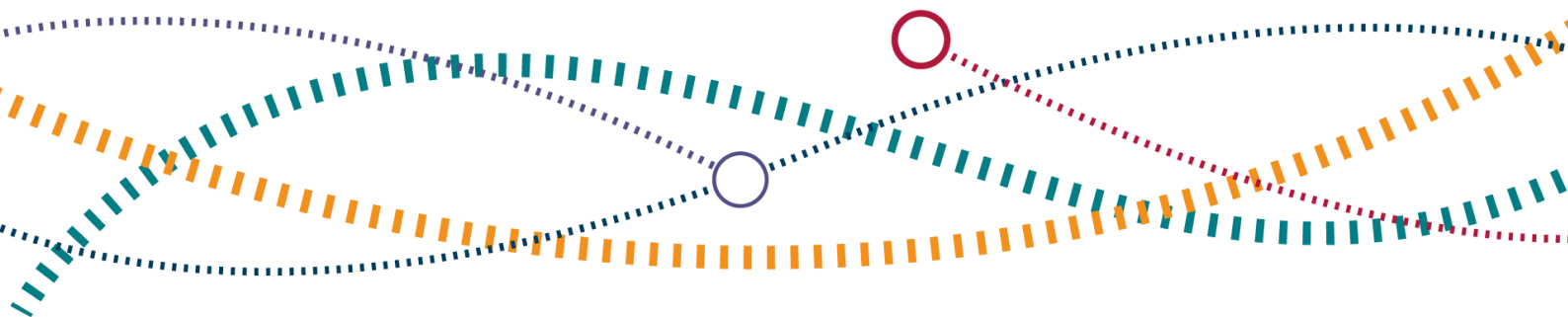




ORR's Health and Safety Regulatory Strategy

23 September 2020



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Our role

The Office of Rail and Road (ORR) is the independent safety and economic regulator for Britain's railways. We strive for a railway that operates safely, reliably and provides value for taxpayers and customers.

We protect the health and safety of everyone associated with the rail industry by ensuring railway businesses have mature health and safety management in place. This includes identifying, assessing and controlling risks properly.

We seek assurances across all the sectors we regulate by confirming that duty holders are controlling risk. We track these risks and overall health and safety performance using data, industry risk modelling, and intelligence from our inspections, audits, and investigations. This gives us a picture of the risk control and management maturity of each duty holder, sector and the rail industry as a whole, and how they are changing over time.

Where we identify that duty holders are not complying with the law, then we can take enforcement action to ensure that employees, passengers and members of the public are protected. Our [health and safety compliance and enforcement policy statement](#) explains how we will enforce health and safety law.

Collectively, evidence from our activities help guide our strategy and priorities so that we can continue to ensure risks are effectively managed. Our ambition is for ORR to be the world's leading health and safety regulator for railways.

Our vision

1. We expect the railway industry to deliver continuous improvement in the health and safety of passengers, the workforce and the public. Our aim is for industry excellence in its health and safety management maturity, risk control and asset management. In this way, we will achieve our vision of “*zero industry caused fatalities and major injuries to passengers, the public, and the workforce.*”
2. Continuous improvement should be led by the industry itself, achieved through its own assurance processes and with decreasing need for intervention by ORR. Evidence shows that sustained improvements in the management of health and safety risks are more likely to be achieved where responsibility for understanding and managing risk is owned by duty holders. The industry, in respect of the mainline railway, has risen to this challenge with its own strategy [Leading Health and Safety on Britain's Railways](#)

Legal context

3. Broadly speaking, the law requires us to grant permission for Network Rail and train operating companies to operate on the basis that they will apply their own management system to effectively control the risks they create when running their businesses. We reassess that permission for each business at least every five years.
4. The laws applicable to the companies we regulate, and our own activities, are UK based. Railway safety legislation has also drawn significantly on European law.
 - the primary relevant UK law is the Health and Safety at Work etc. Act 1974 and the Regulations made under it which cover how certain risks should be controlled;
 - the relevant European law arises from the Railway Safety Directive 2004/09, which is implemented into UK law through the Railway and Other Guided Transport Systems (Safety) Regulations (ROGS). Although the UK has now left the European Union, ROGS remain in force and will continue to have effect (in amended form) following the completion of the UK's exit implementation period on 1 January 2021.

ORR's regulatory approach

5. Health and safety is not an overhead or an optional add-on. It is a fundamental legal requirement and our role is to confirm that railway businesses do this and thereby comply with the law. A business's health and safety outcomes are best achieved by having health and safety management systems which coordinate people and processes and encouraging a culture that is positive about health and safety.
6. We recognise that business risks include both commercial risks as well as health and safety risks (such as the risk of major train incidents as well other harms to individual employees, passengers and the general public). But we will not settle for mediocrity or tolerate a culture of complacency. We recognise that the law sets minimum standards, but that excellence requires not only compliance, but also proactive striving for continuous improvement. Therefore, we will encourage excellence, but will not enforce beyond the standard set down in law.
7. A railway system which is designed with health and safety in mind from the outset is more likely to deliver a railway that can be operated well for years to come. We expect careful thought during the design process to reduce or eliminate risks where possible.
8. Our regulatory approach involves:
 - gathering evidence, and using our analysis of it, to design an efficient risk-based approach to regulation. This enables us to produce our [Strategic Risk Chapters](#) and priorities so we can target our resources to the right things, and in particular, our proactive inspection of the industry;
 - responding to health and safety incidents (we call this reactive investigation);
 - setting specific objectives and outputs for Network Rail as part of each periodic review. As ORR is also the economic regulator for Network Rail and HS1 Ltd (HS1 periodic review), this includes ensuring that any periodic review settlements continue to enable the duty holders to meet their health and safety obligations;
 - maintaining constructive relationships with the Rail Accident Investigation Branch (RAIB) to enable timely reporting against RAIB investigation reports and ensuring that their recommendations are considered and, where reasonably practicable, implemented;

- using our powers and influence to help the industry work together to tackle common issues (for example, competence, health management, and managing change);
- using enforcement tools to ensure duty holders take immediate action to deal with serious risks and make improvements so that they meet their legal obligations. This also includes ensuring duty holders are held to account in the courts for any health and safety failings that merit prosecution;
- preparing proposals for railway-specific health and safety regulations and creating simple, clear guidance to support compliance;
- engaging effectively with the Rail Safety and Standards Board (RSSB) and other health and safety organisations, which may include membership of working groups on specific areas of risk;
- using our railway management maturity model ([RM3](#)) to help encourage businesses towards excellence in health and safety management; and,
- providing the industry with advice and guidance to help its businesses to comply with the law.

Delivering our strategy for health and safety regulation

9. In practice, we deliver our strategy for health and safety regulation of the industry by bringing together evidence, our resources, and a range of policies, processes and tools. We set out our approach to specific risks via a suite of [Strategic Risk Chapters](#) and communicate our approach to the industry. We measure our effectiveness and invest in continuous improvement. Details of each of these delivery elements are set out below.

Applying our resources

10. Identifying and prioritising significant risks helps us to focus our resources where we can make the greatest impact on reducing risk. We structure our inspections, audits and activities accordingly. When allocating our resources, we take due account of the things we **must** do which are:

- our statutory activities, including granting permissions, work on level crossing orders, issuing train driving licences, and following up RAIB recommendations;
 - testing aspects of the safety management systems of major duty holders over the normal five year life cycle of their Safety Certificate or Safety Authorisation;
 - reactive work, such as mandatory investigations and any subsequent enforcement;
 - other essential activities, such as maintaining a structured and auditable competence management system to ensure we have the necessary organisational capability and professional competence.
11. Proactive work is where we have greater flexibility to use our resources. We set out our areas of focus in our annual [Business Plan and the Annual Health and Safety Report](#).
12. Like any organisation, we plan our work beforehand and then we refine our plans to take account of events and other changed circumstances. Therefore, the actual split of our resources changes during the year, particularly as a result of essential reactive work.

Using evidence

13. Our health and safety work plan is guided by the evidence about where the industry, and individual duty holders, are on the journey towards our vision of zero industry caused workforce fatalities. We gather and analyse evidence from our own and the industry's experiences, including:
- our regular audits, inspections, investigations of incidents, complaints, intelligence from our enforcement activities and monitoring of health and safety performance indicators;
 - Rail Safety and Standards Board (RSSB) Annual Health and Safety Reports (AHSRs);
 - mainline accident and incident data collected in the RSSB Safety Management Information System (SMIS) and analysed using its Safety Risk Model (SRM), as well as Network Rail's own internal safety monitoring;
 - London Underground's safety and environment database (LUSEA) and its Quantitative Risk Assessment model;

- information, intelligence and reports received from the light rail and heritage sectors (including outputs from the developing risk model for tramways);
 - accident and incident data reported to us under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR);
 - RAIB investigation findings;
 - information received from other stakeholders, such as passengers, workers or trade unions;
 - informed, peer-reviewed, opinion from specialist experts;
 - intelligence from European Union data sources and other international developments.
14. This evidence helps identify risk areas. However, businesses – as employers - must have arrangements in place to effectively manage risks in connection with their activities, irrespective of the priorities of a regulator.
15. We have developed a structured method for analysing data and bringing together wider intelligence and expert judgement, in order to prioritise and target our activities. An important part of our risk prioritisation process is to anticipate new and emerging risks and to foresee where our existing risks might change in their importance. In that regard, ORR is committed to encouraging innovation both in our own regulatory approach, and in the industry’s work to better understand and manage risks.

Our Strategic Risk Chapters

16. We have developed, and keep under review, a suite of [Strategic Risk Chapters](#) (SRCs). Each SRC focusses on a specific risk topic. They are structured to provide useful details about the topic; a current risk status; areas where we are seeking improvement; and an explanation of how we will promote improved risk management. SRC’s also enable us to promote the achievement of excellence in health and safety culture, management and risk control by the whole industry.
17. Our SRCs help us focus our resources on the highest identified risks where we believe we can make the greatest impact to reducing them. It does not mean that we do nothing on topics without a specific SRC. We still carry out work on other risks by conducting investigations into incidents and complaints, and monitoring the risk profile of each sector. We will add other areas of risk to our collective inspection programmes, if we feel it is warranted.

18. We also add new SRCs to the suite where appropriate. For example, a new tramways SRC was published in April 2019.

Our policies, processes and tools

19. To make sure all of our policies, processes and tools are fully documented, and the interrelationships between them are understood, we have collected them into a single Quality Management System (QMS). The QMS ensures all our processes are subject to regular review and continuous improvement. More details of our QMS, which forms part of a wider quality policy, are shown in the Appendix.

Communication

20. We also recognise the value that transparency and a good reputation for health and safety have for businesses. So we present information about safety performance openly on our website, in articles, publications and in our [Annual Health and Safety Reports \(AHSR\)](#). The AHSR, as well as commenting on the previous year's performance, also provides a platform to promote ORR's view on the future challenges towards a safer railway. This approach complements our separate discussions with managers and leaders in the industry.
21. As an integrated economic and safety regulator, we are able to use economic regulation to drive improvements in health and safety management and risk control, including in respect of Network Rail. This is particularly helpful in areas such as asset management where the performance and trajectory towards excellence is as important for safety as it is for overall business performance. Our [final determination](#) (which sets out what Network Rail should deliver in respect of its role in operating, maintaining and renewing its network over a five year period and how the funding should be used to support these activities) demonstrates how we take this joined up approach.

Measuring our effectiveness

22. Our aspiration to be the world's leading health and safety regulator for railways will be achieved through excellence in our approach to regulatory management. We gather regular feedback from our stakeholders on our effectiveness as well as investing in our internal processes (such as QMS and audits) to ensure we continuously improve. We also seek feedback from external stakeholders on our business plans and annual reports and check that we have done what we said we would do, explaining any variances.

Appendix: Quality policy for the Railway Safety Directorate

The Railway Safety Directorate (RSD) seeks to be the world-leading health and safety regulator for the rail industry, delivering regulatory activities that protect and meet the requirements of passengers, workforce and the public.

We aim for zero industry-caused fatalities and we strive to support continuous improvement in the management of health and safety of Britain's rail industry. We seek to regulate health and safety across Britain's rail industry through a risk-based approach that is proportionate, consistent, targeted and transparent. This will support our long-term aim for Britain's rail industry to be the world leader in operating a system that protects and promotes the health and safety of users and workers.

To deliver this vision, we are committed to the implementation and continuous improvement of a Quality Management System that will support effective and efficient delivery of high quality regulatory activities throughout Britain's rail industry, in line with the regulatory framework.

In particular, the Quality Management System will enable us to deliver against the following principles and priority areas:

1. We recognise that our staff are the cornerstone of our organisation and the main driver of its performance.
 - We aim to recruit, train and develop our staff to their full potential, and have access to all specialist skills we need.
2. We understand the need for a regulator to anticipate and prioritise.
 - We aim to develop our understanding of risk across the whole industry to target our resource and undertake our activities proactively (i.e. before incidents happen).
3. We believe there is a need for the regulator to be close to the industry and the duty holders.
 - We aim to develop an organisation that is both visible “on the ground” and close to the industry and duty holders, **and** able to influence systemic risk management. We seek to develop the right organisation that is flexible and spread across Britain.
4. We are committed to continuous improvement, aiming to be world leaders and well respected internationally and across safety critical industries.
 - We aim to ensure continuous improvement of our key processes so that we deliver our regulatory activities in line with the regulatory framework as well as international best practices.

Delivering the Quality Management System in line with this Quality Policy is the core accountability of the RSD's leadership team, led by myself, HM Chief Inspector of Railways. We will ensure regular review of the Quality Management System to support its continuous improvement, which will in turn support continuous improvement of our regulatory activities and improvement of the industry's health and safety performance.



Director, Railway Safety and HM Chief Inspector of Railways

January 2019



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