture of any kind is undertaken, must be approved by the Department unless it is core to the running of the network. This includes – but is not limited to – all joint ventures.
- 6.16** Business cases should be provided to the Department for such commercial ventures and these should use the standard HM Treasury five case model and demonstrate that the particular commercial model selected will deliver the best value for money when compared to other options. Where possible, the Department's approval should be sought through the business planning process.
- 6.17** Network Rail will continue to undertake significant property transactions in order to meet its strategic objectives. However, some transactions will require the Department's approval. Where existing assets will be exploited for new types of commercial business, or Network Rail intends to acquire new assets, this must be approved by the Department. The criteria for identification and assessment, based on Network Rail's internal process for commercial investment decisions, is set out in Annex B.
- 6.18** A property business case will not need to be submitted to the Department for any business activity associated with facilitating core railway network operations, nor where Network Rail exploits existing assets according to a strategy for commercial income generation that is agreed with the Department.
- 6.19** Network Rail will manage its treasury and financing arrangements efficiently to provide value for money, in accordance with *Managing Public Money*, this Framework Agreement, and Accounting Officer letters.

7. Miscellaneous

Winding up and mergers

- 7.1** Network Rail, including all entities therein, shall not be wound up or enter into any amalgamation, merger or demerger without the prior written consent of the Department, unless such action is the result of a contractual obligation entered into prior to 1 September 2014 - in such cases Network Rail should notify the Department in advance.

Constitutional documents

- 7.2** Network Rail Limited, Network Rail HoldCo Limited and NRIL will not make or propose any changes to their articles of association without the prior approval of the Department. Network Rail will consult with the Department prior to making changes to the articles of association and shareholders agreements of any other companies within Network Rail.

Trading

- 7.3** Network Rail Limited and Network Rail HoldCo Limited are non-trading companies and will not conduct any trading or other activities or enter into any obligations.

Shares

- 7.4** Network Rail, including all entities therein, will not issue any shares or create any new class of shares, or dispose of all or part of its shares in (or control over) any subsidiary, without the prior consent of the Department, unless such action is the result of a contractual obligation entered into prior to 1 September 2014 - in such cases Network Rail should notify the Department in advance.

Annex A. Financial reporting

Background

A.1 From 1 April 2015, the Department will consolidate Network Rail into the Department's Group Accounts and therefore will require relevant information (both financial and narrative) from Network Rail. This includes prior year figures for 2014-15, as well as Whole of Government Accounts data.

Reporting for financial accounts purposes

A.2 For the consolidation, Network Rail will supply information that corresponds to the latest guidance in the FReM. Network Rail will submit its trial balance to the Department together with the consolidation pack as soon as reasonably possible after the end of the financial year, typically not later than 5 May. Network Rail will facilitate the National Audit Office's examination and review of the underlying data and the consolidation exercise.

A.3 To facilitate the 6, 9 and 12 month consolidations, the Department will issue spreadsheet packs to Network Rail to complete and return to the Department. Network Rail will map its account codes to the Department's consolidation pack codes. The pack will then translate the data into the required formats and reports. After discussion with Network Rail, the Department will issue a reasonable timetable for the return of the three sets of packs required each year as below, and the pack will detail any supplementary information that will be required for disclosure. This will include identifying year-end balances and transactions with other government bodies and intra-Network Rail transactions. Each pack should be signed off by the finance director of Network Rail:

- 6 months pack¹⁶ (November submission deadline).
- 9 months pack (February submission deadline).
- Year-end pack¹⁷ (May submission deadline).

A.4 The Department will then consolidate these into the Department's Group Accounts, including any narrative on areas of activity and corporate governance as agreed with Network Rail. The Department will lay a copy of the consolidated Group Accounts before both Houses of Parliament before the summer recess (usually in late June).

¹⁶ Where M is a calendar month and P is a Rail Period, M1=P1 and so on to M11=P11. M12=P12+P13.

¹⁷ This will require information relating to all 13 rail periods.

- A.5** Network Rail will complete a formal year-end management assurance exercise as directed by the Department. Chapter 5 sets out the arrangements for external audit.

Monthly reporting

- A.6** Network Rail will submit monthly workbooks, in a prescribed format, to the Sponsorship Team within the Department, typically by 3pm of the fifth working day of each month. These will show, for each month¹⁸, the actual outturn to date and the forecast for each subsequent month until the end of the financial year.
- A.7** Network Rail will provide monthly and daily¹⁹ cash forecasts²⁰ to the Department's Cash Management Team in formats and to deadlines as specified. The timing and quantity of any draw down requirements will be in accordance with the Loan Facility Agreement.
- A.8** Network Rail will ensure that in-year reporting meets the requirements of HM Treasury and the Department's monitoring as described in this document. The Department and Network Rail will review and agree a common format for such reports.

Other regular reporting

- A.9** Network Rail will also provide information on monies held in commercial bank accounts in order that the Department can complete its Group returns to HM Treasury on a regular basis as reasonably requested.
- A.10** Network Rail will provide information, as directed by the Department, to support Treasury and Cabinet Office reporting requirements. This may include, but is not limited to, disclosure of any engagement of staff other than through payroll.
- A.11** Network Rail will meet with the Department's transparency champion on a regular basis as reasonably requested.
- A.12** Network Rail will attend the Department's quarterly fraud working group to share best practice across the Group on approaches to tackling fraud.

Parliamentary reporting

- A.13** Parliament requires certain categories of expenditure to be reported, sometimes retrospectively, in the Departmental Accounts. Sometimes approval must be sought in advance of the transaction, as set out below.
- A.14** As set out in *Managing Public Money* (Annex 5.4), whenever Network Rail takes on a commitment for future expenditure, that liability needs to be reviewed to see if it is within the normal course of business and is within the authority given by the Estimates Process. Liabilities include letters of comfort, indemnities and guarantees. Where a liability does not meet the criteria laid out then Parliament must be notified in advance of

¹⁸ Where M is a calendar month and P is a Rail Period, M1=P1 and so on to M11=P11. M12=P12+P13.

¹⁹ 'Daily' refers to the date of the loan draw down and not each day

²⁰ Cashflow forecasts must be reported in calendar months

taking on the liability. Liabilities that arise in the normal course of business are reported retrospectively through the annual accounts process.

- A.15** Parliament also requires information about losses and write-offs (*Managing Public Money*, Annex 4.10), gifts (4.12) and special payments (4.13).
- A.16** Network Rail should only consider accepting losses and write-offs after careful appraisal of the facts and, where appropriate, consulting the Department in advance. Network Rail should keep records of all losses. Losses above £300,000 are reported in a specific disclosure in the Departmental Accounts but for serious losses, consideration should be given to providing a written statement to Parliament.
- A.17** It is important to demonstrate to Parliament that propriety has been respected through the transparent reporting of all gifts. All planned gifts over £300,000 should be notified to Parliament in advance through a Departmental Minute and Written Ministerial Statement, after receiving HM Treasury approval, unless timing allows advance notification through the Estimates process.
- A.18** Special payments always need to be agreed, in advance with HM Treasury via the Department. Payments are then reported to Parliament by a note in the Departmental Accounts where the total value exceeds £300,000. Individual special payments of more than £300,000 should be noted separately.

Property reporting

- A.19** Network Rail is responsible for all aspects of its land and property asset management including operational for the railway network, commercial for Network Rail business pursuits, office and administrative.
- A.20** Network Rail will provide information as reasonably requested by the Department and give due consideration to any government strategies on estates, in discussion with the Department.
- A.21** Network Rail will comply with all relevant legislation or European Union directives.
- A.22** Network Rail will comply with the Licences on all property sales, purchases and lease transactions.
- A.23** All property records and boundaries will be entered onto e-PIMS, the mandatory Government record system. Data is taken from e-PIMs to provide the annual Government State of the Estate Report on property to meet the statutory requirements derived from the Climate Change Act 2008.
- A.24** Network Rail will provide statistics to the Department each period on all actual and forecast capital land sales (capital receipts) and statistics on the number of housing units, both actual and forecast.
- A.25** Network Rail will contribute to any strategic land and property reviews undertaken by the Department.

A.26 In order to achieve value for the taxpayer, transaction costs within government must be minimised. The Department will require any land or property transactions within central government, between Network Rail and other government departments or their arm's-length bodies, to be undertaken in accordance with *Managing Public Money* and the Department's processes to avoid incurring legal and consultant costs that are not good overall value to the Exchequer.

Annex B. Financial control

Authority to spend

- B.1** The Department's expenditure is administered under formal delegations issued by HM Treasury. The Chief Executive - as Network Rail's Accounting Officer - has the delegated authority to spend up to the amounts allocated to Network Rail each year by the Department in a formal delegations letter.

Expenditure outside of delegated budgets

- B.2** Network Rail will not, without the prior written approval of the Department, enter into any undertaking to incur any expenditure which falls outside Network Rail's delegations, or which is not provided for in the annual estimate as approved by Parliament.

Systems of financial management

- B.3** Network Rail will establish and maintain systems of financial management to ensure compliance with this Framework Agreement, relevant legislation and any other directions given by the Department, the Cabinet Office, and HM Treasury. In addition, Network Rail is to provide adequate safeguards against fraud, collusion and corruption, promote efficiency in the use of resources and ensure value for money. Network Rail will report to the Department any matters or financial dealings that may have an effect on the Departmental Accounts as soon as possible.

Novel, contentious or repercussive items

- B.4** In accordance with *Managing Public Money*, all expenditure which is novel, contentious or repercussive, irrespective of size, even if it appears to offer value for money taken in isolation, must be approved by HM Treasury. Network Rail should therefore seek the Department's approval before:
- incurring any expenditure for any purpose which is or might be considered novel, contentious or repercussive i.e. expenditure which has, or could have, significant future cost implications, including on staff benefits;
 - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department; or

- making any change of policy or practice which has wider financial implications (for example, because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required. The Department should be consulted where there is some doubt as to whether items may fall into that category.

B.5 The Department will liaise with HM Treasury in cases where its approval is necessary.

Borrowing and lending

B.6 Network Rail may only borrow from the Secretary of State unless otherwise agreed with the Department. Network Rail may not enter into mortgage arrangements for any land or other property belonging to them without the express approval of the Department. No borrowing from commercial banks may be undertaken by Network Rail without the express approval of the Department and HM Treasury. NRIL's commercial paper and overdraft facility is expressly permitted in the Loan Facility Agreement.

B.7 Network Rail may not lend money, charge any asset or security, whether or not in a legally binding form, except with the advance written approval of the Department, who may refer to HM Treasury and/or Parliament. Any guarantees, indemnities, and letters of comfort given by Network Rail are a form of lending. These forms of contingent liabilities should in all cases be referred to the Department for approval before entering or re-issuing. As outlined in Annex A, there may also be Parliamentary reporting requirements.

B.8 Network Rail may make inter-company loans, provided they are made on an arm's-length basis and on normal commercial terms, do not cross-subsidise between permitted and not permitted business as defined in the Licences and that details are disclosed to the Department through the appropriate reporting process. If they are made from the proceeds of the Loan Facility Agreement they must comply with the purpose restriction in that agreement.

B.9 Any inter-company loan must follow the general principles in *Managing Public Money*, including, for example, that the activity the loan will be spent on is authorised, powers to lend exist, the terms and conditions are standard, there is a reasonable expectation that loan interest and repayment will occur, and it is not a source of finance for private contractors with access to other sources of finance.

B.10 Network Rail has the authority to make advances of salary to its staff to assist with:

- home purchase in connection with a compulsory move;
- the purchase of travel season tickets or bicycles;
- the advance of travel and subsistence expenses; or
- Christmas advances and exceptional welfare cases.

Financial Instruments

- B.11** Unless expressly permitted within the Loan Facility Agreement, or this Framework Agreement, Network Rail shall not make any investments in traded financial instruments without the approval of the Department.
- B.12** In regards to Network Rail's existing interest rate swap pre-hedge portfolio, Network Rail:
- may unwind these pre-hedge swaps at or around the time of a loan drawdown;
 - may unwind these pre-hedge swaps by either entering into a matching counter-swap, terminating the existing swap, or entering into a partial reversal of an existing interest rate swap; and
 - must demonstrate that whichever option (counter swap or termination) it takes is best value for money, on a whole life cost basis, given the information available at the point of the unwind.
- B.13** Network Rail may continue to enter into hedging arrangements for foreign currency or commodity prices in relation to the supply of goods or services only, however these must not be speculative in nature.

Banking and cash management

- B.14** The Accounting Officer is responsible for a cash management policy that meets the requirements of Annex 5.6 of *Managing Public Money*. Network Rail may hold its cash balances within commercial bank accounts; however no new commercial bank accounts may be opened without prior approval from the Department and HM Treasury.²¹
- B.15** Network Rail may also hold funds within money market funds and at a level in accordance with its treasury policy. This overall limit may be reviewed over time. However, for the purpose of repaying bonds, Network Rail may hold the value of the refinancing in money market funds if necessary to meet pre-payment conditions.²²
- B.16** Network Rail will set out its banking policy, in accordance with *Managing Public Money* guidance, for control of all its working balances and transmission of funds, ensuring that there is no payment in advance of need unless value for money is demonstrated. The banking policy, including hedging, commodity issues and forex policies, should be reviewed regularly.

²¹ Network Rail has read-only access to a Government Banking Service (GBS) account operated by the Department, which is used solely for the purpose of receiving loans from the National Loans Fund and transferring them to Network Rail's nominated commercial bank account. Over time, the Department and Network Rail may explore the possibility of Network Rail operating its own GBS account.

²² Network Rail will comply with its pre-fund obligations as set out in the terms of its debt issuance programme.

Procurement

- B.17** Good procurement practice demands that public sector organisations buy the goods, works and services they need using fair and open procurement processes, meeting the standards in *Managing Public Money* (in particular Annex 4.6). Network Rail's procurement policies must also be compliant with all applicable statutory policies, guidance and legislation (e.g. European Union procurement directives) and must also be designed to achieve value for money.
- B.18** Network Rail will begin to change its payment procedures so that it is evident that it is working towards paying 98% of undisputed invoices within 30 working days. In addition, Network Rail will aim to make significant improvements to the 30-day target and improving the length of time it takes for sub-contractors to received payment.

Property transactions

- B.19** Network Rail will not enter into new property arrangements or exploit existing property assets in a new way, without the prior agreement of the Department, unless the following conditions apply:
- the proposals are consistent with the Network Rail Business Plan;
 - the proposals have been agreed with ORR, if required;
 - the proposed activity relates to the core operational rail network;
 - the proposals are not novel or contentious;
 - the proposals have met the Network Rail commercial acquisitions criteria to the extent relevant;
 - the proposed acquisition does not have an anticipated final cost of £50m or over; and
 - the proposed investment does not require specific ORR consent.
- B.20** In this context, Network Rail's commercial acquisitions criteria are:
- a. it delivers a commercial business case at or higher than local market yield;
 - b. it is complementary to Network Rail's existing ownership;
 - c. it will fit with Network Rail's core property or station activities and expertise or be an opportunity to preserve or enable a known future

- development proposal or to preserve flexibility for the railway in the future;
- d. Network Rail's property department will take a proactive, intervening role in creating increased value post-acquisition in order to deliver growth (i.e. it will not be a passive investment);
 - e. (for station related acquisitions) it must lead to an improvement in the rail passenger experience and create growth in revenue from rail passengers;
 - f. it will be an enabler to a wider development or enhancement opportunity for current commercial activities;
 - g. it will be capable of creating greater value than the open market value in merging the acquired asset with current assets;
 - h. it will enable sustainable long-term growth;
 - i. it will provide the potential for operational flexibility in the short, medium or long term.

B.21 Any proposal that does not meet the criteria set out in B.19 will need to be agreed in advance with the Department. In order to consider any such proposals, the Department requires Network Rail to be able to demonstrate a robust business case. Business cases should be prepared using a standard HM Treasury five case model and should specifically demonstrate:

- the strategic rationale for the involvement of Network Rail and the specific benefits that the participation of Network Rail would bring to the operation of the railway and/or taxpayer when compared to the involvement of third parties;
- how the proposed commercial model has been selected;
- how the commitment of any capital is affordable for Network Rail, particularly in the context of the Loan Facility Agreement limitations;
- the opportunity cost of the use of any capital necessary for the proposal;
- the financial impact on the Business Plan under a range of scenarios;
- how the proposal fits with the Network Rail commercial acquisitions criteria; and
- the consistency with wider public sector property policies (recognising the need to balance wider government policy on releasing surplus property against the commercial income targets set by ORR).

Insurance

B.22 Network Rail should continue to take out external insurance that is required by statute, law or contracts. When policies approach renewal Network Rail should inform the Department in good time so that government can consider alternative arrangements which may provide better value for money for the public sector as a whole.

Cabinet Office controls

B.23 Network Rail will not require Cabinet Office clearance for expenditure in areas covered by Cabinet Office controls at the Level 2 approval limit.²³

²³ Further details on what is in scope of Cabinet Office controls and the approval limits can be found at <https://www.gov.uk/government/publications/cabinet-office-controls>.

Annex C. Compliance with government-wide corporate governance and instructions

C.1 Network Rail shall comply with the following general guidance documents and instructions as updated from time-to-time unless otherwise agreed with the Department and, as appropriate, HM Treasury or the Cabinet Office:

- *Audit and Risk Assurance Committee Handbook*, <https://www.gov.uk/government/publications/audit-committee-handbook>;
- *Code of Conduct for Board Members of Public Bodies*, http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-of-conduct_tcm6-38901.pdf;
- *Code of Practice for Ministerial Appointments to Public Bodies*, <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-for-Ministerial-Appointments-to-Public-Bodies.pdf>;
- Consolidated Budgeting Guidance, <https://www.gov.uk/government/publications/consolidated-budgeting-guidance-2014-to-2015>;
- *Corporate Governance in Central Government Departments: Code of Good Practice*, <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>;
- Government Financial Reporting Manual (FReM), <https://www.gov.uk/government/publications/government-financial-reporting-manual>;
- *Managing Public Money*, <https://www.gov.uk/government/publications/managing-public-money>;
- *Management of Risk: Principles and Concepts*, <https://www.gov.uk/government/publications/orange-book>;
- other relevant guidance and instructions issued by HM Treasury in respect of Whole of Government Accounts;
- other relevant instructions and guidance issued by government as advised to Network Rail by the Department;
- *Public Sector Internal Audit Standards*, <https://www.gov.uk/government/publications/public-sector-internal-audit-standards>;

- 'Procurement Policy Note 07/12: tax arrangements of public appointees',
<https://www.gov.uk/government/publications/procurement-policy-note-07-12-tax-arrangements-of-public-appointees>;
- recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to Network Rail as advised to Network Rail by the Department;
- *Regularity Propriety and Value for Money*,
http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr_governance_valueformoney.htm;
- relevant Accounting Officer and delegations letters;
- relevant Freedom of Information Act guidance and instructions;
- specific instructions and guidance issued by the Department and as advised to Network Rail;
- *Tackling External Fraud*, http://www.nao.org.uk/wp-content/uploads/2013/02/Tackling_External_Fraud.pdf;
- *Tackling Internal Fraud*,
http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf;
- this Framework Agreement.