

# NR28 price review: draft method statement and business planning guidance

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## Chapter 1

# Introduction and Summary

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## Introduction

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- 1.1 NATS (En Route) plc (“NERL”) is the monopoly provider of En Route, London Approach Service (“LAS”) and Oceanic air traffic services in the UK. Subject to the outcome of statutory processes, NERL may also be designated as the provider of the Airspace Design Service and associated activities.
- 1.2 NERL is subject to economic regulation under the Transport Act 2000 (“TA00”) which provides for the Civil Aviation Authority (“CAA”) to set licence conditions to ensure that NERL retains a clear focus on safety, and to establish price control conditions to protect the users of its services from its monopoly power.
- 1.3 The UK is also party to the Eurocontrol Multilateral Agreement relating to Route Charges<sup>1</sup> and has agreed to adopt the Eurocontrol common policy in respect of charging for en route services.<sup>2</sup> In accordance with our secondary duty, we will continue to take account of the determined costs methodology set out in the Eurocontrol Principles.
- 1.4 We published our final decision setting the NR23 price control for NERL in October 2023, which covers the period 2023 to 2027,<sup>3</sup> and in August 2024, we published the lessons learnt from the review of the approach to setting price controls (the “2024 review”)<sup>4</sup> for Heathrow Airport Limited (“HAL”) and NERL.
- 1.5 In the 2024 review document, we said that we would publish a draft method statement for the next NERL price review (“NR28”) that would include draft business plan guidance, specifying a base level of information that NERL should provide as part of the NR28 process.

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<sup>1</sup> Multilateral Agreement relating to Route Charges, European Organisation for the Safety of Air Navigation, October 2006. See: <https://www.eurocontrol.int/sites/default/files/2019-06/multilateral-agreement-relating-to-route-charges.pdf>

<sup>2</sup> Principles for establishing the cost-base for en route charges and the calculation of the unit rates, Eurocontrol, January 2020. See: <https://www.eurocontrol.int/sites/default/files/2019-12/doc-20.60.01-eurocontrol-principles-january-2020-en.pdf>

<sup>3</sup> Economic Regulation of NATS (En Route) plc: Final Decision for the NR23 (2023 to 2027) price control review, October 2023. See: [www.caa.co.uk/CAP2597](http://www.caa.co.uk/CAP2597)

<sup>4</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See: [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)

- 1.6 This document sets out for consultation our:
- draft method statement, which sets out our proposed approach to setting price controls for NERL, taking account of the lessons learnt from the 2024 Review, and other relevant guidance and recommendations; and
  - draft business planning guidance for NERL as it develops its NR28 plan.
- 1.7 We summarise each of these sections below and then provide further detail on the consultation and next steps.

## Timetable and process

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- 1.8 In September 2025, we published a consultation (“the September 2025 Consultation”) on the timetable and approach to Constructive Engagement (CE) for NR28.<sup>5</sup>
- 1.9 We have reviewed the responses to the September 2025 Consultation, and consider that our proposed timetable and approach to Constructive Engagement remain appropriate.
- 1.10 The key milestones in our proposed timetable are as follows:
- draft method statement in December 2025;
  - final method statement in April 2026;
  - multiple rounds of Constructive Engagement between NERL and airlines:
    - Round 1 between January 2026 and February 2026;
    - Round 2 between May 2026 and July 2026;
    - Round 3 between January 2027 and February 2027; and
    - Round 4 between August 2027 and September 2027.
  - a single business plan submission from NERL in November 2026;
  - initial proposals in July 2027 for consultation;
  - final proposals and statutory consultation on licence modifications in March 2028; and
  - final decision and statutory notice on licence modifications in August 2028.

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<sup>5</sup> Update and consultation on the timetable and approach to Constructive Engagement for the next NATS (En Route) plc (NERL) price control review (NR28), September 2025. See: [www.caa.co.uk/CAP3174](http://www.caa.co.uk/CAP3174)

## Method statement for NERL

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- 1.11 In the draft method statement, we summarise our overall objectives for NR28 and discuss our approach to the key issues.
- 1.12 We have identified the following priorities for the NR28 price control review:
- Safety: continuing to prioritise our “primary” duty under the TA00 to maintain a high standard of safety in the provision of air traffic services (“ATS”), by ensuring NERL continues to deliver a safe service;
  - Understanding the needs of users: we will support Constructive Engagement (including with key airline and airport stakeholders) and wider consumer engagement and ensure that we understand and can reflect the needs of users in our approach to the regulation of NERL’s quality of service.
  - Resilience: ensuring NERL delivers a resilient service, including by reviewing and where appropriate improving its incentives, and supporting the organisation to achieve any necessary changes to provide for better resilience; and
  - Efficiency and value for money: striving for increased efficiencies, by:
    - i. creating a balanced set of service quality and capex incentives;
    - ii. appropriately allocating risk across service quality, cost efficiency, non-regulatory revenues and passenger traffic; and
    - iii. better informing NERL’s business plan through our own business plan guidance.
  - Supporting airspace modernisation: to deliver user and environmental benefits.
- 1.13 Where it is reasonable and appropriate to do so, we will build on the approach established in the most recent price control (“NR23”). We have identified areas where we consider that our approach can be improved and we will make changes where there is evidence of a better approach that can be reasonably introduced as part of this review.
- 1.14 We recognise the importance of understanding consumer priorities, which should inform both NERL’s business plan and our approach to setting its price control. We expect NERL to carry out its own research and engagement with consumers and relevant stakeholders. We expect NERL’s business plan to clearly explain how consumer priorities have been taken into account in its development.
- 1.15 Two areas of key importance to consumers, airlines and airports are NERL’s quality of service and the resilience of its services and main key activities. For service quality, we will consider whether existing outcomes and metrics should

be updated and/or explore the introduction of new incentives in response to consumer priorities and priority areas such as resilience. We will also assess the balance of incentives around these performance measures and targets.

- 1.16 We will also support environmental sustainability through our work on airspace modernisation and will review the incentives on NERL to support the efficient routing of flights (which reduces fuel burn and greenhouse gas emissions).
- 1.17 Capex incentives should provide reassurance to stakeholders that NERL's investment is being incurred efficiently and that it is replacing its key business systems in a timely and effective way. We intend to build on the approach to capex incentives in NR23 and consider improvements to these incentives arrangements, with a particular focus on the orderly replacement of NERL's key flight processing systems.
- 1.18 Given the importance of NERL's capex programme it will be important that we retain an approach that allows for and promotes the efficient financing by NERL of these expenditures. Bearing this in mind we will retain the regulatory asset base ("RAB") and the "building blocks" approach<sup>6</sup> to set the NR28 price control for NERL, as well as retaining a broadly similar approach to the assessment of NERL's financeability.
- 1.19 To support the identification of efficient levels of operating expenditure ("opex"), and non-regulated revenues, we expect to draw on a broad range of cost assessment tools. We will also assess the information provided by NERL in its business plan, including where practicable the use of benchmarking and targeted bottom-up analysis. For capex, our initial focus will be to understand the likely size of the efficient capex envelope and the key uncertainties, including projects that will carry over from NR23.
- 1.20 Our approach to indexing NERL's RAB will reflect changes to national statistics. We will consider whether NERL's RAB should be indexed on the basis of the Consumer Prices Index ("CPI") or the Consumer Prices Index including owner occupiers' housing costs ("CPIH") instead of the Retail Prices Index ("RPI").
- 1.21 We expect to update our estimate of NERL's weighted average cost of capital ("WACC") based on recent market information and potential refinements to the method we used in NR23.
- 1.22 We are also considering the introduction of a business plan incentive mechanism for NR28. The incentive aims to encourage NERL to submit a complete, high-quality business plan, supported by appropriate evidence and third-party assurance. This should support a strengthened business plan for NR28.

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<sup>6</sup> The building blocks approach builds up a revenue requirement based on the sum of regulatory depreciation, return on capital and operating expenditure, less any relevant non-regulatory revenue.



## Business Plan Guidance

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- 1.23 We provide draft business plan guidance to assist NERL in producing a NR28 business plan that appropriately supports the NR28 price setting process.
- 1.24 The focus of the guidance is the overall scope of the business plan, the approach NERL should adopt to consumer engagement and the key building blocks associated with the price control. Chapter 3 provides an overview of each of the areas covered by the guidance with detailed questions for consultation and the more detailed business guidance is provided in Appendix A.
- 1.25 The guidance is designed to specify a base level of information that NERL should provide as part of the NR28 process. Nonetheless, NERL should provide further information to the extent that it considers that this would further the interests of consumers or that such information is reasonably required to fully understand its plans for NR28.

## Next steps

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- 1.26 We are consulting and seeking views on all parts of this document. Responses to this consultation should be sent to [economicregulation@caa.co.uk](mailto:economicregulation@caa.co.uk) by 17:00 on 30 January 2026.
- 1.27 We expect to publish the submissions we receive on our website as soon as practicable after the consultation period ends.
- 1.28 Any material that is regarded as confidential should be clearly marked as such, with an explanation of why the information is confidential, and included in a separate annex. We have powers and duties with respect to the disclosure of information under Schedule 9 of the TA00, Section 59 of CAA12 and the Freedom of Information Act 2000 and it may be necessary to disclose information consistent with these requirements.
- 1.29 We will review responses to our consultation and publish our final method statement and business plan guidance in April 2026. We will also take account of the findings from Round 1 of Constructive Engagement, which is scheduled for January/February 2026.
- 1.30 We will provide separate guidance on data templates and any other areas identified following stakeholder responses where further guidance is needed.
- 1.31 Any questions related to this consultation document should be sent to Laurence Crook at [laurence.crook@caa.co.uk](mailto:laurence.crook@caa.co.uk).

## Chapter 2

# Method Statement

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## Introduction

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- 2.1 This draft method statement sets out our views on the broad approach to the next price review for NERL. Our approach has been primarily informed by:
- our statutory duties under the TA00;
  - the approach we used at the NR23 price control review; and
  - the findings from the 2024 Review.
- 2.2 For many parts of the regulatory framework, we consider that it will be appropriate to retain a similar approach between NR23 and NR28. Nevertheless, we have identified areas where we consider that our approach can be improved, and we will make changes where there is evidence of a better approach that can be reasonably introduced as part of this review.
- 2.3 In this chapter, we first set out our views on the overall context and priorities for the NR28 review, then update on our consultation of 30 September 2025 on the timeline and Constructive Engagement process for the NR28 review.<sup>7</sup>
- 2.4 We then set out our proposed approach to each of the following key aspects of the price control review:
- a) scope of the price control and overall approach;
  - b) consumer priorities;
  - c) traffic forecasts;
  - d) service quality and resilience;
  - e) environmental sustainability;
  - f) cost and non-regulatory revenue assessment;
  - g) efficient costs;
  - h) effective financial incentives and risk-sharing; and
  - i) the financial framework and NERL's RAB.

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<sup>7</sup> Update and consultation on the timetable and approach to Constructive Engagement for the next NATS (En Route) plc (NERL) price control review (NR28), September 2025. See: [www.caa.co.uk/CAP3174](http://www.caa.co.uk/CAP3174)

- 2.5 We welcome stakeholder views on any of the matters raised in this chapter and set out key issues for consultation at the end of this chapter.

## Overall context and priorities

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### Context

#### Wider Context

- 2.6 The NR23 review took place from late 2020 to late 2023, during a period of particularly challenging circumstances both for NERL and the users of its services.
- 2.7 This included the emergence of the covid-19 pandemic in early 2020, which resulted in a severe and unprecedented downturn in traffic levels across the aviation sector in 2020 and 2021. Since then, the sector has experienced a recovery in traffic levels.
- 2.8 Looking forward, expansion plans at several London airports could result in increased pressure on the overall capacity of the ATS provided by NERL to accommodate demand.
- 2.9 One way that demand may more effectively be managed is through the modernisation of UK airspace: reforms are already in train to promote this including through the proposals to require NERL to provide Airspace Design Services and Airspace Coordination Services.<sup>8</sup>
- 2.10 Since the NR23 decision, there have been two independent reviews which made recommendations concerning the CAA's economic regulation of NERL. As noted earlier we have also conducted a review of our approach to setting price controls.
- 2.11 In the following subsections, we discuss the recommendations set out in these reviews. We have taken account of these recommendations when determining our proposed priorities for NR28.

#### Egis Review

- 2.12 NERL made significant changes to its proposed capex plan during the NR23 price control review. As a result, in early 2023 the CAA commissioned Egis to conduct a review (the "Egis Review")<sup>9</sup> of the capex plan produced by NERL for the next regulatory period. The Egis Review made four recommendations, three of which were applicable to NERL and one to the CAA.

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<sup>8</sup> [Useful links related to the UKADS | UK Civil Aviation Authority](#)

<sup>9</sup> [Review of key capital programmes proposed by NERL for the NR23 period](#), Egis, October 2023.

- 2.13 The recommendations for NERL were that it should: (i) strengthen its change management procedures for capital projects and programmes; (ii) produce a comprehensive technical description of its plan for the completion of the “DP En Route” programme; and (iii) provide a more detailed presentation of the risks to delivery, benefits, and costs in future.
- 2.14 The recommendation for the CAA was to consider and investigate mechanisms to incentivise efficiency, delivery, and benefits in NERL’s capex programme, so that NERL can be incentivised to avoid slippage of milestones that deliver significant customer benefits.

### Halliwell Review

- 2.15 On 28 August 2023, NERL experienced a major failure to its flight planning system, which resulted in a near-complete halt of flights and associated delays that affected hundreds of thousands of passengers. Following the incident, an independent review was completed (the “Halliwell Review”).<sup>10</sup>
- 2.16 The Halliwell Review set out thirty-four recommendations focussed on improving system resilience to enable better responses in the event of future failures. Of these, four were specifically relevant to the CAA’s economic regulation of NERL, to:
- consider how best to ensure that the interests of consumers are taken into account in setting the regulatory framework on investment and incentives for NERL;
  - explore ways of measuring cancellations and knock-on delays attributable to NERL for use in its incentive framework;
  - review the incentives on NERL, with a view to strengthening the incentives to provide a resilient as well as a safe service; and
  - ensure that business plan guidance for NERL includes a clear focus on outcomes associated with resilience and consumer impact, as well as safety and efficiency.

### 2024 Review

- 2.17 In August 2024, the CAA published the 2024 Review,<sup>11</sup> which outlined the conclusions of a consultation into our approach to setting price controls.
- 2.18 Our aim for the 2024 Review was to identify opportunities to improve the efficiency, timeliness and effectiveness of future processes and outcomes, and

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<sup>10</sup> Independent Review of NATS (En Route) Plc’s Flight Planning System Failure on 28 August 2023, May 2024. See: [www.caa.co.uk/CAP2993](http://www.caa.co.uk/CAP2993)

<sup>11</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)

inform our approach to future price controls. In the 2024 Review, the CAA committed to considering the following key issues as part of its work on NR28:

- the case for any additional flexibility, guidance or mechanisms for addressing the opex-capex trade-off, particularly in relation to NR28;
- the case for a six-year regulatory period for NERL, to enhance incentives for efficiency and reduce the overlap between future HAL and NERL price control reviews after the next HAL price control review (“H8”) and NR28; and
- airspace modernisation and the efficient and effective integration of new users into the arrangements for managing airspace.

2.19 The 2024 Review also identified a range of wider points to be addressed in our work in setting price controls, including during NR28, which we discuss further in the relevant sections below.

## Priorities

2.20 Our priorities for NR28 take account of, and seek to implement (where appropriate), the recommendations set out above. They will also continue to be guided by our duties under the TA00.<sup>12</sup>

2.21 They have been informed by the wider context that the aviation industry (and more specifically ATS) operates within today. The need to prioritise system resilience and efficiency for all users is demonstrated by the new and unique challenges presented by:

- new users;
- increased demand driving the need for airspace modernisation; and
- ongoing risk and uncertainty in the operating environment.

2.22 Bearing all of that in mind, we have identified the following priorities for the NR28 price control review:

- Safety: continuing to prioritise our “primary” duty under the TA00 to maintain a high standard of safety in the provision of ATS, by enabling NERL to continue to deliver a safe service.
- Understanding the needs of users: We will support Constructive Engagement and wider consumer engagement and ensure that we understand and can reflect the needs of users in our approach to the regulation of NERL’s quality of service.

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<sup>12</sup> A summary of our duties in setting the NR28 price control is set out at Appendix C.

- Resilience: ensuring NERL delivers a resilient service, including by reviewing and where appropriate improving its incentives, and supporting the organisation to achieve any necessary changes to provide for better resilience.
- Efficiency: striving for increased efficiencies, by:
  - i. creating a balanced set of service quality and capex engagement incentives;
  - ii. appropriately allocating risk across service quality, cost efficiency, non-regulatory revenues and passenger traffic; and
  - iii. better informing NERL's business plan through our own business plan guidance. To support this, we have included new material in our business plan guidance in Chapter 3.
- Supporting airspace modernisation: to deliver user and environmental benefits.

2.23 We welcome stakeholders' views on these five main priorities and whether they appropriately support our objectives to take forward the recommendations from the Egis, Halliwell and 2024 Reviews, and to continue to discharge our statutory duties.

## Charge controls

2.24 NERL is currently subject to price controls that set the maximum charges it can recover from airspace users for the provision of ATS for the following three charge controls:

- Eurocontrol En route ("UK en route"): provision of En route ATS within UK airspace;
- London Approach: provision of ATS to traffic arriving and departing from London's five major airports (Heathrow, Gatwick, Stansted, Luton and London City); and
- Oceanic En route: provision of En route ATS in the Shanwick Oceanic control area, which is divided into the "Atlantic" and "Tango" control areas.

2.25 Since that last price control review, save for known developments in relation to airspace modernisation and the Future of Flight (aimed at new users of airspace) discussed below, we have not seen any evidence that would prompt consideration of significant changes to the scope of the existing charge controls. To date, stakeholders have not raised concerns about the scope of the current charge controls.

## Airspace Modernisation

### The Framework for Airspace Design Services

- 2.26 In support of the CAA's Airspace Modernisation Strategy ("the AMS"),<sup>13</sup> the CAA and Department for Transport ("DfT") are in the process of establishing requirements on NERL to provide a single airspace design function for the UK (the Airspace Design Service), that will replace the current model for developing strategically important and interdependent airspace change proposals.
- 2.27 The UK Airspace Design Service (UKADS) is a single guiding mind to coordinate and sponsor future airspace changes to deliver the holistic, modernised airspace design envisaged by our Airspace Modernisation Strategy.
- 2.28 This is intended to deliver airspace efficiency and modernisation benefits for all users, as well as benefitting UK consumers through greater system capacity and better resilience to disruption. More detail of these proposals is set out in the CAA's publication "Modernising the way we do airspace design: information relevant to the CAA autumn 2025 consultations concerning airspace design".<sup>14</sup>
- 2.29 Work is ongoing to design and implement a new interim charge control to fund the provision of Airspace Design Services for the remainder of the NR23 period. We published final proposals and a statutory consultation on licence modifications in relation to these matters in December 2025.<sup>15</sup>
- 2.30 Any interim charge control introduced will only cover the period until the end of NR23, and so we expect to introduce a new charge control as part of our NR28 price control review. This will cover the NR28 period, and is also expected to establish a longer-term economic framework for these activities.
- 2.31 Consideration of issues for NR28 will include (but are not limited to):
- Mechanism for cost recovery: A cost pass-through approach has been proposed for the interim arrangements under NR23. We will review whether this approach remains fit-for-purpose and whether we can improve incentives for efficient costs and delivery.
  - The profile of cost recovery over time and risk and return: We will need to consider a range of options for the recovery of costs (for example, "opex with margin", RAB-based or other approach).

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<sup>13</sup> [About the strategy | UK Civil Aviation Authority](#)

<sup>14</sup> Modernising the way we do airspace design: information relevant to the CAA autumn 2025 consultations concerning airspace design, September 2025. See: [www.caa.co.uk/CAP3156](http://www.caa.co.uk/CAP3156)

<sup>15</sup> Economic Regulation of NERL: Final proposals for modifying the Licence to support the implementation of a UK Airspace Design Service, December 2025. See: <http://www.caa.co.uk/CAP3164>



- **Charge design:** The initial proposals for the interim charge control stated that the charge should be payable by airspace users in receipt of en route air traffic services in the UK, on a “per service unit” basis. Stakeholders were generally comfortable with this approach for the interim charge control, but we will re-test these options in the context of a longer, more enduring model.

## Future of Flight

- 2.32 The UK has committed to delivering Beyond Visual Line of Sight Operations (“BVLOS”) for uncrewed aircraft (UAS) as part of the CAA Airspace Modernisation Strategy,<sup>16</sup> and the Government's Future of Flight Programme.<sup>17</sup>
- 2.33 In October 2025, in coordination with the DfT, the CAA published the Future of Flight: BVLOS Roadmap,<sup>18</sup> which steps through operational scenarios under which industry can expect to carry out BVLOS UAS operations, both now and as capability develops.
- 2.34 The next major milestone will be publication of airspace architecture proposals in 2026, which should provide the framework for BVLOS operations in UK integrated airspace.
- 2.35 Despite these developments, there is ongoing uncertainty regarding a number of issues, including who future users might be, the nature of new users’ aircraft and flight patterns, what physical or digital infrastructure would best support these new user volumes to use UK airspace in a safe and managed way and, therefore, what regulatory models (economic or otherwise) should support them.
- 2.36 In June 2025, NERL submitted a proposal to the CAA on the establishment of “NATS OpenAir”, a UK-wide ‘digital data backbone’ that NERL said would contribute to the realisation of the benefits of System Wide Information Management (“SWIM”) and accelerate the transition to airspace integration across all applicable regions of the UK.<sup>19</sup> This discharged NERL’s obligation under the NR23 decision to submit a proposal for a new user charging mechanism.
- 2.37 Given the uncertainty as to the nature of any infrastructure solution, we take the view that it is too early to consider how any potential solution is subject to price control arrangements at this time, but we will monitor developments during the NR28 process and consider whether modifications to our NR28 proposals are appropriate.

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<sup>16</sup> Airspace Modernisation Strategy 2023-2040 Part 1: Strategic Objectives and Enablers, February 2024. See: [www.caa.co.uk/CAP1711](http://www.caa.co.uk/CAP1711)

<sup>17</sup> UK Future of Flight Plan, March 2024. See: [UK Future of Flight Action Plan](http://www.caa.co.uk/UK_Future_of_Flight_Action_Plan)

<sup>18</sup> Future of Flight: BVLOS Roadmap, October 2025. See: [www.caa.co.uk/CAP3182](http://www.caa.co.uk/CAP3182)

<sup>19</sup> NATS OpenAir Consultation Proposal, November 2024. See: [NATS OpenAir Consultation](http://www.caa.co.uk/NATS_OpenAir_Consultation), page 3.



## Timetable and Process

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### Context

- 2.38 The September 2025 Consultation set out our proposed timetable and approach to Constructive Engagement for NR28.<sup>20</sup>
- 2.39 We proposed the following timetable:
- draft method statement in December 2025, for consultation over six weeks. This would provide guidance for business planning, though any detailed guidance and templates may need to be developed separately;
  - final method statement in April 2026;
  - multiple rounds of Constructive Engagement between NERL and airlines, including:
    - Round 1 between January 2026 and February 2026 on high level issues of customer priorities, service quality, incentives and investment;
    - Round 2 between May 2026 and July 2026 on the detailed elements that will make up NERL's business plan;
    - Round 3 between January 2027 and February 2027 on NERL's business plan submission; and
    - Round 4 between August 2027 and September 2027 on the CAA's initial proposals.
  - a single business plan submission from NERL in November 2026. This should follow the CAA's guidance and provide detail on forecast traffic, costs, investment and prices for the NR28 period;
  - CAA initial proposals in July 2027 for consultation. This would include draft proposed licence modifications;
  - final proposals and statutory consultation on licence modifications in March 2028; and
  - final decision and statutory notice on licence modifications in August 2028, with the licence modifications being effective six weeks later.

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<sup>20</sup> Update and consultation on the timetable and approach to Constructive Engagement for the next NATS (En Route) plc (NERL) price control review (NR28), September 2025. See: [www.caa.co.uk/CAP3174](http://www.caa.co.uk/CAP3174)

## Timetable

### Stakeholder Views

- 2.40 We received three responses to the September 2025 Consultation, from NERL, British Airways and easyJet.
- 2.41 NERL supported our proposed timetable, but emphasised that, to ensure timely and effective delivery of its Business Plan, it was essential that the first round of Constructive Engagement should commence in January 2026.
- 2.42 British Airways raised several concerns with our proposed timetable, primarily that:
- there was a need for increased gaps between milestones, especially in 2026, to allow sufficient time for appropriate and meaningful stakeholder engagement, and for regulatory and stakeholder inputs to be reflected in planning and design of subsequent rounds of Constructive Engagement;
  - the challenges of overlaps with deliverables and proximity of milestones from other CAA programmes should be taken into consideration;
  - it opposed using initial proposals as a holding cap for the initial NR28 period, stating that this introduced risks of unintended consequences.
- 2.43 easyJet stated that, while appreciating the need to reduce overlaps and ease resource pressures, it remained concerned about the implications of the proposed timetable and the potential risks of delay in finalising the NR28 price control. It suggested that any regulatory approach for NR28 should explicitly recognise these risks and incorporate concrete measures to mitigate them.
- 2.44 Both British Airways and easyJet made some suggestions that would require changes to the regulatory period, which we discuss later.

### Our Views – Time Between Key Milestones

- 2.45 Round 1 of Constructive Engagement is intended to address high level issues of customer priorities, service quality, incentives and investment. While the draft method statement provides guidance on the CAA's initial views on these issues, stakeholders can reasonably discuss their preferred approach to these matters and the evidence that support these views without detailed consideration of the draft method statement.
- 2.46 Round 2 of Constructive Engagement can be reasonably guided by the draft method statement and any key updates in the final method statement. Therefore, we do not consider that the proximity to the publication of the draft method statement and final method statement respectively represent a reason to delay either Constructive Engagement Round 1 or Round 2.

- 2.47 We are aware that NERL provided a draft scope for its Round 1 materials to airlines in November 2025, providing an opportunity for airlines to consider and input into the content and structure of the materials. We also understand that NERL intends to provide final Round 1 materials to airlines in the first week of January.
- 2.48 Bearing the above in mind we intend to retain the existing schedule for Constructive Engagement.

### **Our Views – Impact of Other CAA Programmes**

- 2.49 Our view is that some degree of overlap with H8 is inevitable, given the scope of the two programmes. We do not consider that the proposed timetable gives rise to unmanageable conflicts, particularly given that the two programmes are at very different stages. There also does not appear to be a clearly preferable alternative that would reduce the risk of delays to the overall NR28 timetable.
- 2.50 In addition, the H8 programme is sufficiently well defined and advanced to minimise the risk of significant delays or additional resource requirements that would impact the NR28 programme. Other programmes (including capacity expansion at Heathrow airport) are also appropriately resourced, although we continue to keep these matters under review.
- 2.51 We will continue to monitor developments in this area on an ongoing basis, and discuss contingencies with stakeholders should a material risk to the NR28 programme arise.

### **Our Views – Interim Arrangements**

- 2.52 We note that the use of interim arrangements based on initial proposals is consistent with the approach we took at NR23.<sup>21</sup> British Airways' response to the NR23 consultation did not raise any concerns with the use of initial proposals, stating only that "*this should result in a true-up in 2023 when actual costs for the whole of 2022 are available*".<sup>22</sup>
- 2.53 The use of interim arrangements based on initial proposals would not impact the level of charges received by NERL in the long term. We would expect any 'true up' arrangements to be fully recovered during the NR28 regulatory period.
- 2.54 It is therefore unclear how, outside of scenarios that appear unrealistic, interim arrangements could lead to material negative outcomes for consumers. Our view is that any complexity introduced by the use of interim arrangements based on

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<sup>21</sup> Economic regulation of NATS (En Route) plc: further update on approach to the next price control review ("NR23"), June 2021. See: [www.caa.co.uk/CAP2160](http://www.caa.co.uk/CAP2160)

<sup>22</sup> [British Airways response to CAP2160](#), 15 July 2021.

the Initial Proposals is relatively minor and non-recurring, and that there is not a clearly preferable alternative that would introduce materially less complexity.

- 2.55 Our final proposals and final decision will be based on our review of the price control building blocks. We do not consider that interim price control arrangements will prejudice this process.
- 2.56 Bearing all of the above in mind we intend to retain the approach of using the initial proposals as the basis for interim price control arrangements.

## Regulatory Period

- 2.57 In the September 2025 Consultation, we stated that a key driver for the updated timetable was to reduce overlaps between the H8 and NR28 reviews. To support this, we were considering a six-year duration for the NR28 price control (including the option of a mid-period review ("MPR") at year three), covering January 2028 to December 2033, rather than the typical five-year period.

## Stakeholder Views

- 2.58 In response, NERL stated that a longer price control period made it materially more difficult to predict operating costs, technology delivery and traffic volumes as part of its business plan for the upcoming period, thus introducing significant additional risk and uncertainty.
- 2.59 NERL said that any additional uncertainty would need to be addressed in NERL's cost of capital and/or in risk-sharing mechanisms to protect its ability to finance its licensed operations.
- 2.60 NERL also stated that a MPR would introduce adverse impacts on its ability to operate effectively. It stated that more frequent changes in NERL's regulatory settlement could reduce NERL's management focus on running the business and potentially impact financeability.
- 2.61 easyJet stated that it would be prepared to support a six-year regulatory period, provided there were robust safeguards for users to avoid price shocks.
- 2.62 British Airways stated that its preferred approach would be a 12-month extension to the NR23 period, followed by a five-year price control for NR28. If this was not viewed as appropriate, its preferred approach was to extend the NR28 period to six years as a one-off, with subsequent periods reverting to five-year durations.
- 2.63 British Airways stated that a mid-period review could overlap with other CAA programmes, make it harder for lessons learned from the H8/NR28 process to be adopted, and reduce regulatory certainty and incentives around cost efficiency.

## Our Views

- 2.64 Stakeholder feedback has highlighted a number of possible disadvantages with an MPR. It is clear that if we were to adopt a MPR then this would need to be prescribed in a clear and focused way so to limit adverse impacts.
- 2.65 We consider that the options for the regulatory period for NR28 consist of:
- a five-year control period, consistent with NR23;
  - a one-year extension to NR23, followed by a five-year control period;
  - a six-year period with a carefully focused MPR; and
  - a six-year control period.
- 2.66 Eurocontrol Principles specify that the reference period for price control reviews of air traffic control must be between three and five years.<sup>23</sup> We are engaging with Eurocontrol to understand whether there is a mechanism by which we can set a price control for a different duration. However, if this is not possible, then a five-year control period may be the only option.
- 2.67 If it is possible to establish a longer price control, our preference would be for a one-off six-year control period. This would achieve our objective of reducing overlap between NERL and Heathrow price controls, while minimising the impact of any potential challenges of a longer control period.
- 2.68 We will set out our decision on the duration of the control period for NR28 in our final method statement.

## Constructive Engagement

- 2.69 In the September 2025 Consultation, we set out our draft guidance on the Constructive Engagement process for the NR28 review. Other than discussion of the timetable for Constructive Engagement, which is discussed above, there was only limited discussion of our proposals for Constructive Engagement in the consultation responses.
- 2.70 British Airways emphasised that the CAA should be fully engaged and active in Constructive Engagement, including timely resolution of disagreements, and enforcement of quality and timely information provision from NERL.
- 2.71 We consider that these matters are appropriately dealt with in the existing guidance, which states that the CAA expects to participate actively during the Constructive Engagement process, and details some of the activities this covers.

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<sup>23</sup> Principles for establishing the cost-base for en route charges and the calculation of the unit rates, Eurocontrol, January 2020. See: <https://www.eurocontrol.int/sites/default/files/2019-12/doc-20.60.01-eurocontrol-principles-january-2020-en.pdf>

- 2.72 Our guidance states that we ‘encourage’ the appointment of an Independent Reporter. In its response, British Airways asked for the CAA to require the appointment of an Independent Reporter.
- 2.73 We understand that this issue is the subject of ongoing discussions between NERL and the airlines, and there is not yet a clear consensus on whether an Independent Reporter is necessary.
- 2.74 We would prefer the parties to agree this issue between themselves, so do not propose to require the appointment of an Independent Reporter at this stage.
- 2.75 Bearing the above in mind, we have retained the previous version of our Constructive Engagement guidance, which is set out as Appendix B to this document.

## Proposed approach to setting price controls

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### Scope of the Price Control and Overall Approach

- 2.76 Consistent with established regulatory practice and decisions made by the Competition and Markets Authority (“the CMA”), we propose to use regulatory building blocks to determine an appropriate revenue requirement for NERL over the price control period.
- 2.77 Alongside this approach, we will develop and improve appropriate arrangements designed to ensure that NERL acts in a way consistent with providing high quality, resilient and value for money services, and supports airspace modernisation and system changes in an appropriate way. Taken together this approach should allow NERL to continue to operate safely and protect the interests of the users of its services.
- 2.78 The price controls, together with details on incentives, will be reflected in modifications to NERL’s licence.

### Consumer Priorities

- 2.79 As set out in the 2024 Review, we continue to emphasise that our work on price controls is informed by robust consumer engagement and research. We expect NERL to undertake its own research and provide a clear line of sight showing how consumer priorities are reflected in its business plan.
- 2.80 In addition to robust engagement with consumers, NERL should engage actively with relevant stakeholders including, but not limited to airlines, airspace users, airport operators and slot coordinators and bodies representing consumer interests.

- 2.81 We are aware that NERL has already undertaken some consumer research in advance of NR28, which we are currently reviewing to consider whether it fulfils our need to have a full understanding of consumer priorities.
- 2.82 We expect to conclude this review, and identify any potential gaps where further consumer research may be necessary, in advance of publication of our final method statement.
- 2.83 The Halliwell Review recommended that our business plan guidance should focus on outcomes associated with consumer impact and resilience as well as safety and efficiency. We have refined the guiding principles that we established for NR23 to emphasise that NERL should ensure that its business plan contains clear links to consumer impact and resilience, while still demonstrating how it will continue to meet its statutory safety obligations. These new principles are set out in Chapter 3 of this document.
- 2.84 We expect to review our business plan guidance in the context of our review of NERL's consumer research, and identify any changes necessary in advance of publication of our final method statement.
- 2.85 We will also seek guidance from the CAA's Consumer Panel throughout the NR28 process to understand its views on the approach to consumer engagement.

## **Traffic Forecasts**

- 2.86 Traffic forecasts are a key input to the NR28 price control, as traffic levels are an important cost driver and inform the determination of revenue allowances for UK en route, London Approach, and Oceanic services, as well as any future charging arrangements for airspace design services.
- 2.87 During the NR23 review, there was considerable uncertainty about the speed of traffic recovery after covid-19. As a result, we asked NERL to develop a flexible business plan around a range of different plausible levels of expected traffic.
- 2.88 There is now considerably less uncertainty around traffic forecasts, and we consider it appropriate for NERL to prepare a 'base' business plan using an appropriate traffic forecast, and supplement this with scenario analysis based on traffic forecasts to be discussed with airlines as part of Constructive Engagement.
- 2.89 For UK en route and London Approach services, the CAA is minded to continue using the base case traffic forecasts produced by Eurocontrol's independent statistics and forecast Service ("STATFOR") as the primary input for NR28. We consider the use of these forecasts to be both independent and transparent.
- 2.90 This approach aligns with the methodology adopted in NR23. It is also consistent with the feedback from stakeholders captured in the 2024 Review, and the



CMA's determination for NERL's "Reference Period 3" price control from 2020 to 2022 ("RP3").

- 2.91 The Traffic Risk Sharing ("TRS") mechanism, which we currently expect to be retained from NR23, mitigates the impact of forecast variances by sharing traffic risks between NERL and airlines, reducing the materiality of any potential forecasting inaccuracies. This is discussed further below.
- 2.92 Nonetheless, we remain open to representations from stakeholders on alternative approaches to traffic forecasts. Any such submissions should be supported by robust evidence explaining why the alternative forecast is clearly preferable to STATFOR on a forward-looking basis.
- 2.93 For Oceanic en route services, we are currently minded to adopt NERL's forecast, which applies STATFOR growth rates to historical Oceanic flight data. This builds on the approach in NR23, where no suitable independent Oceanic forecast was available from sources such as the ICAO North Atlantic Economic Financial and Forecast Group.
- 2.94 We will review whether any clearly preferable alternative forecasts are available in advance of the final method statement. However, we consider that it is unlikely to be proportionate for the CAA to commission the production of an independent forecast of Oceanic volumes. We welcome input from stakeholders on this issue.
- 2.95 We will also consider whether it would be appropriate to introduce a TRS mechanism for Oceanic services to address forecast risk. We note that this could add complexity to a relatively small element of the overall charge control, and will consider whether it is justified by the associated consumer benefits.
- 2.96 Our present approach to charges for UKADS is that these will be recovered on a per-service-unit basis from en route users, leveraging existing en route volume forecasts where appropriate. For new users, as discussed earlier, the charging models are not yet established. Volume forecasting for these areas will be addressed if and when enduring charging mechanisms are finalised.
- 2.97 There will be further engagement with stakeholders on traffic forecasts as part of Constructive Engagement.

## **Service Quality and Resilience**

- 2.98 As part of the UK en route price control, we set targets and incentives for NERL to improve its performance on reducing the environmental impact of air traffic services and reducing delays to flights. Ensuring appropriate incentives for NERL



to provide high levels of service quality is consistent with our duty under the TA00 to further the interests of customers and consumers.<sup>24</sup>

2.99 In NR23, NERL's capacity performance was measured using four metrics:

- C1 – a measure of all causes of en route air traffic flow management (“ATFM”) delay;
- C2 – a measure of delay, measured consistently with C1, but excluding causes of delay deemed to be outside of NERL's direct control. The measure is also referred to as NERL-attributable delay;<sup>25</sup>
- C3 – a measure of delay, measured consistently and with the same exclusions as C2, but weighted based on time of day and duration of delay. Both NERL and airlines were involved in the design of this measure, which is aimed at minimising delay in peak periods, and is also referred to as the Impact Score; and
- C4 – a NERL-specific metric, also referred to as the Daily Excess Delay Score, which is based on a weighted measure that is triggered each day that the average delay per flight exceeds a certain threshold. This metric is intended to capture the impact of major service outages.

2.100 Metrics C1 – C3 broadly capture overlapping subsets of delay data and are primarily focused on reducing AFTM delays, which arise when capacity constraints in the en route network lead to aircraft being held on the ground or in the air. Together, these measures are designed to incentivise NERL to minimise delay and improve the efficiency of day-to-day operations.

2.101 By contrast, metric C4 is intended to capture the occurrence of major service outages, ensuring that large-scale events which can cause significant disruption to airlines and passengers are also reflected in the service quality framework.

2.102 For NR28, we intend to build on the NR23 approach, while taking account of the findings and recommendations from the 2024 Review and the Halliwell Review.

2.103 In the 2024 Review, we said that we would look at the balance between service quality and capex engagement incentives and consider recommendations in relation to service quality and resilience. We also said that we would consider the recommendations from the Halliwell Review in relation to service quality and

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<sup>24</sup> We use the term “customers and consumers” as shorthand to refer to the interests of owners and operators of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them (see section 2(2) TA00).

<sup>25</sup> Both C1 and C2 metrics are consistently measured by Eurocontrol and provide for direct comparison of delay performance between Eurocontrol member states.

resilience and address specific issues relating to the design and calibration of NERL's incentives.

2.104 The Halliwell Review made two recommendations which are relevant to the CAA assessment of service quality issues at NR28:

- we should explore ways of measuring cancellations and knock-on delays attributable to NERL for use in its incentive framework; and
- we should review the quantum and mechanisms for incentives on NERL, with a view to strengthening the incentives to provide a resilient as well as a safe service.

2.105 In the light of the above, we have developed the following objectives for our work on resilience and quality of service incentives:

- **Objective 1: Maintaining safety as a core priority, while incentivising NERL to build resilience to meet current and future demand.** Service quality incentives should support forward-looking investments that deliver long-term benefits while aligning with broader strategic objectives. Safety must remain paramount, but NERL should be incentivised to deliver across multiple objectives in a balanced way.
- **Objective 2: Incentivising NERL to deliver a high standard of service quality including delivering broader outcomes that are valued by consumers and industry.** The service quality and resilience framework should promote actions that improve the full passenger experience, rather than just AFTM delay. Rewards and penalties should be sufficiently material to influence behaviour and drive broader service quality improvements.
- **Objective 3: Ensure service quality incentives are transparent, clearly defined and understood by all stakeholders.** NERL's performance should be visible and accessible, with rewards and penalties clearly tied to specific, measurable outcomes.
- **Objective 4: Ensure incentives are proportionate to the significance of the outcomes they aim to deliver.** Incentives should be calibrated to encourage NERL to deliver high service quality, investment to deliver longer-term increases in capacity and resilience. Greater materiality should be placed on outcomes that matter most to consumers and industry.

2.106 In order to meet these objectives, we consider that it is appropriate to consider changes to the existing service quality metrics, including:

- adjusting bonus/penalty percentages/amounts;
- revising bonus/penalty thresholds;

- changes designed to increase transparency or change the weighting of different components of the performance measure; and/or
- reviewing the structure of the “deadbands”.<sup>26</sup>

- 2.107 We also consider that we should explore the introduction of new incentives that take a broader view of service quality and resilience.
- 2.108 NERL is currently incentivised to minimise AFTM delay, which is a central aspect of service quality. Minimising delay contributes directly to improved passenger experience and operational efficiency. Nonetheless, we will seek to better understand how existing metrics correlate with these wider outcomes and resilience, and consider whether additional measures are needed to reflect the wider passenger experience. Any new metrics would need to be carefully defined to ensure they are measurable, proportionate and targeted.
- 2.109 We invite stakeholders to share their views on our proposed objectives, and to provide suggestions on how appropriate service quality incentives can be developed to meet them.

## Environmental Sustainability

- 2.110 Environmental outcomes, such as flight efficiency, are integral to ensuring high levels of service quality. Improved environmental performance through reduced fuel burn supports the wider industry by aligning environmental objectives with service quality and the UK’s net zero commitments.
- 2.111 While aviation has a significant environmental impact in terms of carbon emissions, the extent to which NERL can influence these externalities by changing the way it provides its services is limited.
- 2.112 In NR23, consistent with earlier price control periods, NERL’s price controls have included a financial incentive on a metric (3Di) that acts as a proxy measure for fuel inefficiencies in flight paths flown. 3Di stands for 3-Dimensional Inefficiency/Insight and is a metric that estimates a score for the fuel inefficiency of a flight based on comparing the actual path flown to its requested profile. Financial incentives are based on the annual average of the metric over all flights.
- 2.113 In the short-term, flight path efficiency can be improved through the decisions that air traffic controllers make, such as tactically providing more direct routings. In the long-term, more sustained improvements can be achieved through changes in airspace design and airspace modernisation, which should lead to

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<sup>26</sup> A ‘deadband’ is the range of service quality outcomes which do not result in either a bonus or a penalty.

more efficient flight trajectories, and lower carbon emissions through reduced fuel burn.

- 2.114 In the 2024 Review, we said we would review the 3Di measure ahead of NR28, and consider whether the regulatory framework was flexible enough to support investment by NERL designed to promote better environmental outcomes. We also noted that we would monitor the Eurocontrol project on the modulation of en route charges and assess any future findings that might be relevant to NR28.
- 2.115 NERL began a review of the 3Di metric in early 2024. It concluded that a more diversified framework could provide a more accurate, transparent and actionable approach of measuring ATM performance.
- 2.116 As a result, NERL has developed a proposed set of seven metrics (E1-E7), intended to capture different aspects of environmental performance. These metrics are still being explored and refined by NERL to ensure they provide a comprehensive and robust basis for assessment.
- 2.117 The proposed metrics are outlined below, together with a high-level description of what each is intended to measure:<sup>27</sup>
- E1: Gross Network Emissions (GNE) - measure of total emissions in UK Airspace;
  - E2: Tactical Flight Emissions (TFE) - en route planned vs actual emissions;
  - E3: Statistical Network Emission (SNE) - network impact on planned emissions;
  - E4: Enabled Emissions Savings (EES) - demonstrates investment benefits;
  - E5: Stack Flight Emission (SFE) - emissions produced in the hold at airports;
  - E6: Lower Airspace Level Offs (LALO) - impact of Continuous Climb Operations (CCO) and Continuous Descent Approach (CDA); and
  - E7: Three-Dimensional Efficiency (3Di) – ‘scores’ each flight based on a set of coefficients.
- 2.118 NERL has identified metric ‘E2: Tactical Flight Emissions (“TFE”)’ as its preferred option for use in NR28 environmental incentives. We have not yet formed a view on whether this is an appropriate primary environmental metric, and welcome stakeholder feedback on this issue.

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<sup>27</sup> We understand that NERL intends to share further details on these metrics as part of the constructive engagement process, and we would expect them to include details of any proposed metrics as part of their business plan submission.

- 2.119 TFE is designed to measure the variance in estimated total emissions resulting from the difference between the actual flight path and airlines' planned en route trajectories at the individual flight level, which can then be aggregated.
- 2.120 In contrast, the existing 3Di metric relies on a linear regression model based on the estimated fuel burn and flight path inefficiencies (horizontal and vertical) of a sample of flights. The model coefficients are applied to all flights to estimate the % of fuel inefficiency, and the annual average is reported.
- 2.121 Moving from a % model-based metric to an estimate of absolute emissions potentially allows for a more transparent link between the incentivised metric and actual operational outcomes.
- 2.122 This work remains at an early stage, and NERL continues to engage with stakeholders as it refines these metrics. We understand that NERL considers that the other six metrics could potentially be published primarily for information and monitoring purposes, providing greater transparency on different aspects of environmental performance.
- 2.123 While targets could potentially be set against some of these other metrics, details on these metrics are currently limited, and we have not yet assessed whether they are relevant to incentivising NERL's environmental performance.
- 2.124 We set out our proposed environmental objectives for NR28 below:
- **Objective 1: Incentivising NERL to invest flexibly and efficiently in projects that deliver environmental benefits, provided that the investment represents value for money for consumers.** Incentives should support forward-looking, value-for-money investments that deliver enduring environmental benefits and align with the UK's net zero strategy.
  - **Objective 2: Ensure environmental incentives are transparent, clearly defined, and understood by all stakeholders.** NERL's performance should be transparent and easy to understand and audit, with rewards and penalties clearly linked to measurable outcomes. At the same time, the environmental framework should make clear how incentives are balanced with other service quality priorities, so stakeholders understand how trade-offs are managed. The cost of collecting, processing and storing the data required to produce any metrics and to allow for its interrogation and audit should also be considered by NERL in its proposals.
- 2.125 To meet these objectives, we will assess the extent to which NERL's proposed metric(s) deliver the intended environmental outcomes. This will involve examining the specific environmental improvements each metric is designed to incentivise, and whether the incentives linked to these metrics are proportionate and aligned with wider service quality priorities.

- 2.126 NERL should also provide its views on how any new incentives can be appropriately calibrated against the existing 3Di modelling approach.
- 2.127 It will also be important that our approach complements wider reforms such as those in relation to airspace design, ensuring that our approach supports the sector in delivering long-term environmental benefits.
- 2.128 As this work remains at an early stage, stakeholder engagement will be important to shaping the framework and we invite stakeholders to provide input on NERL's initial work, our proposed objectives, and how environmental incentives can be developed to deliver effectively against our objectives.

## Efficient Costs

- 2.129 A key part of our work in the NR28 price control review will involve assessing the efficient level of costs that NERL is expected to incur. This will include setting allowances for operating costs ("opex"), capital expenditure ("capex") and non-regulated revenues.
- 2.130 At NR23, we reviewed NERL's business plan projections of these costs and revenues and used a mix of internal work and independent assessments to reach a judgement on the appropriate level for these allowances.
- 2.131 Following NR23, we sought feedback on our approach to cost assessment from stakeholders as part of the 2024 Review. We additionally commissioned a report on our approach to cost assessment by Grant Thornton,<sup>28</sup> and a report on international case studies by MKmetric.<sup>29</sup>
- 2.132 In our findings from the 2024 Review, we set out three key priority areas to strengthen our approach to cost assessment and said we would:
- **Develop our approach to information gathering and business planning guidance.** We plan to work to improve and enhance our approach to gathering information from the companies to support our development of cost estimates. Specifically, we intend to provide clear guidance on the form and context of cost information that is required in business plans, to allow for better and more consistent scrutiny of these costs.

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<sup>28</sup> Future Regulatory Approach – Cost assessment, Grant Thornton, 10 July 2024. See <https://www.caa.co.uk/media/dupdkyop/future-regulatory-approach-cost-assessment.pdf>

<sup>29</sup> International approaches to airport and air traffic control regulation, MKmetric, 19 July 2024. See <https://www.caa.co.uk/media/104nahbk/international-approaches-to-airport-and-air-traffic-control-regulation.pdf>

- **Work to widen the evidence base including further consideration of international benchmarking and targeted bottom-up analysis.** We will build on the recommendations of the report by Grant Thornton to develop specific options for supplementing the use of company business plan information so that we might broaden and deepen the evidence base we draw upon in reaching our own views on the level of efficient costs. We would expect NERL to provide evidence of robust benchmarking of its processes, costs and service quality in its business plans to demonstrate efficiency and value for money.
- **Develop further our approach to the assessment of NERL's capex and its incentives for capital efficiency and delivery.** We will consider what changes to our approach to setting allowances for NERL capex might strengthen the cost estimates which we produce. Our considerations will reflect, and build on, the relevant recommendations of both the Egis Review and the Halliwell Review. As part of this, we will consider whether complementary capex governance mechanisms might be required for NERL, and we will also consider delivery incentives for NERL capex.

2.133 We expect our overall approach to assessing the efficient level of opex and non-regulated revenues at NR28 to draw upon a broader and deeper evidence base, by deploying a range of cost assessment tools, including:

1. Targeted bottom-up assessment of key components of material opex and revenue items. This will be supported by independent expert inputs and the use of external benchmarks where practicable;
2. Targeted external benchmarking of opex and revenue items where we can find robust industry and/or external benchmarks of comparable items; and
3. Top-down assessment of opex and revenues as overall cross checks. This may include overall opex and revenue per unit. We will continue to work with our consultants (and engage with NERL) in exploring whether top-down econometric benchmarking approaches are also a credible additional cross check in NR28.

2.134 Our approach to setting an efficient capex baseline will be complementary to the capex incentives framework, taking account of any changes we make to improve or strengthen these incentives. We expect our approach will broadly involve:

1. Conducting initial work to understand the likely size and composition of the efficient capex envelope for NR28 and key uncertainties. We will review information on projects that will carry over from NR23, and expect to be able to understand any significant variances to the most recent Service and Investment Plan NERL has provided to the CAA.



2. Identifying and assessing projects that will be included in the NR28 capex baseline, including projects that are presently known but also an estimate of spending for likely projects that are in the earlier stages of planning and presently have a low level of maturity;
3. Assessing the cost efficiency of projects included in the capex baseline for NR28, using a combination of:
  - i. analysis of business plan data informed by top-down efficiency assessment;
  - ii. where feasible, targeted external benchmarking with comparable projects (or components of projects);
  - iii. targeted independent technical “deep dives” on cost build-ups and business cases, focusing on material projects for which benchmarking is not feasible; and
  - iv. external benchmarking of indirect cost markups applied to direct project costs.

2.135 We expect NERL to consider a range of approaches to meeting consumer needs, including both opex and capex solutions. We expect NERL to clearly demonstrate how it has evaluated these potential approaches, and the basis for considering that their chosen approach achieves maximum value for money in delivering outcomes for consumers.

2.136 Costs and capex attributable to the provision of Airspace Design Services should be separately identifiable to allow efficiency assessment as part of NR28. As with other key elements of NERL’s cost base, we will consider whether it is proportionate to conduct targeted bottom-up analysis on this expenditure.

2.137 We welcome stakeholder feedback on our proposed approach to cost assessment, and suggestions on particular elements of opex or capex to be prioritised for external benchmarking or targeted “deep dive” analysis.

## Incentives and Risk-Sharing

### Financial Incentives

2.138 In the section above, we discuss incentives designed to support appropriate levels of service quality, resilience and environmental benefits. In addition to these, we will also consider the appropriateness of incentives relating to NERL’s capex, the quality of NERL’s business plan, and wider incentives/risk sharing arrangements. This section sets out our views on these issues.



## Capex Incentives

- 2.139 NERL provided a business plan for NR23 in February 2022, which included capex forecasts. We reviewed this plan, supported by consultants, and supported the objectives NERL had set out for its capex programme.
- 2.140 In July 2022, NERL presented a revised capex plan, which delayed full delivery of the DP En Route programme to 2027, two years later than in the original business plan for NR23. Total capex for the DP En Route programme over the RP3 and NR23 periods increased from £260-290million to £335million.
- 2.141 In our NR23 Initial Proposals, we highlighted concerns about these increased costs, continued delays to the DP En Route programme, and associated consumer impact.<sup>30</sup> We stated that we were disappointed with the scale of change to NERL's plan and the lack of analysis we had seen to support the changes.
- 2.142 In the final decision for NR23, the CAA included a package of incentives relating to capex and capex governance:
- an Independent Reviewer, who would review the accuracy of NERL's reporting, including tracking and assessing NERL's progress in delivering its investment plan and achieving the associated benefits, and report on the cost efficiency of NERL's capex spend;
  - an *ex post* efficiency review, consisting of an independent review of the cost efficiency of NERL's capex against a test of Demonstrably Inefficient and/or Wasteful Expenditure as defined in a regulatory guidance document.<sup>31</sup> If any expenditure is deemed inefficient, an appropriate adjustment could be made to NERL's RAB; and
  - a capex engagement incentive, designed to encourage improvements in the quality of NERL's engagement with customers on its capex programme.
- 2.143 During the NR23 period, the Independent Reviewer has reported on NERL's progress against the capex engagement incentive. Our initial view is that it may be helpful to consider further guidance and clarity to support the effective operation of these measures. We are yet to complete an *ex post* efficiency review on NERL's NR23 capex spend.

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<sup>30</sup> Economic regulation of NATS (En Route) plc: initial proposals for the next price control review ("NR23"), October 2022, 4.129-4.131. See: [www.caa.co.uk/CAP2394](http://www.caa.co.uk/CAP2394)

<sup>31</sup> Appendix D - Economic regulation of NATS (En Route) plc: Decision on licence modifications and guidance, December 2020. See: [www.caa.co.uk/CAP2011](http://www.caa.co.uk/CAP2011)

- 2.144 Following the revision of NERL's capex plan for NR23, we commissioned the Egis Review of NERL's key NR23 capital programmes.<sup>32</sup> The report identified several shortcomings in NERL's planning process, and made detailed recommendations on how it could be improved.
- 2.145 The report also contained one recommendation for the CAA:
- "The CAA should consider mechanisms for incentivising efficiency, delivery, and benefits in NERL's capex programme. The developmental nature of NERL's major technical projects mean that there is uncertainty in the programmes in later years. Therefore, the CAA should investigate mechanisms to monitor programme delivery, so that NERL can be incentivised to avoid slippage of milestones that deliver significant customer benefits."*
- 2.146 In the 2024 Review, we stated that we would prioritise reviewing the way NERL's capex is incentivised as part of the NR28 review, and highlighted the recommendations from the Egis Review.<sup>33</sup>
- 2.147 We stated that the first stage of our work would be to establish the issues that enhanced incentives would seek to address, and set out options to address these issues, such as *ex ante* cost efficiency incentives, or incentives for the delivery of milestones or benefits from capex projects or programmes.
- 2.148 Our initial view is that the main issues with regulation of NERL's capital programme include how best to understand and incentivise issues around the prioritisation of NERL's capital programmes, transparency, timely delivery, efficiency and NERL's approach to capex governance and stakeholder engagement.
- 2.149 Bearing in mind the Egis findings there appears to be a case for seeking to improve the incentives and other arrangements that would enhance the transparency of NERL's capex and the timely delivery of projects.
- 2.150 We would welcome stakeholder input on how to develop and design such incentives, including how to ensure that NERL is not being held accountable for issues outside its control.
- 2.151 We also consider it appropriate to review whether our existing mechanisms sufficiently incentivise Efficiency, Prioritisation and Engagement. The stakeholder

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<sup>32</sup> [Review of key capital programmes proposed by NERL for the NR23 period](#), Egis, October 2023.

<sup>33</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See: [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)

views summarised in the Halliwell Review report indicate that further work in these areas may be necessary.<sup>34</sup>

- 2.152 We will consider whether a change, such as a move to an *ex ante* framework, could strengthen incentives on NERL on these issues. We would also welcome stakeholder input on potential improvements to these incentives.

### Business Plan Incentives

- 2.153 As discussed earlier, NERL made significant changes to its proposed capex programme between the plan proposed in the NR23 Business Plan and the plan presented in its Service and Investment Plan for 2023. This created challenges for the NR23 review, and the Egis Review highlighted several shortcomings in NERL's planning process.<sup>35</sup>
- 2.154 In the 2024 Review, we stated that there were significant shortcomings in the quality of some of the information provided by NERL, and that we would consider whether we can strengthen the incentives on licensees to provide timely and high quality business plan information.<sup>36</sup>
- 2.155 The orderly replacement of certain NERL legacy operating systems also increases the importance of NERL's provision of timely and accurate business plan information.
- 2.156 We are, therefore, minded to introduce a business plan incentive on NERL for the NR28 price control period. We set out below our initial proposal for the form and materiality of this incentive, noting that we will have to consider how this incentive interacts with the existing capex engagement incentive.
- 2.157 Consistent with the H8 price control business plan incentive, we are proposing a symmetrical incentive with potential for bonuses and penalties equivalent to up to 10bps of return on regulatory equity ("RORE") in each year of NR28, to be included in allowed revenue for the NR28 price control period.
- 2.158 We would make our assessment in the round and explain our assessment to avoid applying disproportionate rewards or penalties, for example where there is a single area of the business plan that is high or low quality.
- 2.159 We will set a high bar for NERL to earn a reward. For example, NERL would need to demonstrate that it meets our criteria of a high-quality business plan, as well as achieving "very high-quality" status in the areas of its business plan that

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<sup>34</sup> Independent Review of NATS (En Route) Plc's Flight Planning System Failure on 28 August 2023, May 2024. See: [www.caa.co.uk/CAP2993](http://www.caa.co.uk/CAP2993), paragraph 4.15

<sup>35</sup> [Review of key capital programmes proposed by NERL for the NR23 period](#), Egis, October 2023.

<sup>36</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See: [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)

we consider, having reviewed the plan, to be a high priority for furthering the interests of users.

- 2.160 In contrast, if NERL were not to meet the requirements of a high-quality business plan and achieves "low-quality" status in priority areas, we would consider applying a penalty. Nonetheless, a full penalty would only be appropriate if NERL's business plan was assessed as low quality across a significant number of criteria or areas of the plan and there was consumer detriment.
- 2.161 In assessing the business plan incentive, we intend to apply the criteria set out below:
- NERL's plan meets the requirements that we have set out in our business plan guidance, particularly on areas that are material and where high-quality information will be important for us to be able properly to develop our proposals for NR28;
  - the business plan is presented in a clear and coherent way, so that stakeholders can engage with the material presented;
  - the way in which the business plan benefits consumers is clearly demonstrated;
  - the plan is coherent and joined up across its separate sections;
  - the plan is appropriately challenging in the targets it sets;
  - there is evidence of third party assurance;
  - NERL submits its plan on time;
  - NERL responds to follow-up information requests in a timely way; and
  - any additional information that NERL might submit to us late in the price control process is appropriate and NERL can justify why the further submission is necessary, proportionate, appropriate and in the interests of consumers.
- 2.162 We will use the categorisation set out below, which refers to the criteria above:
- Very high-quality plan: NERL's plan exceeds our expectations against the criteria. For example, it is clear how consumers' needs (as ascertained through consumer research and stakeholder engagement) have informed the development of the business plan and how they will be furthered by the implementation of the business plan.
  - High-quality plan: NERL's plan meets the requirements set out in the criteria. For example, there is some evidence of how consumers' needs have informed the development of the business plan and how they will be furthered by the implementation of the business plan.

- Low-quality plan: NERL's plan fails to meet a number of the requirements set out in the criteria. For example, there is insufficient evidence of how consumers' needs have informed the development of the business plan and how they will be furthered by the implementation of the business plan.

## Other incentives for efficiency and risk sharing mechanisms

### Incentives for efficiency and the Eurocontrol Framework

- 2.163 The Eurocontrol framework sets out principles in relation to cost recovery, which we reflect in the regulatory framework for NERL. They state that, in general, the air traffic control provider should keep any underspending and be responsible for any overspending. However, they specify five categories of costs for which this does not apply:
1. unforeseen changes in costs of new and existing investments;
  2. unforeseen changes in the costs incurred by competent authorities or by qualified entities and unforeseen changes in Eurocontrol costs;
  3. unforeseen and significant changes in pension costs resulting from unforeseeable changes in national pensions law, pensions accounting law or unforeseeable changes in financial market conditions;
  4. unforeseen and significant changes in costs resulting from unforeseeable changes in interest rates on loans that finance costs arising from the provision of air navigation services;
  5. unforeseen and significant changes in costs resulting from unforeseeable changes in national taxation law or other unforeseeable new cost items not covered in the performance plan but required by law.<sup>37</sup>
- 2.164 In broad terms this framework means that NERL retains incentives to seek out efficiencies in the delivery of the majority of its opex base, with exceptions for certain aspects of pension costs and other limited exceptions.
- 2.165 In order to improve transparency around the risk sharing mechanisms, we are considering whether it is appropriate to define more clearly what we consider to constitute an 'unforeseen and significant' change in items 3-5 of the list above, and any implications this has for our risk sharing mechanisms.
- 2.166 We discuss individual risk-sharing mechanisms further below, but welcome views from stakeholders on providing greater transparency around risk sharing

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<sup>37</sup> Principles for establishing the cost-base for en route charges and the calculation of the unit rate, Eurocontrol, January 2020. See: <https://www.eurocontrol.int/sites/default/files/2019-12/doc-20.60.01-eurocontrol-principles-january-2020-en.pdf>, page 16, paragraphs 3.3.4.1-3.3.4.2

mechanisms and whether the present incentives in relation to operating efficiency remain appropriate or could be improved.

### Pension costs

- 2.167 Because of NERL's previous pension arrangements and its relatively costly defined benefit (DB) pension scheme, its pension costs have been a key component of NERL's cost base.
- 2.168 NERL participates in two pension schemes for its employees: a DB pension scheme and a defined contribution (DC) pension scheme, both of which are NATS group schemes. New joiners to NATS are automatically enrolled in the DC scheme and the DB scheme is now closed to new members. NERL also operates a pension cash alternative (PCA) arrangement.
- 2.169 For the NR23 review, we commissioned the Government Actuary's Department ("GAD") to review the DB and DC pension costs respectively in NERL's business plan.<sup>38</sup>
- 2.170 We also developed a regulatory policy statement in NR23, to clarify the principles which we expect NERL and/or the Trustee of the NATS Section of the Civil Aviation Authority Pension Scheme and/or the CAA, to apply in relation to pension costs.<sup>39</sup>
- 2.171 On the basis of the GAD review's findings, alongside our own analysis, we adopted NERL's business plan forecasts of pension costs for NR23. While we did not adjust PCA costs for NR23, we committed to considering PCA costs again at NR28, particularly in terms of the costs to NERL of the PCA scheme compared to the DB scheme.<sup>40</sup>
- 2.172 The main objectives for assessing pension costs in NR28 will be about protecting users and having regard to our financeability duty. This is likely to involve:
- a) incentivising NERL to continue managing the rising costs generated by specific design elements of its DB scheme; and
  - b) assessing the current DC scheme on the basis of it generating a reasonably attractive rewards package to prospective employees, while not allowing any inefficient costs to be passed to users.

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<sup>38</sup> [Analysis of pension costs for NATS \(En Route\) plc - Government Actuary's Department - June 2022](#)

<sup>39</sup> Economic regulation of NATS (En Route) plc: Update on approach to the next price control review, March 2021. See: [www.caa.co.uk/CAP2119](http://www.caa.co.uk/CAP2119)

<sup>40</sup> Economic regulation of NATS (En Route) plc: Provisional Decision for the next price control review ("NR23"), October 2023. See: [www.caa.co.uk/CAP2597](http://www.caa.co.uk/CAP2597)

- 2.173 We expect to maintain the existing overall approach to pension costs for NR28, but we intend to review:
- the proposed level of PCA costs by NERL; and
  - whether our approach to the DC scheme could be usefully informed by benchmarking against other similar schemes.
- 2.174 Previous work has indicated that there is limited scope to make changes to the DB scheme, due to protections in place under the scheme's Trust Deed and Rules, so we are not proposing to review settings for this scheme.
- 2.175 We are also interested in stakeholder views about whether the approach and priorities outlined in the regulatory policy statement remain fit for purpose. As we did for NR23, we expect to seek external support to validate our approach.

#### Traffic risk sharing

- 2.176 TRS arrangements are designed to protect the regulated business from undue risk and prevent unnecessary increases in its cost of capital that would lead to higher charges for customers.
- 2.177 This mechanism is consistent with the approach to these matters set out in the Eurocontrol Principles, the European Union ("EU") performance scheme, and the approach applied to other European air navigation service providers ("ANSPs").
- 2.178 TRS arrangements have been in place for NERL since 2003, but were adjusted in NR23 in response to the unprecedented downturn in air traffic as a result of the impact of the covid-19 pandemic and the associated revenue shortfalls experienced by NERL and other European ANSPs. We allowed the recovery of TRS revenues over a longer than usual period of 10 years, starting in 2023. This adjustment was intended to provide regulatory certainty while also managing downstream impacts on airline customer and consumer charges.
- 2.179 We also sought stakeholders' views on existing TRS arrangements for NERL during the 2024 Review and concluded that we expected to retain the existing TRS arrangements for NERL for NR28, but committed to considering points around design and calibration.<sup>41</sup>
- 2.180 Consistent with our findings in the 2024 Review, we expect to retain the existing broad approach to TRS arrangements for NERL for NR28, but we will consider available options around design and calibration (particularly in the context of future market shocks).

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<sup>41</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See: [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)



- 2.181 We will also include the remaining 'true up' of the TRS adjustment from the covid-19 period (as outlined in paragraph 2.178) within the relevant costs for NR28, as set out in NR23.

#### Inflation risk sharing

- 2.182 The current regulatory framework passes risks from variations between forecast and actual inflation to customers and consumers, through:
- a) CPI indexation of the unit rate: determined costs are expressed in NERL's licence in nominal terms, based on forecast inflation. There is a revenue adjustment with a two-year lag to correct for the difference between forecast and actual CPI inflation; and
  - b) RPI indexation of the RAB: an adjustment in the RAB rules to "true-up" for unexpected changes in the RPI-CPI wedge.
- 2.183 Feedback received during the 2024 Review indicated that a range of stakeholders would support a change to the way the RAB is indexed to inflation for both HAL and NERL price controls, and suggested moving from RPI indexation to either CPI or CPIH.
- 2.184 For NR28, we expect to retain the overarching principle that variations in costs arising from variations between forecast and actual inflation should be passed on to customers and consumers, in line with the Eurocontrol Principles.
- 2.185 Consistent with the findings of the 2024 Review, we will explore policy options for how the RAB is indexed, including both a transition to CPI or CPIH and/or using a nominal cost of debt. This is discussed in more detail later in this document.
- 2.186 We will also consider whether the 'true-up' for unexpected changes in the RPI-CPI wedge continues to be necessary.

#### 'True up' of 2026 and 2027 airspace design costs

- 2.187 As discussed earlier in this document, the CAA and DfT are establishing an UK Airspace Design Service, as a 'single guiding mind' for airspace design in the UK. To support implementation of this, modifications have been proposed to NERL's licence.
- 2.188 One of the issues that sits across both NR23 and NR28 is the potential for under- or over-recovery of UKADS costs during the NR23 period (for example,



through differences between forecast and actual costs and traffic). We have previously stated this would be dealt with via a correction mechanism.<sup>42 43 44</sup>

- 2.189 We intend to implement these arrangements as part of our NR28 review, alongside consideration of the broader regulatory model for UKADS.

## Financial Framework and the RAB

### RAB Approach

- 2.190 We expect to retain the RAB approach to set the NR28 price control for NERL. This provides regulatory consistency and reasonable stability for investors, avoiding unnecessary increases in the costs of financing investment, consistent with our duties under the TA00. It also smooths the recovery of the costs of investment over time.
- 2.191 NERL's RAB reflects the amount of revenue that NERL can recover in future and provides remuneration for efficient investment. The RAB is a fundamental part of our regulatory approach, and a key driver of charges.

### Simplification

- 2.192 The Price Control Model ("PCM") is the model used by the CAA to calculate the revenue allowance for NERL. In the 2024 Review, we noted that we were considering ways to simplify the RAB rules and the regulatory arithmetic within the PCM for NR28, which was generally welcomed by stakeholders.<sup>45</sup>
- 2.193 We stated that we would assess which parts of the calculation are essential and which could be removed or simplified to lead to a more proportionate and transparent regulatory framework, without unduly affecting the overall balance of risk.
- 2.194 We have now completed that assessment, and have identified four proposed simplifications, and two areas for further consideration. We discuss these below.

### Working Capital

- 2.195 For NR23, the PCM explicitly modelled all elements of NERL's working capital, including relatively immaterial items such as trade payables/receivables, as well as material items such as payables and receivables in relation to the TRS. The

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<sup>42</sup> Economic Regulation of NERL: Illustrative proposals for modifying the Licence to support the implementation of a UK Airspace Design Service, November 2024. See [www.caa.co.uk/CAP3063](http://www.caa.co.uk/CAP3063)

<sup>43</sup> Economic Regulation of NERL: initial proposals for modifying the Licence to support the implementation of a UK Airspace Design Service, June 2025. See: [www.caa.co.uk/CAP3121](http://www.caa.co.uk/CAP3121)

<sup>44</sup> Economic Regulation of NERL: Final proposals for modifying the Licence to support the implementation of a UK Airspace Design Service, December 2025. See: <http://www.caa.co.uk/CAP3164>

<sup>45</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See: [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)

inclusion in the working capital calculations of even relatively small balances adds unnecessary complexity to these calculations.

- 2.196 For example, trade receivables increase in proportion to revenues, but are also included within working capital. Increasing the allowance for working capital increases charges, which will in turn increase trade receivables, creating a circular calculation.
- 2.197 We propose simplifying the working capital calculations by focusing solely on TRS payables/receivables, as these are potentially significant components. We consider that continuing to undertake other calculations relating to minor, immaterial items are unnecessary, as their exclusion will not materially impact the balance of risk.
- 2.198 This will streamline the process, reduce complexity, and enhance the transparency and stability of our financial modelling.

#### Backlog Depreciation

- 2.199 Backlog depreciation represents the differences between forecast and actual regulatory depreciation. These variances are passed through the RAB to compensate NERL for either the over- or under-recovery of depreciation of the RAB through NERL's charges.
- 2.200 However, while these variances affect the timing of depreciation, they do not affect overall Net Present Value ("NPV") of charges paid by consumers. The calculation is complex, time-consuming and gives rise to the risk of errors while not providing any material benefit to NERL's overall financeability.
- 2.201 We propose to eliminate the use of adjustments for backlog depreciation and match the depreciation included in the RAB to the depreciation allowance in revenues. This approach simplifies the calculations for the price control overall, and does not affect the long-term NPV of charges.

#### Total Service Unit ("TSU")/Chargeable Service Unit ("CSU") calculations

- 2.202 The price control process involves various calculation units. Both TSUs and CSUs are used in the price control process. The use of both bases can sometimes lead to errors and confusion regarding which cost basis is being applied in different calculations.
- 2.203 To mitigate these issues, we propose performing all calculations on a CSU basis and converting to TSU where necessary for Eurocontrol reporting and charging. This approach reduces the potential for errors and confusion by standardising calculations on a CSU basis, while having no impact on the final charges calculated.

### RPI/CPI Wedge

- 2.204 This adjustment addresses the variance in revenue due to differences between RPI and CPI inflation. These are passed through the RAB to compensate NERL for either over- or under-recovery of its RAB through depreciation and capital allowances.
- 2.205 The process of deriving these variances is complex and often disproportionate to the relatively low value of the figures involved. For example, the RPI/CPI wedge adjustment for RP3 was £3.7million which, as 0.16% of NERL's overall allowed revenues for the same period (£2.3 billion), even during a period of high inflation can be seen as immaterial.
- 2.206 We also note that, as discussed later in this section, we are minded to switch to CPI/CPIH indexation for the RAB. Dependent on the approach taken, this change may remove the need for any RPI/CPI wedge, or further reduce the materiality of the adjustment.
- 2.207 Bearing all of the above in mind, we propose to remove the RPI/CPI wedge.

### Pension and Spectrum Passthroughs

- 2.208 True-ups for pension and spectrum costs are currently included within the RAB. This is a complex calculation, and disproportionate to the impact on charges.
- 2.209 We are exploring whether there is a way to simplify the mechanics of these calculations, while not impacting the balance of risk. Any specific proposal will be included in our final method statement.

### TVar Removal

- 2.210 TVar is an adjustment that is specified in the Eurocontrol Principles. Adjustments for other issues such as inflation and TRS are typically made two years after the year to which they relate. They are calculated on the basis of contemporaneous forecast traffic for the year in which the adjustment is made.
- 2.211 TVar is a true up to the adjustment to reflect the actual traffic for the year in which the adjustment is made, calculated a two further years later using actual traffic for that year. As an adjustment to an adjustment, it is typically of very low materiality.
- 2.212 We are exploring whether there is a way to simplify the mechanics of the TVar calculation, while maintaining consistency with the Eurocontrol Principles and avoiding an impact on the balance of risk. Any specific proposal will be included in our final method statement.

### Inflation

- 2.213 NERL's RAB is inflated in order to compensate NERL for inflation, as in calculating returns we use a real cost of capital (i.e. the cost of capital does not

allow for the impact of inflation). Historically, including at NR23, we have used the RPI index to inflate NERL's RAB.

- 2.214 Consistent with the approach adopted by other economic regulators, we expect to move from RPI indexation to CPI or CPIH indexation of the RAB for NR28. We have not yet decided whether CPI or CPIH would represent a more appropriate index for NERL's RAB. Historically, the difference between CPI and CPIH has been relatively small.
- 2.215 CPIH is the ONS's lead measure of the rate of inflation, although CPI is also a widely used measure. As NERL's charges have historically been indexed to CPI, using CPI for inflating the RAB may bring the benefit of consistency.
- 2.216 The indexation of NERL's charges to CPI was required under the EU Performance Scheme.<sup>46</sup> While the UK is subject to EU regulation, there may still be benefits in adopting a consistent approach to other Eurocontrol member states, and the Eurocontrol Principles.
- 2.217 We will continue to consider the most appropriate index to use for indexation of the RAB and charge control for NR28, and welcome stakeholder's views on this issue. We will fully set out our proposed approach to indexation in the final method statement.

### **Regulatory Depreciation**

- 2.218 There are advantages in terms of credibility and stability in retaining a broadly consistent and reasonable approach to regulatory depreciation over time. This should facilitate the smooth recovery of the RAB over time, which will generally be in the interests of customers and consumers. It will also allow for relatively low cost of debt and equity financing, as stability in the regulatory framework supports investor confidence.
- 2.219 Therefore, other than the proposed simplifications discussed above, our initial view is that we expect to maintain the NR23 approach to estimating regulatory depreciation. This involves:
- 15-year straight line depreciation for new assets added to the RAB through capex;
  - to allow only efficiently incurred capex to be recovered through the depreciation allowance; and
  - a depreciation adjustment to remove costs associated with NERL's pension cost pass-through which are recovered through revenue adjustments instead.

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<sup>46</sup> Commission Implementing Regulation (EU) 2019/317, February 2019. See: [https://eur-lex.europa.eu/eli/reg\\_impl/2019/317/oj/eng](https://eur-lex.europa.eu/eli/reg_impl/2019/317/oj/eng)

## Cost of Capital

- 2.220 Consistent with established regulatory practice, it will be appropriate to set an allowed WACC that allows NERL to recover the reasonable and efficient costs of financing the investment represented by the RAB.
- 2.221 In the 2024 Review, we said that the approach we adopted to calculate the cost of capital in NR23 should provide a reasonable starting point for our work on NR28. We also said that we would consider new precedent from other regulatory reviews, guidance issued by the UK Regulators Network (“UKRN”),<sup>47</sup> the comparators for beta estimation, new market evidence and further evidence from stakeholders. We continue to consider this approach is appropriate.
- 2.222 Depending on the regulatory model adopted for the activities undertaken by the new Airspace Design Business, it may be necessary for the WACC we estimate for NERL to consider the impact of these activities on the systematic risk faced by NERL. Should this become necessary, we are minded to continue to estimate a single WACC for NERL that covers all of its regulated activities, but welcome views from stakeholders on this issue.
- 2.223 As noted above, we are minded to change the treatment of inflation in calculating the WACC, with the real WACC calculated by reference to CPI or CPIH rather than RPI as in previous price controls, to be consistent with our position of changing indexation of the RAB.
- 2.224 As part of our H8 price control work, we commissioned FTI Consulting to provide an initial updated estimate of Heathrow’s WACC based on recent market information and to propose potential refinements to the method we used in H7.<sup>48</sup>
- 2.225 While elements of this work are specific to Heathrow, the elements which relate to parameters reflecting general economic conditions are likely to also be applicable to NERL. Based on the movements in these parameters, we consider it likely that the WACC we apply to the NR28 price control will be higher than that used for NR23.
- 2.226 Our estimate of NERL’s WACC for NR28 will consider further market data, any relevant decisions made by the CMA, evidence from stakeholders and any other relevant information emerging during the course of NR28. We welcome views from stakeholders on any specific evidence that we should consider.
- 2.227 Where there are links between the incentive package we apply to NERL in the NR28 period and the WACC, we will explore and take decisions consistent with the interests of users and our other statutory duties in the round. We will

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<sup>47</sup> UKRN, UKRN guidance for regulators on the methodology for setting the cost of capital, March 2023. See: [https://ukrn.org.uk/app/uploads/2023/03/CoC-guidance\\_22.03.23.pdf](https://ukrn.org.uk/app/uploads/2023/03/CoC-guidance_22.03.23.pdf)

<sup>48</sup> Cost of Capital Strategy for H8, November 2024. See: [www.caa.co.uk/CAP3044A](http://www.caa.co.uk/CAP3044A)

calibrate the impact of incentives on the WACC where it is reasonable and practicable to do so.

### Corporation Tax

- 2.228 As well as incurring operating and capital costs and providing a return on investment, NERL will need to fund payments of corporation tax. Therefore, as part of NERL's revenue allowance, we include an allowance for these tax payments.
- 2.229 In NR23, we provided NERL with a tax allowance as a 'building block' in our calculations of NERL's price control revenue. This is consistent with the approach adopted by other regulators such as Ofwat and Ofgem.
- 2.230 Our tax allowance was calculated using an explicit estimate of the tax that the notional company would pay, based on estimates of taxable revenue, allowable tax expenses, and an uplift so that the notional company would recover the WACC on a post-tax basis.
- 2.231 We expect to take a similar overall approach in NR28 to NR23, that is, explicitly estimating the tax payable by the notional company, and providing a specific allowance for the tax payable as part of the revenue building blocks.
- 2.232 In NR23, we noted the Government's introduction of so-called 'full expensing' rules under which qualifying costs were fully deductible against taxable profits in the year they are incurred. Our decision took account of the full expensing rules and assumed that they would end on 31 March 2026.<sup>49</sup> We stated that we would use tax uncertainty mechanisms to true up any change to the duration or nature of the full expensing rules. Full expensing was made permanent in the Autumn Finance Bill 2023. Therefore, we expect to make such a true-up adjustment.

### Financeability

- 2.233 We carry out financeability analysis to support the cost effective financing of investment and discharge our financeability duties for NERL. We expect to carry out financeability analysis for NR28 that is similar to our approach for NR23. This analysis includes adopting a notional financing structure and testing that the efficient notional company should continue to attract debt and equity financing for investment, even in reasonable downside scenarios.
- 2.234 In previous price control reviews, we have based our assessment of financeability, and determined NERL's allowed return, based on a "notional" or "efficient" financial structure.

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<sup>49</sup> Economic Regulation of NATS (En Route) plc: Final decision for the NR23 (2023 to 2027) price control review, November 2023. See: [www.caa.co.uk/CAP2597](http://www.caa.co.uk/CAP2597), paragraphs 5.52 & 5.56.

- 2.235 The “notional financial structure” constitutes a set of assumptions regarding the scale and nature of NERL’s debt liabilities. These assumptions reflect our views on the efficient balance between debt and equity finance. In practice, these assumptions have differed significantly from NERL’s actual financial structure.
- 2.236 By assessing the impact of our policy proposals on this notional entity, we avoid making judgements on, or allowances for, NERL’s actual financial structure. This has been a key part of our approach to the financial framework as it makes clear that we have regard to financeability in setting NERL’s price control, while not seeking to regulate the actual choices made by NERL itself.
- 2.237 This ensures that these actual choices remain the responsibility of NERL, its directors and shareholders. We have adopted this approach in setting previous price controls and it remains a central element of our policy.
- 2.238 The rationale for this approach has been that NERL’s actual financial structure is the responsibility of NERL’s directors and shareholders and is influenced by the particular choices they make.
- 2.239 If the financeability test and allowed return determination were to be carried out on the basis of NERL’s actual financial structure, it could weaken the incentive on NERL to manage its finances prudently and could lead to consumers underwriting particular risks that NERL’s directors and shareholders have decided to take.
- 2.240 We welcome stakeholders’ views on our proposed approach to financeability analysis, particularly on the:
- target credit rating that we should assume for the notional company; and
  - downside scenarios that we should consider.

### **Format of the RAB Rules**

- 2.241 The RAB Rules are a document, published alongside our initial proposals, provisional decisions and final decision, which set out the basis for the calculation of the RAB in each regulatory period.
- 2.242 The current format of this document is a word document which details how the “opening RAB”<sup>50</sup> should be calculated and how the RAB will be calculated in each successive year. This document is long, complex, and not user friendly.
- 2.243 We consider that there could be significant benefits from an alternative approach to the documentation for the basis for the calculation of the RAB. In particular, we consider that it may be more appropriate to present this information primarily in the form of a clearly documented and explained spreadsheet.

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<sup>50</sup> The opening RAB is the value of the RAB at the start of the price control period under review.



2.244 This would have the benefits of:

- providing a clear evidence trail for the numbers used in the final decision;
- making it easier to understand how the RAB has been calculated; and
- reducing the administrative burden of maintaining and using a long and complex algebraic document.

2.245 We welcome stakeholders' views on our proposed approach to documentation of the basis for the calculation of the RAB, and in particular our proposal to present the calculation of the RAB primarily in the form of a spreadsheet.

### Key questions for consultation

2.246 Stakeholders are invited to comment on any aspect of our consultation on this draft method statement and we particularly welcome views on:

- our priorities for the NR28 review, set out in paragraph 2.22 above;
- whether the ongoing benefits of a reduced overlap with the Heathrow price control cycle that would result from a one-off six-year control period would outweigh the associated challenges;
- whether our proposed objectives for service quality, set out in paragraph 2.105 above, are appropriate and how best service quality incentives can be developed to meet them;
- whether our proposed environmental objectives, set out in paragraph 2.124 above, are appropriate and how environmental incentives can be developed to deliver effectively against them;
- feedback on our proposed approach to cost assessment, and suggestions on particular elements of opex or capex to be prioritised for external benchmarking or targeted "deep dive" analysis;
- whether the issues we have identified to be addressed by enhanced capex incentives set out in paragraph 2.148 above are appropriate, and suggestions on the potential design of capex incentives to address these issues;
- feedback on design and application of our proposed business plan incentive;
- whether a clearer definition of what we consider to constitute an 'unforeseen and significant' change in pension costs, interest rates, taxation law or other new cost items required by law would be beneficial;
- feedback on the most appropriate index to use for indexation of the NR28 RAB and charge control; and
- whether stakeholders support our proposal to present the calculation of the RAB primarily in the form of a spreadsheet.



## Chapter 3

# Business Plan Guidance

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## Introduction

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- 3.1 This draft business plan guidance is intended to assist NATS (En Route) Plc (NERL) in producing a business plan for the NR28 price control period that appropriately supports our price control review process, including providing a clear focus for NERL in identifying and meeting the needs of its customers and consumers in an efficient and effective way.
- 3.2 The plan should be robust and transparent and support both:
- a) the process of constructive engagement (CE) and NERL's engagement with wider stakeholders; and
  - b) our work in setting appropriate price control arrangements.
- 3.3 This chapter provides an overview of the draft guidance to be provided for each area and the issues we have considered when designing this draft guidance. Key issues for consultation are summarised at the end of the chapter.
- 3.4 The following sections then follow the same structure as the more detailed draft business plan guidance set out in Appendix A, and cover:
- scope and priorities;
  - safety;
  - consumer priorities;
  - traffic;
  - service quality and resilience;
  - environmental sustainability;
  - costs;
  - financial issues; and
  - cost of capital.
- 3.5 The draft guidance provided in this chapter and the associated appendices is designed to set out a base level of information that NERL should provide as part of the NR28 process. NERL should additionally provide any further information it considers would further the interests of consumers, or be reasonably required to fully understand its plans for NR28 and beyond.

## Context

3.6 At NR23, our business planning guidance comprised:

- five guiding principles;<sup>51</sup>
- detailed business planning guidance from RP3, updated for certain updates suggested by NERL;<sup>52</sup>
- further detailed guidance around cost and revenue building blocks, capex and opex for UKATS, Oceanic and non-regulated revenues;<sup>53</sup> and
- detailed opex and building block templates to be filled out by NERL.<sup>54</sup>

3.7 We sought stakeholder feedback on our business planning guidance as part of the lessons learnt process.<sup>55</sup> Several stakeholders, including NERL, stated that we should provide more detailed business plan guidance, and we said that we would consider strengthening our business plan guidance.

3.8 Our draft NR28 business plan guidance contains significantly more detail than our previous NR23 guidance. Nonetheless, we would welcome feedback on any areas where further detail would be helpful.

3.9 We have consolidated our draft method statement and all our business plan guidance into a single document, and intend to issue detailed Excel templates alongside our final Business Plan Guidance (earlier in the process than for NR23). These changes are intended to further support NERL in developing a high quality business plan.

3.10 The Halliwell Review also considered our business planning guidance.<sup>56</sup> Recommendation 19 of the review stated that our business plan guidance to NERL should have a clear focus on outcomes associated with resilience and consumer impact as well as safety and efficiency.

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<sup>51</sup> Economic Regulation of NATS (En Route) plc: further update on approach to the next price control review ("NR23"), June 2021. See: [www.caa.co.uk/CAP2160](http://www.caa.co.uk/CAP2160)

<sup>52</sup> Guidance for NERL in preparing its business plan for Reference Period 3, July 2018. See: [www.caa.co.uk/CAP1625](http://www.caa.co.uk/CAP1625)

<sup>53</sup> Request for further information to NERL for the NR23 Business Plan submission: cost and revenue building blocks, December 2021. See: [www.caa.co.uk/CAP2306](http://www.caa.co.uk/CAP2306)

<sup>54</sup> These were published alongside CAP 2306 on the [CAA's website](http://www.caa.co.uk).

<sup>55</sup> Setting future price controls – lessons learnt from the review of approach, August 2024. See: [www.caa.co.uk/CAP3000](http://www.caa.co.uk/CAP3000)

<sup>56</sup> Independent Review of NATS (En Route) Plc's Flight Planning System Failure on 28 August 2023, May 2024. See: [www.caa.co.uk/CAP2993](http://www.caa.co.uk/CAP2993)

- 3.11 Consistent with this we have revised the Scope and Priorities section of our draft business plan guidance to place a specific requirement on NERL to demonstrate how its proposed plan supports such outcomes.
- 3.12 We continue to consider how our business plan guidance and any associated incentive can best support NERL in developing a high quality business plan with an appropriate focus on resilience and consumer impact. We welcome stakeholder views on this issue, and expect to provide a further update in our final method statement.

## Overview

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### Scope and priorities

- 3.13 We expect NERL to provide a high-quality business plan. This means providing all of the information requested on time, with properly supported views, compelling evidence (including benchmarking) and appropriate assurance.
- 3.14 Throughout NERL's business plan, it should have regard to the following priorities, and be able to clearly articulate how each of them has shaped the business plan:
- **Safety** – NERL should clearly demonstrate how it will continue to meet its statutory duty to secure that a safe system for the provision of air traffic services is developed and maintained, which complies with the safety regulatory framework.
  - **Consumer focus** – NERL's business plan should be customer and consumer focused. It should demonstrate a solid understanding of consumer preferences based on engagement and research. It should consider which elements of its existing research and engagement are relevant to its business plan, and identify and address any material gaps in its understanding.
  - **Transparency** – NERL should demonstrate clear links between costs and service outcomes, and between service outcomes and customer and consumer priorities. It should be able to clearly showcase what has changed within its business plan to take account of the views of consumers, and airline (and where appropriate, airport) customers. The business plan should also set out in a transparent and persuasive way how NERL will support airspace modernisation and the orderly replacement of its key flight processing systems.
  - **Resilience** – NERL should be able to demonstrate its commitment to modernisation and delivery of a resilient service. It should consider how these are impacted by issues such as asset maintenance policies, the transition to new systems, and airspace modernisation and the integration of new users.

- **Trade-offs** – NERL should provide robust supporting evidence for its opex and capex plans, including: the key drivers, how the costs link with each other and to the traffic and service level forecasts, what other options and trade-offs it has considered and rejected, and how programmes might need to evolve if circumstances change.

- 3.15 Our draft guidance provides overarching direction on the structure and content of the business plan. Its purpose is to ensure the plan delivers complete, well-supported and accurate information that can effectively inform the price control process. It also includes specific guidance on:
- a) the scope of the plan and the importance of a clear and transparent narrative;
  - b) the time period the business plan should cover;
  - c) the level of detail that should be provided;
  - d) the proposed price base and details of the inflationary assumptions that should be used; and
  - e) the form and level of assurance that should be provided with the business plan as a whole.
- 3.16 Our draft business plan guidance, as set out in Appendix A, is designed to help ensure that the information provided in the business plan is useful in allowing us to set a price control based on complete, well-evidenced and accurate information.
- 3.17 Information provided consistent with our business plan guidance should also support the constructive engagement process and NERL's engagement with wider stakeholders on a range of matters as part of the overall process.

## Safety

- 3.18 Safety remains a core requirement in the development of NERL's business plan. Its focus in delivering outcomes and outputs should always be in the context of maintaining and improving safety. NERL must demonstrate how it will continue to meet its statutory and regulatory safety obligations, maintain current safety standards and identify areas for improvement in safety performance.
- 3.19 The business plan should clearly set out its approach to safety management and provide evidence of how safety considerations are embedded in operational and investment decisions.

## Consumer priorities

- 3.20 An important part of the business plan will be demonstrating that NERL has conducted high-quality consultation and engagement with its customers on how its plan addresses consumer priorities during the NR28 period.
- 3.21 NERL should consider how it will deal with any instances where the respective interests of airspace users and consumers may diverge. We regard it as important that NERL considers how it can best ensure that the views of consumers are properly reflected in its business plan. NERL should also set out how it has taken account of the Halliwell Recommendations in developing its NR28 business plan.
- 3.22 The business plan should demonstrate a clear understanding of the outcomes which are most likely to deliver a positive impact for consumers, based on robust consumer research and customer engagement. It should demonstrate that these outcomes have been appropriately prioritised.
- 3.23 NERL must ensure that there is a clear link between the activities it proposes in its business plan and the priority outcomes for consumers that it has identified.

## Traffic

- 3.24 As discussed earlier in the draft method statement, we are minded to continue to use the STATFOR base case traffic forecasts for the en route and London Approach services. We would expect this to represent the 'base' traffic forecast around which NERL's business plan for these services is developed.
- 3.25 Should NERL wish to propose use of an alternative forecast, it should submit evidence demonstrating how the alternative forecast is in the interest of consumers and clearly preferable to STATFOR on a forward-looking basis, and should include a scenario based on the STATFOR base case traffic forecast.
- 3.26 For Oceanic services, NERL should develop a forecast that it considers to be appropriate, and provide sufficient detail to allow for this forecast to be properly scrutinised and understood. NERL should clearly detail the information and assumptions used to develop the forecast, including the extent to which STATFOR and other data has been used.
- 3.27 NERL should produce scenario analysis based on a high-level approach to be developed early in the constructive engagement process with stakeholder input. NERL should seek to agree the scenarios with airspace users, recognising they may evolve during the price review.
- 3.28 NERL should own and be accountable for delivery of its business plan under each scenario. It should clearly set out how the plan meets customer and consumer needs, responds to the circumstances in each scenario and delivers a robust level of technical, operational and financial resilience.

## Service quality and resilience

- 3.29 We expect NERL to propose service quality incentives and targets that are challenging and informed by stakeholder needs. Incentives should strengthen resilience and include appropriate treatment and incentives in respect of major disruptions.
- 3.30 NERL should demonstrate how its proposed service quality incentives and targets meet the objectives that we have identified at paragraph 2.105.
- 3.31 NERL should also consider opportunities to develop its proposed service quality incentives and targets to reflect broader consumer impacts from service disruption, such as knock-on delay impacts or cancellations. NERL should clearly articulate the reasoning and supporting evidence for its proposals
- 3.32 In developing its business plan, NERL should:
- reflect stakeholder views on metrics, expected service levels and how performance should be monitored and incentivised;
  - consider whether metrics should evolve to better reflect customer/consumer priorities;
  - promote actions that improve the overall journey experience for consumers beyond delays, including minimising knock-on delays and cancellations and seek to deliver outcomes that matter most to consumers/customers;
  - calibrate its proposals for rewards and penalties in a way that are sufficiently material to influence behaviour and drive improvements in service quality;
  - support forward-looking investments in capacity that deliver long-term benefits and align with strategic objectives such as airspace modernisation;
  - seek to provide safe, efficiency and resilient services;
  - avoid overly complex calculations that obscure how performance is measured or rewarded;
  - ensure rewards and penalties are clearly tied to specific, measurable outcomes; and
  - seek to provide high service quality and enable long-term investment in capacity and resilience.
- 3.33 In order for us to assess whether NERL is taking appropriate actions to ensure that they deliver a resilient service, NERL should additionally provide details on its approach to risk assessment.

## Environmental sustainability

- 3.34 NERL's business plan should contain evidence on its proposed environmental metric(s) and provide information to support our review of environmental targets, incentives and related investment. NERL should explain how its approach to air traffic management and its performance can reasonably contribute to aviation's environmental objectives.
- 3.35 We expect NERL to further develop any proposed metric(s) through stakeholder engagement to test robustness, identify gaps, confirm whether objectives remain appropriate and gather views on how best to achieve them.
- 3.36 NERL should demonstrate how its proposed metric(s) and associated incentives meet the objectives that we have identified at paragraph 2.124. It should clearly identify the specific environmental improvements that each metric is designed to incentivise.

## Costs

- 3.37 Forecasts of opex, capex and non-regulatory revenues are critical to price control calculations. The business plan should provide a detailed breakdown of costs and revenues to enable the assessment of trends, benchmarking and to support constructive engagement.
- 3.38 NERL should clearly specify the index used to inflate its forecasts, considering our discussion of the approach to inflation for NR28 at paragraph 2.213.
- 3.39 NERL should provide robust evidence for its opex and capex plans, including:
- a) key cost drivers;
  - b) links to service outcomes and customer and consumer priorities;
  - c) links between costs, traffic and service level forecasts;
  - d) options and trade-offs considered and rejected; and
  - e) how programmes may evolve if circumstances change.
- 3.40 Information should allow stakeholders to understand cost drivers and provide meaningful input on options and trade-offs to deliver service levels under each scenario. NERL should explain whether outcomes can be achieved through opex, capex or a combination, and justify its preferred approach.
- 3.41 We recognise that programmes and cost forecasts may need to evolve. NERL should provide timely information to stakeholders, including the CAA, on the implications of any changes and their impact on opex and capex.

- 3.42 The business plan should include NERL's views on the overall balance of incentives during NR28, how the capex incentives operated in NR23 and any improvements proposed for NR28.

## Financial issues

- 3.43 NERL's business plan should reasonably support our work to provide a stable and predictable regulatory regime that supports cost effective investment in high quality and resilient services, consistent with the interests of consumers/customers.
- 3.44 In developing its business plan, NERL should consider whether to take the same approach to financing as was used to support the setting of the NR23 price control or whether to update this to take account of new market evidence, regulatory precedent or emerging issues. It should provide evidence to support its chosen approach and explain why the approach is in the interests of consumers.
- 3.45 Our draft business plan guidance set out in Appendix A also sets out the information that NERL needs to provide in its business plan to support our work to appropriately calibrate the price controls and address financeability matters in setting its price control. We also expect NERL to provide inputs for the price control model we will use for our initial proposals as part of its business plan.

## Cost of capital

- 3.46 The cost of capital should remunerate providers of capital for their investment and be calibrated according to the risk that the business faces. NERL should assume a cost of capital no more than the efficient level necessary to compensate NERL for the business and regulatory risks it faces.
- 3.47 In formulating its business plan and proposals for an efficient cost of capital NERL will need to consider and transparently set out its assumptions and supporting evidence in respect of:
- relevant regulatory decisions and guidance published since the NR23 decision;
  - market evidence on cost of capital parameters;
  - its business risks (that should include its proposals for the treatment of pension deficit costs and the incentive framework); and
  - risks arising from external factors.



## Questions for Consultation

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- 3.48 Stakeholders are invited to comment on any aspect of our consultation on business plan guidance and we would particularly welcome views on:
- **Scope and priorities:** What are your views on our proposed priorities for NERL's business plan, as detailed in paragraph 3.15?
  - **Consumer priorities:** Do you have any views on potential focus areas for consumer research and engagement, and on the approach to seeking assurance that NERL's business plan reflects this evidence?
  - **Traffic:** Do you agree with our proposal to have a single primary scenario, based on the STATFOR base forecast, and for NERL to identify appropriate sensitivities?
  - **Resilience:** Is the guidance on resilience adequate to address operational and asset requirements for NR28?
  - **Benchmarking:** Should NERL provide any additional data to facilitate benchmarking?

# Appendix A: Draft Business Plan Guidance

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## Business Plan Guidance - Scope and priorities

### General guidance

1. The business plan should be:
  - consistent with NERL's s.8 TA00 statutory duties;
  - transparent, including in relation to having a clear and robust narrative covering all key areas, and be publicly available to all stakeholders;
  - supported by a robust evidence base, drawing on industry best practice;
  - well-structured and well-integrated between different elements of the plan;
  - designed to reflect consumers' views and preferences to the fullest extent practicable;
  - based on efficient costs and financing assumptions;
  - deliverable (including in respect of financeability).
2. NERL's business plan should cover its En Route, LAS and Oceanic air traffic services in the UK. Subject to the outcome of ongoing statutory processes, it should also cover NERL's Airspace Design Service and associated activities. NERL should present its business plan for all the above regulated services, and disaggregate information to the individual regulated service level where appropriate.

### Time period

3. The business plan should cover the five year period from the end of the existing price control arrangements (that, is from January 2028 to December 2032) with higher level projections to demonstrate longer-term financeability and affordability beyond 2032. For some items, historical data for past years is also required.
4. Where forecasts are presented, these should be provided in an annual form which is consistent with their presentation in NERL's accounts and figures should be presented for each year of the five year period.

### Priorities

5. NERL should be able to clearly articulate how each of these priorities has shaped the business plan:

6. NERL should clearly demonstrate how it will continue to meet its statutory duty to secure that a safe system for the provision of air traffic services is developed and maintained, which complies with the safety regulatory framework.
7. NERL's business plan should be customer and consumer focused. It should demonstrate a solid understanding of consumer preferences based on engagement and research. It should consider which elements of its existing research and engagement are relevant to its business plan, and identify and address any material gaps in its understanding.
8. NERL should demonstrate clear links between costs and service outcomes, and between service outcomes and customer and consumer priorities. It should be able to clearly showcase what has changed within their business plan to take account of the views of consumers, and airline (and where appropriate, airport) customers.
9. NERL should be able to demonstrate its commitment to modernisation and delivery of a resilient service. It should consider how these are impacted by issues such as asset maintenance policies, the transition to new systems, and airspace modernisation and the integration of new users.
10. NERL should provide robust supporting evidence for its opex and capex plans, including: the key drivers, how the costs link with each other and to the traffic and service level forecasts, what other options and trade-offs it has considered and rejected, and how programmes might need to evolve if circumstances change.

#### **Level of detail**

11. The business plan should contain an appropriate level of detail to enable the CAA and stakeholders to effectively scrutinise and understand the underlying assumptions, and enable us to carry out an independent review of these where appropriate.
12. The business plan should provide a level of detail on projects and programmes which reflects the time periods for delivery: projects/programmes that are further in the future will typically have less detail, but should include current (planning) assumptions/risks.
13. The business plan should clearly identify risk, contingency and efficiency assumptions throughout.

#### **Price base and inflation assumptions**

14. The business plan should present all financial, cost and revenue data in nominal and consistent real prices, with real values in 2025 prices (or an alternative, and consistent, price base with clear justification).

15. The business plan should specify the price index that has used to create nominal prices. If industry specific inflation indices have been used for specific cost items, this should be separately specified.
16. The business plan should use a consistent base year when forecasting any quantified elements of the plan.

### **Assurance**

17. NERL should ensure that its Board reviews and approves the business plan, certifying that it is consistent with this guidance and fully explaining any divergence from it.
18. NERL should be able to demonstrate consistency at a programme level between its business plan and the most recent service and investment plan NERL has provided to the CAA, and clearly articulate the reason for any significant variances.

## **Business Plan Guidance – Safety**

19. Safety remains a core requirement in the development of NERL's business plan. Its focus in delivering outcomes and outputs should always be in the context of maintaining and improving safety. NERL must demonstrate how it will continue to meet its statutory and regulatory safety obligations, maintain current safety standards and identify areas for improvement in safety performance.
20. The business plan should clearly set out its approach to safety management and provide evidence of how safety considerations are embedded in operational and investment decisions.

## **Business Plan Guidance - Consumer priorities**

### **General guidance**

21. The business plan should provide strong evidence that NERL has fully engaged with customers, consumers and other stakeholders. We expect NERL to ensure that it provides information to all stakeholders in a timely and transparent fashion, to enable them to provide NERL with informed views on the development of its business plan.

### **Approach to consumer engagement**

22. The business plan should demonstrate that it includes robust assumptions, that possible options have been carefully considered (including any the trade-off between, for example, affordability and service quality), that strategic choices have been made, and that the options proposed are best placed to achieve maximum value for money for consumers.

23. In ensuring that the business plan is fully informed by consumers' core needs, priorities and preferences, NERL should:
- consider which elements of its existing consumer research and engagement are relevant to the business plan;
  - refine and build on its existing consumer evidence base with emerging intelligence and, where appropriate and practicable, through new research and engagement;
  - update its existing consumer research and engagement strategy, setting out how it intends to engage with consumers to understand their core needs, priorities and preferences;
  - consider airlines' consumer research and insights; and
  - follow the principles of good consumer engagement.
24. In doing the above, NERL should consult the airspace users on its future research and engagement plans and reflect the feedback it receives in its work on the business plan.
25. NERL should consider what the implications of its future scenarios might be for the service quality and level of resilience that consumers and airlines will expect and should receive.
26. To the extent practicable, NERL should demonstrate a clear link between its consumer insights and future plans under the range of scenarios being assessed, drawing on existing consumer insights, new intelligence and research to support these scenarios where possible.

### **Assurance**

27. NERL should specify how it has gained assurance over the robustness of its own consumer research and engagement to support the development of its business plan, and the outcome of this assurance.

## **Business Plan Guidance - Traffic**

### **Traffic forecast**

28. NERL should prepare its business plan based on what it considers to be a reasonable 'base' traffic forecast.
29. For UK en route and London Approach services, if NERL submits a 'base' forecast that is different from the base case traffic forecasts produced by STATFOR, NERL should provide robust evidence explaining why its proposed 'base' forecast is clearly preferable, and in consumers' interests, to STATFOR on a forward-looking basis.

30. The evidence base should not only include historical back-testing of forecasts, but also demonstrate that any improvement in forecasting quality is systematic and material.
31. For Oceanic services, NERL should clearly explain the basis of estimation for any forecast provided, including the extent to which it incorporates data from STATFOR forecasts and engagement with airlines.

### **Traffic scenarios**

32. NERL and airlines should work together to reach a joint view on a reasonable range of sensitivities for the NR28 traffic forecast. Doing so will require transparency and engagement and, therefore, NERL and airspace users should explore how best to achieve this during CE early in the NR28 process.
33. For UK en route and London Approach services, if NERL submits a 'base' forecast that is different from the base case traffic forecasts produced by STATFOR, one of the sensitivities provided should be based on the base case traffic forecasts produced by STATFOR.
34. NERL should provide stakeholders with an assessment of how NERL's cost requirements may vary under different scenarios, with evidence of the efficiency, risk and contingency of its approaches.
35. It is important that airspace users and consumers are aware of the consequence of lower cost options where this is delivered by reduced capacity, levels of service and/or resilience to cope with higher than expected traffic volumes, to be able to make these trade-offs.

### **Traffic Risk Sharing**

36. NERL should share its views on any potential improvements to the TRS mechanism that could better manage uncertainty at an efficient cost for consumers, including whether it may be appropriate to create a TRS mechanism for the Oceanic services.

## **Business Plan Guidance - Service quality and resilience**

37. NERL should outline its proposals to further develop the framework for service quality incentives. This should include how its broad approach will enable service improvement both during NR28 (the short and medium term) and beyond into the next price control period (the long term).
38. NERL should:
  - review the existing service quality capacity metrics (C1-C4), and update on performance against these during the NR23 period and forecast to end period position;
  - explain any proposed updates to the existing service quality metrics regime;

- propose any new service quality metrics with rationale and supporting evidence; and
- explain any proposed discontinuation of existing service quality metrics.

39. In making its proposals, NERL should demonstrate:

- how its proposals align to the objectives set out in paragraph 2.105;
- how its proposals take account of the findings of the Halliwell Review, in particular in relation to measuring the impact of cancellations;
- how its proposals support the priority of resilience, as set out in paragraph 3.15; and
- how it has taken account of consumer insights and other developments in the sector.

40. NERL should provide details on its process for ensuring it delivers a resilient service, and its approach to risk assessment. This should clearly set out:

- its assessment of the key risks that could lead to negative service quality outcomes;
- its basis for that assessment; and
- the steps it is taking to mitigate these risks.

### **Business Plan Guidance - Environmental sustainability**

41. NERL should outline its proposals for a suite of metrics and incentives that will effectively support efficient investment into projects to improve NERL's environmental performance, considering a broad range of environmental outcomes.
42. This should include how its broad approach will support improvements in environmental outcomes both during NR28 (the short and medium term) and beyond into the next price control period (the long term).
43. To support calibration of any incentives based on the new environmental metrics, NERL should, where appropriate, provide evidence comparing measured performance under the new metrics against the existing 3Di metric.
44. NERL should demonstrate that it has considered any actions it could take to mitigate the impact of inefficient flights and routeing, even where the causes are not in its direct control. NERL should also explain how its Airspace Design Services contribute to environmental outcomes.
45. NERL should provide evidence as to how its proposed suite of metrics and incentives align with stakeholder and consumer requirements, and meet the objectives that we have identified at paragraph 2.124.

46. NERL should clearly identify the specific environmental improvements that each metric is designed to incentivise, and how they have gained assurance that the amount, threshold, and structure of any proposed incentive are appropriate.

## **Business Plan Guidance - Cost**

### **General Guidance**

47. NERL must provide annual data on opex, non-regulatory revenues, and capex for NR23 and NR28, split by the categories set out in NERL's regulatory accounts (and any additional categories that NERL expects to be introduced during NR28).
48. For each category, a breakdown into sub-categories should be provided to at least the level of disaggregation shown in NERL's regulatory accounts.
49. Where appropriate, NERL should disaggregate the information on opex, non-regulatory revenues, and capex between the individually regulated services as defined in paragraph 2 of this Appendix.
50. NERL should explain the basis for any allocation between the regulated services, and between regulated and non-regulated services.
51. Actual data should cover up to and including the 2025 financial year. Forecast data should be provided from 2026 onwards.
52. All data should be presented in nominal terms and in a consistent price base, as set out in the Business Plan Guidance on scope and priorities.
53. NERL must clearly state inflation assumptions and provide the basis/source for future inflation forecasts. Where real price effects are assumed in forecasts, NERL should explain the assumptions and provide supporting evidence.
54. Forecast data on opex, non-regulatory revenues, and capex must be provided for a base case scenario and sensitivities considered appropriate by NERL, as set out in the Business Plan Guidance on traffic forecasts). Where opex varies across scenarios, NERL should explain the assumed relationship between opex and traffic/passenger numbers.
55. The business plan should present consistent historical and forecast data at a level that supports scrutiny by the CAA and stakeholders. Forecasts must be fully explained, taking account of past performance, expected operational efficiency, and non-regulatory revenue generation.
56. The CAA will provide Excel templates for the submission of data on opex, non-regulatory revenues, and capex for NR28.



57. If NERL proposes an alternative categorisation of opex, non-regulatory revenues, or capex for NR28, this must be discussed and agreed with the CAA before submission of the business plan.
58. NERL should explain any significant variances between its proposed business plan and the most recent service and investment plan NERL has provided to the CAA.

### **Operating expenditure (Opex)**

59. In developing its opex forecasts, NERL should demonstrate:
  - consistency with its outlook for outputs and outcomes;
  - planned activities that reflect strategic optioneering informed by clear and compelling cost benefit analysis;
  - where the conclusions of its optioneering are less clear, meaningful options for service delivery for consideration by stakeholders;
  - resilience and adaptability to uncertain requirements and uncertain economic drivers; and
  - assurance that its forecasts reflect challenging efficiency assumptions, where appropriate using benchmarking.
60. Opex forecasts must be integrated with other areas of the business plan, including:
  - Operational activity (such as the traffic forecast).
  - Planned service quality changes during NR28.
  - Planned capital investment.

### **Pension**

61. We expect NERL to provide information on its DB and DC pension schemes and the PCA arrangement in a similar form and to a similar level of detail as was provided for NR23.
62. NERL's business plan should explain and, where appropriate, provide evidence for how it is managing the risks associated with its DB scheme in a way that acknowledges and respects that it is underwritten by customers.
63. We expect NERL's business plan to include evidence that:
  - it has behaved and is continuing to behave in a manner consistent with a commercially minded company by taking all steps available to it within its legal discretion, which are in the interests of users, to manage and mitigate the pension cost burden on airspace users;

- it has considered and where appropriate taken actions consistent with those actions taken by other employers in the UK that do not benefit from the cost pass-through arrangements that have been available to NERL.
- it has worked with the pension Trustees to take actions to help minimise future costs and how these compare with actions taken by other employers and Trustees of other schemes, including those in sectors of the economy subject to normal commercial and competitive pressure. NERL should also set out and explain the assumptions it has made about the Trustees' future actions, including evidence of benchmarking these assumptions against the actions of Trustees operating schemes in sectors of the economy open to normal commercial and competitive pressures;
- cash costs of the DB Scheme are separately identifiable from those of the DC Scheme, that the cash costs of the DB Scheme are separated between ongoing service and deficit repair and that its forecasts of these costs take into account information from the most recent actuarial valuation; and
- the assumptions supporting the latest actuarial valuation are reasonable and are supported by independent benchmarking against other pension schemes.

### **Non-regulatory revenues**

64. Forecasts of non-regulatory revenues should be fully explained, and the key drivers of each line item of non-regulatory revenues identified, with the relationship between those drivers and the non-regulatory revenues clearly specified.
65. NERL should demonstrate that its forecasts are integrated with other areas of the business plan, and that its non-regulatory revenue forecasts are consistent with planned opex and capital investment.

### **Capital expenditure (Capex)**

66. NERL should state the capitalisation policies adopted in its capex forecasts and, if applicable, identify, explain and quantify any changes from the capitalisation policies adopted for NR23.
67. NERL should clearly demonstrate how its proposals take account of the findings of the Egis Review.
68. NERL should provide an assessment of the level of confidence it has in the capex data, both at aggregate and disaggregated level, and describe the steps taken to provide assurance of forecasts.
69. Evidence should be provided that alternative approaches to delivery, such as opex solutions, have been considered to achieve maximum value for money in delivering outcomes for consumers.

70. NERL should clearly identify risk, contingency and efficiency assumptions in its capex proposals, both at the project level and the overall level.
71. NERL should explain how scheme costs have been estimated and what steps have been taken to ensure costs represent an efficient level of expenditure.
72. NERL should identify expected outputs and benefits associated with each project. The business plan should set out how the capex programme delivers value for money, on a whole-life cost basis, for customers and consumers during NR28, including an estimation of measurable benefits.
73. The business plan should contain detail on the overall capex portfolio and all capex programmes within this portfolio.
74. Each programme should be described in detail, including:
  - The needs case and strategic optioneering.
  - Estimates of efficient costs by year and key cost drivers.
  - Outputs and consumer benefits.
75. For schemes in excess of £5 million total spend over the course of the scheme (including schemes currently underway or expected to start before NR28 but continuing into NR28), costs for each year should be identified and a business case provided explaining:
  - Drivers of the scheme.
  - Impact on capex, opex, revenues and service quality/environment and resilience by year.
  - Scheme outputs clearly identified.
  - Capex proposals should be set out at a sufficiently detailed level of disaggregation. For each programme/project at an advanced stage of development, NERL should identify key categories of costs.
76. For the DP En Route and FDP Evolution programmes<sup>57</sup>, NERL should provide a detailed project plan, including details of key programme and governance milestones, identified risks and proposed mitigations, contingencies, and any other information that supports our understanding of the project governance.
77. The full list of categories will be agreed with NERL and stakeholders before publication of the final business plan guidance.

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<sup>57</sup> The DP En Route programme is NERL's capital programme to deliver a modernised ATM system.

78. For capital schemes below the £5 million threshold, a narrative should be provided breaking down the overall amount of such expenditure in each year into appropriate headings and explaining the main sources and key drivers.
79. For each year of the forecast period, the sum of capital expenditure on projects above and below the £5 million threshold should equal the total forecast capital expenditure in that year.

### **Capex incentives**

80. NERL should set out its views on how the existing framework of capex mechanisms (the Independent Reviewer, ex-post efficiency review and capex engagement incentive) has been operating in NR23, and update on performance against these during the NR23 period and forecast to end period position.
81. NERL should outline its proposals to further develop the framework for capex incentives and governance, which should include:
- explaining any proposed updates to the existing framework of capex mechanisms;
  - proposing any new capex mechanisms with rationale and supporting evidence; and
  - explaining any proposed discontinuation of existing capex mechanisms.
82. This should include NERL's views on whether a capex mechanism relating to capex delivery is necessary, and if not, evidence in support of NERL's position.
83. In making its proposals, NERL should demonstrate:
- how its proposals support improvements against the issues we have set out in paragraph 2.148;
  - how its proposals take account of the findings of the Egis Review;
  - how its proposals support the priority of modernisation and resilience, as set out in paragraph 3.15; and
  - how it has taken account of consumer insights and other developments in the sector.

### **Overall balance of incentives**

84. NERL should set out its views on the overall balance of incentives during NR23, and how any issues around the balance of incentives should be addressed in NR28, including through changes to individual incentive mechanisms.

## Business Plan Guidance - Financial issues

### Requirement to assess financeability

85. NERL should provide robust evidence that its business plan is financeable across a range of plausible scenarios. This assessment should also be undertaken with reference to the CAA's statements on financeability policy in the draft method statement, including assessing financeability on the basis of notionally efficient gearing.
86. We expect NERL to examine the same credit metrics as used in the NR23 final proposals and final decision. Where NERL uses different credit metrics, the selection of credit metrics should be justified and supported by evidence.

### Target credit rating

87. In forming its assessment of whether its business plan is financeable NERL should clearly state and, with reference to its investment program, justify the credit rating that it is targeting, including for a notionally efficient level of gearing. In doing so NERL should describe the relative costs and benefits of different credit rating levels.
88. To the extent that NERL considers that structural and/or regulatory changes would best support the credit rating it targets in the business plan, these should be clearly stated and justified as being consistent with the interests of stakeholders.
89. The assessment of the targeted credit rating for each relevant scenario should consider the net impact of having a higher or lower credit rating.

### Notional gearing

90. NERL should consider the appropriate notional financial structure starting from the assumption that the notional gearing will be 60%, as was used for NR23. Any change from the 60% level should be reasoned and justified with reference to evidence.
91. Analysis should include an evaluation of the advantages and disadvantages of different notional financial structure options developed by NERL.

### Financial modelling

92. Analysis of financeability should include a baseline assessment using the CAA's price control model ("PCM") on the basis of notionally efficient gearing. If assumptions are not detailed in the business plan itself, a data book detailing the rationale for the assumptions adopted in the business plan should be provided.
93. NERL should discuss with the CAA any structural and formula changes required to the PCM in advance of submitting the business plan to agree a version of the PCM for NERL for use in the submission.

94. If NERL also uses models other than the PCM in the business plan, they should be accompanied with commentary and analysis reconciling the results to those of the PCM.

### **Regulatory depreciation**

95. As set out at paragraph 2.218, we expect to maintain the NR23 approach to estimating regulatory depreciation.
96. NERL should clearly state the assumptions it has made in respect of regulatory depreciation. Should NERL propose any changes from the approach taken at NR23, it should clearly explain the rationale for the change and justify, with reference to evidence (including analysis of the impact of regulatory depreciation on the level of charges and on the RAB), how this is in consumers' interests.

### **Taxation**

97. As set out at paragraph 2.230, we expect to maintain the NR23 approach to estimating the corporation tax payable by the notional company.
98. Should NERL propose any changes from the approach taken at NR23, it should clearly explain the rationale for the change and justify, with reference to evidence, how this is in consumers' interests.
99. The full calculation of the regulatory allowance for tax that NERL includes within its business plan should be clearly presented in Microsoft Excel. The source of all assumptions should be clearly stated.
100. Whichever approach NERL adopts to determining the tax allowance included within its business plan, it should also present a forecast of its tax liabilities for the NR28 period assuming a notional capital structure. NERL should explain all assumptions underlying this calculation.
101. Where the amount that NERL proposes in respect of the regulatory allowance for tax is different from the amount shown in its forecast of tax liabilities, NERL should explain and justify the difference.
102. NERL should additionally clearly set out how full expensing rules being made permanent has impacted its expected corporation tax liability for the NR23 period by comparison to the assumption made in the NR23 final decision that these rules would end on 31 March 2026.

### **Regulatory Asset Base**

103. NERL should present a full calculation showing its view of the evolution of the RAB over the NR23 period together with any adjustments which NERL considers are appropriate to be made to the opening RAB for NR28.
104. This calculation should reconcile to the figures presented in Appendix F of the NR23 final decision.

105. The NR28 opening RAB and annual RAB roll forward figures presented in the business plan should assume that the RAB is subject to CPI or CPIH inflation as described earlier in this business plan guidance.

### **Business Plan Guidance - Cost of capital**

106. NERL's proposal for the WACC should be consistent with efficient financing and its assumptions on risks and incentives.
107. NERL should assume a single cost of capital for NR28 that covers all of NERL's regulated activities. This should be no more than the efficient level necessary to compensate NERL for the business and regulatory risks it faces.
108. In estimating the efficient cost of capital for its business plan, we expect NERL to demonstrate that its cost of capital takes account of and broadly aligns with the following types of evidence:
- UKRN guidance;
  - guidance from recent decisions by the CMA and regulators;
  - the approach taken by the CAA for NR23;
  - developments in calculation of the cost of capital in other regulated sectors, considering the advantages and disadvantages of applying these to the NERL price controls;
  - where relevant for NERL, the initial views that FTI Consulting set out on the range for the cost of capital for H8<sup>58</sup>;
  - market evidence on cost of capital parameters; and
  - information on the business risks it faces.
109. We expect NERL to provide its estimate of the cost of capital and underlying calculations in a clearly presented and signposted Microsoft Excel workbook. Any data that is confidential and not for publication should be clearly identified.
110. Where NERL provides cost of capital parameters and/or an overall cost of capital that do not align with some or all of the items above, we expect NERL to provide a clear and thorough explanation of why this is the case and provide compelling evidence for its proposed cost of capital.
111. As set out in the 2024 Review, consistent with the approach adopted by other economic regulators, we expect to move from the RPI to CPI or CPIH indexation of the RAB for the NR28 review.

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<sup>58</sup> Cost of Capital Strategy for H8, 1 November 2024. See: [www.caa.co.uk/CAP3044A](http://www.caa.co.uk/CAP3044A)

112. We expect NERL to propose a change in indexation of the RAB from RPI to CPI or CPIH and to apply a consistent approach to calculation of the real WACC. It should also estimate the RPI-deflated real WACC to illustrate the comparison with NR28.
113. We expect NERL to set out how it proposes to manage the consequential impacts of this change on charges and financeability.



## Appendix B: Final Constructive Engagement Guidance

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### Introduction

1. Constructive Engagement involves both high-level and more detailed discussions between NERL and its customers, and has been a key part of the NR23 and preceding price control NERL and airport reviews. Constructive Engagement supports regulated companies to develop business plans and the CAA to set price controls that take account of current and future customers' requirements and priorities for areas such as service, capacity, resilience and cost.
2. This document sets out guidance on the Constructive Engagement process for the next price control for NATS (En Route) plc ("NERL"). Therefore, references to dates in this updated guidance will relate specifically to the next NERL price review.
3. This guidance is informed by our August 2024 review of price controls, the final H8 Constructive Engagement guidance, and stakeholder responses to our September 2025 consultation, and is structured as follows:
  - purpose, scope and timing of the rounds of Constructive Engagement;
  - governance and outputs from each round of Constructive Engagement; and
  - the role of the CAA.

### Purpose, scope and timing of the rounds of Constructive Engagement

4. The Constructive Engagement process should start as early as reasonably practicable and consist of multiple rounds, to allow time for airlines to influence NERL's business plan and, in due course, find common areas in response to our initial proposals.
5. We propose four rounds of Constructive Engagement:
  - Round 1 between January and February 2026 – to identify airline customers' priorities on overarching issues such as service quality, incentives and investment, and seek to reach agreement on high level options to inform the business plan;

- Round 2 between May and July 2026 – to seek to understand parties’ views and, where practicable, reach a consensus on detailed building blocks that will comprise NERL’s business plan. This should be appropriately targeted to allow in depth discussions of key issues and exclude areas where there is unlikely to be consensus, and the CAA will need to consider evidence from a range of sources;
- Round 3 between January and February 2027 – to seek to understand airline views on NERL’s business plan submission, identify areas where there is consensus and provide the CAA with a clear view on priority areas to consider; and
- Round 4 between August and September 2027 – to seek to understand NERL and airline customers’ views on the CAA’s initial proposals and identify any areas where there is consensus between NERL and airlines on issues, which either support the CAA’s approach or where they consider changes are required.

6. Below we set out further detail on each of the four rounds, including an initial view of topics to be covered, the outcomes and the information or views we consider should be provided by the relevant party.

#### **Round 1: January to February 2026**

- Scope: Focus on high level strategic issues and options, to cover: service quality, incentives, priorities for investment, resilience and traffic forecasts.
- Purpose and desired outcomes:
  - To understand the views of NERL and airlines on the key priorities for the NR28 period, in terms of investment, incentives, service quality levels and resilience.
  - To discuss the broad benefits and costs of strategic investment options and, where practicable, seek to reach consensus on these.
  - To discuss the broad benefits and costs of potential incentives that could be implemented for NERL, and their potential impact on service quality.
  - To discuss and seek to reach consensus on the approach to forecasting traffic levels and the impact on investment, service quality and resilience.
  - The outputs should enable NERL to develop its business plan for NR28 with a clear understanding of airlines’ priorities.

- Information and views to be provided:
  - In advance, NERL to provide its latest views on:
    - traffic forecasts and impact of future traffic on strategic approach to investment, service quality and resilience;
    - initial priorities for investment, with any available supporting analysis on the costs and benefits of different possible options for key choices; and
    - high-level forecasts for investment and service quality performance over NR28 and priorities for improvement in the next period.
- During Constructive Engagement, airlines to provide initial views on the main priorities for service quality, incentives and investment and resilience.
- CAA to provide the draft method statement which will include business plan guidance, in December 2025 (but with the scope for certain items such as the provision of draft templates for data tables to be provided later in the process).

## Round 2: May to July 2026

- Scope: discussion of detailed price control building blocks: service quality metrics and incentives; cost building blocks (opex, capex, non-regulatory revenues); capex incentives; traffic forecasts and incentives, including the remaining element of the TRS revenue recovery resulting from the covid-19 shock; level or direction of changes in charges.
- Purpose and desired outcomes:
  - To understand the views of NERL and airlines on NERL's proposed approach to forecasting key building blocks to estimate charges and to developing key incentives, ahead of NERL finalising its business plan. NERL's business plan should be informed by customer priorities or there should be a clear understanding where there are differences in NERL and airline views, and explanation for differing views.
  - This engagement will also inform the CAA's initial proposals.
  - We propose that this engagement would exclude discussion of cost of capital and cost efficiency. These matters will be considered separately based on evidence from stakeholders.
- Information and views to be provided:
  - In advance, NERL is to provide its latest views on the:
    - traffic forecasts and scenarios.
    - forecasting methodology for each cost building block.

- current best forecasts for each cost building block and charges, where available and at an aggregate level.
- proposed policy approach in relation to, capex incentives and service quality incentives; and
- proposed policy approach in any other key areas forming part of NERL's business plan.
- This should be more detailed than information provided in Round 1.
- During Constructive Engagement, airlines are to provide more detailed suggestions for improving arrangements for:
  - service quality incentives; and
  - capex incentives.

### **Round 3: January to February 2027**

- Scope: to discuss NERL's business plan submission.
- Purpose and desired outcomes:
  - To understand the views of NERL and airlines on the detail of NERL's business plan, identify areas of consensus and areas where views diverge.
- Information and views to be provided:
  - NERL to provide its full business plan, with supporting information, consistent with CAA guidance. We expect the business plan to be submitted in November 2026.

### **Round 4: September to October 2027**

- Scope: to discuss the CAA's initial proposals (published in July 2027).
- Purpose and desired outcomes:
  - To understand the views of NERL and airlines on the detail of the CAA's initial proposals. This engagement will help inform the CAA's final proposals.
- Information and views to be provided:
  - CAA is to issue its initial proposals document with relevant supporting materials. We expect these initial proposals to be published in July 2027.

## **Governance and outputs**

7. There should be appropriate governance arrangements for each round of Constructive Engagement to support an effective process where there are clearly defined roles, responsibilities and outputs.

8. NERL and airlines should agree (and the CAA will comment on, if appropriate), suitable procedures for the upcoming Constructive Engagement process, which can be high level and draw on existing materials.
9. These should be recorded in a working document that sets out:
  - the forums for each round of Constructive Engagement, whether these are existing or new meetings, and the dates and scope of each meeting;
  - a summary of the material that should be available and circulated for each meeting;
  - procedures covering circulation of meeting materials, requests for further information and responses to these requests;
  - the use of consultants to support airlines in the Constructive Engagement sessions, particularly around technical topics; and
  - references to any relevant guidance, processes or procedures (including specific clauses or provisions) that would be relevant for the Constructive Engagement process.
10. As the first round of Constructive Engagement is anticipated to start in January 2026, NERL and airlines should seek to agree a first draft of these rules of procedure that applies to Round 1 of Constructive Engagement (and beyond, if appropriate) as soon as practicable, and at least two weeks in advance of the first scheduled Constructive Engagement meeting, and should submit this to the CAA as soon as is practicable (which will facilitate the CAA making any comments on the draft rules).
11. We have considered different options for chairing Constructive Engagement sessions. For NR23, there were two co-chairs (one appointed by airlines and one by NERL). This provided a balanced chairing of the meetings, and the co-chairs were responsible for drafting a report summarising the outcome of the Customer Consultation process (NR23 term for Constructive Engagement).
12. For the H8 price review process, there are two co-chairs (one appointed by airlines and one by HAL). The sessions are also attended by an independent reporter, who was jointly appointed by HAL and the airlines, and is responsible for agreeing the outputs for each round of the Constructive Engagement process between HAL and airlines.
13. Our current view is that independent chairs or co-chairs support a balanced discussion during Constructive Engagement. We are aware that NERL and airlines have already discussed and provisionally appointed an airline and NERL co-chair. Subject to any feedback, we propose to support the proposed co-chairs.

14. We have also considered what the outputs should be from each round of the Constructive Engagement process. We consider that a structured approach to outputs should provide a clear understanding of the outcomes of the Constructive Engagement process. Our current view is that the main outputs should be:
- a note from all Constructive Engagement meetings, to be shared with all participants, and provided to the independent reporter (if appointed); and
  - a report produced at the end of each round that summarises the process followed and the key outcomes and conclusions. The report should be shared with NERL and airlines to check factual accuracy. At NR23 and H8, a similar type of report was produced that was an important reference document for the CAA and stakeholders during the price control review. We would envisage these reports being placed on the CAA website, so that a full range of stakeholders can see the progress being made on Constructive Engagement and comment on issues as appropriate.
15. We consider that there may be advantages in stakeholders appointing an independent reporter to produce the report and agree it with stakeholders. We note that the reports for each round of Constructive Engagement do not need to be lengthy or overly detailed.
16. We consider that the written report produced after each round of Constructive Engagement should cover:
- a summary of the process, including meetings held, participants and topics discussed;
  - list of information and documents that were provided, including in response to requests for further information;
  - a summary of the areas of consensus and any important caveats; and
  - a summary of areas where consensus was not reached, the main reasons why and the positions of each party.
17. This report to be provided to CAA no later than two weeks after the conclusion of the relevant round of Constructive Engagement, or within a timeframe to be agreed with the CAA and paid for by NERL.

## Role of the CAA

18. We expect to participate actively during the Constructive Engagement process, including:
- setting out the overall framework for the price control review and our business plan guidance in the final method statement for the next NERL price review;

- issuing appropriate guidance on the Constructive Engagement process to NERL and its airline customers;
- making sure relevant CAA subject matter experts attend sessions or provide alternative attendees as appropriate;
- requesting that NERL initiates discussions with airline representatives regarding the rules of procedure and the appointment of joint chairs, and providing support to this as needed;
- encouraging the appointment of an independent reporter, as required, to produce outputs from each round of Constructive Engagement;
- providing appropriate input during Constructive Engagement meetings to clarify our approach to the price controls and, where necessary, providing direction to discussions to make sure they remain relevant, reasonable and bring out both NERL and airline views;
- maintaining an 'open door' policy to enable any party (including those not involved directly in the Constructive Engagement process) to raise concerns about the progress or conduct of the Constructive Engagement process; and
- encouraging both NERL and airlines to approach Constructive Engagement in a positive, pragmatic way and to reasonably seek out areas of consensus. This includes the provision of appropriate information in a timely way as part of the process.

19. Even with an active CAA role, it will remain appropriate that stakeholders attempt to resolve or narrow differences during the Constructive Engagement process. We will not seek to resolve disputes around policy during the Constructive Engagement process, as these will be matters for our initial and final proposals.

## Appendix C: Our Statutory Duties

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### Transport Act (2000)

1. Chapter I of the TA00 provides for the economic regulation of air traffic services.<sup>59</sup> NERL is currently the only licence holder under the TA00. In making decisions as to how NERL is regulated, the CAA is bound by the requirements of the TA00. The CAA's 'primary duty' is set out in subsection 2(1) TA00 as follows:
 

*"The CAA must exercise its functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5)."*
2. The CAA must also exercise its Chapter I TA00 functions in the manner it thinks best calculated to discharge its 'secondary duties' (over which the primary duty has priority), set out in subsections 2(2) to 2(5) TA00, namely:
  - to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them (referred to as "customers and consumers");<sup>60</sup>
  - to promote efficiency and economy on the part of licence holders;
  - to secure that licence holders will not find it unduly difficult to finance activities authorised by their licenses. We interpret this as referring to financeability of the notionally financed company;
  - to take account of any international obligations of the UK notified to the CAA by the Secretary of State (whatever the time or purpose of the notification) (see further below);
  - to take account of any guidance on environmental objectives given to the CAA by the Secretary of State. It should be noted that no such guidance has been given to the CAA by the Secretary of State;
3. Subsection 2(5) TA00 provides that if, in a particular case, there is a conflict in the application of the secondary duties noted above, the CAA must, in relation to that case, apply them in the manner it thinks reasonable having regard to them as a whole.

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<sup>59</sup> See section 98 TA00 for the definition of "air traffic services": [Transport Act 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2000/32/section/98)

<sup>60</sup> In doing so, the only interests the CAA can consider are those regarding the range, availability, continuity, cost and quality of air traffic services. Where the CAA thinks it appropriate, it may further customers' and consumers' interests by promoting competition in the provision of air traffic services.



4. Subsection 2(6) TA00 provides that the CAA must exercise its functions under Chapter I of the TA00 so as to impose on license holders the minimum restrictions which are consistent with the exercise of those functions.
5. The TA00 also places duties on NERL as a licence holder.<sup>61</sup> It must:
  - secure that a safe system for the provision of authorised air traffic services in respect of a licensed area is provided, developed and maintained;<sup>62</sup>
  - take all reasonable steps to secure that the system is also efficient and coordinated;
  - take all reasonable steps to secure that the demand for authorised air traffic services in respect of a licensed area is met; and
  - have regard, in providing, developing and maintaining the system, to the demands which are likely to be placed on it in the future.

## The UK's International Obligations

6. Section 2(2)(d) TA00 requires the CAA to take account of the UK's international obligations which have been notified to the CAA by the Secretary of State. These include:
  - Article 15 of the Chicago Convention 1944;
  - The Eurocontrol Multilateral Agreement relating to Route Charges 1981 (the Multilateral Agreement);<sup>63</sup>
  - Air services agreements and provisions relating to the imposition of charges on airlines for the provision of air traffic services in agreements between the UK and third countries; and
  - Agreements between the UK and Republic of Ireland on parts of the Atlantic Ocean.

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<sup>61</sup> See Section 8 of the TA00: [Transport Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>62</sup> Subsection 8(4) of the TA00 explains that, for the purposes of subsection 8(1)(a), “a system for the provision of services is safe if (and only if) in providing the services the person who provides them complies with such requirements as are imposed by Air Navigation Orders with regard to their provision”.

<sup>63</sup> This is the multilateral agreement that gave rise to the Eurocontrol Principles.

## Appendix D: Glossary of Abbreviations

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3Di	3-Dimensional Inefficiency
AMS	Airspace Modernisation Strategy
ANSP	Air Navigation Service Provider
ATFM	Air Traffic Flow Management
BP	Business Plan
BVLOS	Beyond Visual Line of Sight Operations
CAA	UK Civil Aviation Authority
Capex	Capital Expenditure
CE	Constructive Engagement
CMA	Competition and Markets Authority
CPI	Consumer Prices Index
CPIH	Consumer Prices Index including owner occupiers' housing costs
CSU	Chargeable Service Unit
DB	Defined Benefit
DC	Defined Contribution
DfT	Department for Transport
EU	European Union
GAD	Government Actuary's Department
H8	the next HAL price control review
HAL	Heathrow Airport Limited
NERL	NATS (En Route) Plc
NPV	Net Present Value
NR23	the NERL price control period from 2023 to 2027
NR28	the next NERL price control review
Opex	Operational Expenditure
PCA	Pension Cash Alternative

PCM	Price Control Model
RAB	Regulatory Asset Base
RORE	Return on Regulatory Equity
RPI	Retail Prices Index
RP3	NERL “Reference Period 3” price control from 2020 to 2022
STATFOR	Statistics and Forecast Service
SWIM	System Wide Information Management
TA00	The Transport Act 2000
TRS	Traffic Risk Sharing
TSU	Total Service Unit
UAS	Uncrewed Aircraft Systems
UKADS	UK Airspace Design Service
UKRN	UK Regulators Network
WACC	Weighted Average Cost of Capital