Report on ORR’s review of RSSB

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Executive summary

1. Since it was created in 2003 as the rail industry’s safety and standards body, independent of any individual part of the industry, the Rail Safety and Standards Board (RSSB) has helped the rail industry achieve significant improvements in safety, performance and efficiency. It has reduced its own costs and built up a strong reputation in the UK and overseas.

2. But, like other parts of the rail industry, RSSB faces challenges in the years ahead. It will need to contribute to further improvements in the railways, and particularly achieving excellence in health and safety, which includes improved value for money for users and funders. As part of the industry’s efforts to improve value for money, RSSB will need to continue to improve its own efficiency and effectiveness. The Rail Value for Money study being led by Sir Roy McNulty is likely to ask searching questions of the industry, including in areas covered by RSSB’s work. To avoid duplication, we have specifically avoided looking in any depth at those areas that are being covered by the McNulty study.

3. It has therefore been timely for the Office of Rail Regulation (ORR) to review the role, governance and funding of RSSB. We have carried out this review with industry involvement, through an extensive consultation exercise and an industry advisory panel.

4. During our review process we considered a range of options and their impact on RSSB and the industry together with the advantages and disadvantages of each option. The options ranged from the status quo, (ie. do not change anything), moving certain functions of RSSB to other parts of the industry or even disbanding RSSB entirely. We found no evidence that favoured significant restructuring of RSSB.

5. We found strong support for the work RSSB does, but also areas for improvement. RSSB’s work on monitoring and reporting on industry safety performance and planning, and modelling industry safety risks is seen as essential and widely respected. RSSB has done a lot to streamline the industry railway group standards structure, but the overall strategy for
standards in the industry is likely to need to change to enable improved efficiency and meet EU requirements. There is a need to seek ways to make processes quicker and for RSSB to be more prepared to challenge the industry. The programme of national safety and other initiatives is supported by the industry, but RSSB needs to ensure that the industry is getting best value from these, and be prepared to bring them to a close when they have fulfilled their purpose. RSSB needs to consider ways of further improving the usefulness of the research programme to the industry and the efficiency of its delivery.

6. When RSSB was set up, its primary objective was described as leading and facilitating the industry’s work to improve health and safety. In practice it has been difficult for a joint industry body to lead. This has to be for the leaders of the companies and organisations in the industry. RSSB can support and encourage this, by providing analysis and challenge, and facilitating the work of the industry’s health and safety strategic leadership forum. We further recommend that RSSB’s purpose should be amended to reflect this – see paragraphs 3.3 - 3.4. We also recommend that RSSB’s objectives be significantly simplified to focus on facilitating the industry’s work to achieve excellence in health and safety management, while driving out unnecessary costs and improving business performance – see paragraphs 3.5 - 3.6 and recommendation 5.

7. The core responsibility of the board is to set the strategy for RSSB and ensuring it is delivered efficiently and effectively. To achieve this we recommend the board adopts the following:

- stronger industry involvement, i.e. two train operating company representatives, so that the board representation is more closely aligned to those who utilise RSSB’s outputs – see paragraph 4.6 and recommendation 6;
- a chairman drawn from the industry members who can bring direct experience from the industry – see paragraph 4.10;
- industry non-executive directors generally drawn from people with current operational roles in the railway industry - see paragraphs 4.11 –
4.12;

- a reduction in the number of independent non-executives. The independent non-executives have played a valuable role, but we are not convinced the current number is necessary – see paragraph 4.8 and recommendation 6;

- retention of ORR and Department for Transport (DfT) observers. We see our presence as valuable because of the importance of RSSB’s functions in helping us, as the safety regulator, assure system safety. The DfT observer reflects DfT’s interest, as the major funder of the industry and RSSB, in the impact of RSSB’s work on the long-term costs of the railways – see paragraph 4.13;

- basing decisions by the board on a simple majority, except for those concerning the budget and business plan. For the very important matter of agreeing the budget and business plan, we recommend that the previous requirement for unanimous agreement be replaced by a qualified majority vote. To strike a balance between preventing any constituency exercising a “block” to a vote and avoiding a budget proposal being carried against the wishes of a significant group of directors, we recommend that the business plan and budget should be agreed by at least nine out of the eleven directors. Where this majority cannot be reached, the matter can be referred to ORR for a binding decision. Independent non-executives and executive directors should be permitted to have their views on board decisions explicitly recorded and published – see paragraphs 4.15 and 5.3 – 5.4 and recommendation 8; and

- making the governance groups for the different parts of RSSB’s work more effectively, within an overall strategy and funding envelope set by the board – see paragraph 2.12 – 2.16 and recommendation 1.

Alongside this, we recommend streamlining other aspects of RSSB’s governance i.e. the role of members’ meetings and the advisory committee – see paragraphs 4.16 – 4.18.
8. RSSB’s board was unable to agree a budget for 2010-11. We recommend that RSSB’s constitution be changed to enable the budget to be referred to ORR if the board cannot agree. In preparation for the 2011-12 budget, RSSB will need to review all aspects of its activities to find efficiency savings. We have identified some areas for potential improvement.

9. RSSB’s membership is currently confined to Network Rail, train operators using its network and suppliers to the national railway. We recommend that this be extended to enable other infrastructure managers to join, with a charging structure that reflects the incremental cost incurred by RSSB. This would bring a broader perspective to RSSB’s work, and contribute to improving health and safety and value for money across the UK rail sector as a whole.

10. The recommendations and observations set out in this report present a challenge to the RSSB board and its members but also an opportunity to change to deliver further efficiency gains for itself and the industry, and prepare RSSB for future challenges.
1. Introduction

Background

1.1 The Rail Safety and Standards Board (RSSB) is an independent not-for-profit company, owned by its railway industry members and established in April 2003 following recommendations made by Lord Cullen’s public inquiry into the Ladbroke Grove rail crash in 1999. In Lord Cullen’s second report into the Ladbroke Grove rail inquiry he recommended the creation of an industry safety body independent of the safety regulator and the infrastructure provider.

1.2 Before 2003, RSSB’s activities, such as the development of Railway Group Standards (RGSS), were carried out by Railway Safety, the successor of Railtrack’s Safety and Standards Directorate (SSD).

1.3 RSSB is largely funded through a levy on its members and by grants-in-aid for research and development from the Department for Transport (DfT) on behalf of taxpayers.

1.4 This review was prompted by Schedule 6 of RSSB’s Constitution Agreement and Articles of Association that requires RSSB to undertake a review at least once every five years. Additionally, RSSB’s board failed to unanimously agree a budget for 2010-11, which resulted in it rolling over the previous year’s budget. Accordingly, RSSB requested ORR to conduct this review.

1.5 The Office of Rail Regulation (ORR) conducted a previous review of RSSB and reported in February 2005. That review concluded that there was a continuing need for an industry body to carry out certain

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1 See: http://www.rail-reg.gov.uk/server/show/nav.1204

2 Letter from Len Porter, the chief executive of RSSB asking ORR to carry out a review and reply from ORR’s chief executive Bill Emery.

safety and standards related functions, and that this body should be independent of any individual company or grouping.

Changes affecting the industry since RSSB’s formation

1.6 Safety performance of the industry. Since RSSB’s formation in 2003, overall safety performance has shown a clear and sustained improvement. The overriding safety picture at the end of 2009-10 is one of safety being maintained in the areas where the railway has direct control of the risks. The improvements in train accident risk and personal injury risk to passengers and workforce that occurred during the first half of the past decade have been sustained in the second half. However, track worker safety remains a concern with fatalities still occurring in many years.

1.7 Improvements have been patchier in the areas where the railway does not have direct control e.g. suicide, trespass and misuse of level crossings by road users.

1.8 Value for money. The current economic climate has increased pressure on the industry to provide better value for money. Sir Roy McNulty is leading a study, jointly funded by DfT and ORR, focused on eight broad themes: industry objectives, strategy and outputs; industry leadership, planning and decision-making; interfaces, incentives and structure; revenue; asset management; supply chain management; innovation, standards and safety; and people. It will seek answers to the question of why Britain’s railways appear to be so much more expensive to build, run and maintain than those in the rest of Europe. A number of these themes are directly related to the work of RSSB.

1.9 The comprehensive spending review will also conclude in the autumn and will set spending limits for every government department for the period 2011–2015, and is likely to increase pressure on the rail industry to cut costs and improve efficiency.

1.10 Other changes affecting the industry. There have been significant structural changes in the industry since RSSB’s original formation, e.g. the return of maintenance operations in-house, as well as changes in
the wider environment including:

- growth in demand for passenger and freight transport;
- greater recognition of the importance of rail in promoting sustainable economic development; and
- influence of European regulation on GB’s rail operations, interest by European rail companies in Britain’s franchises, and the opening of High Speed 1.

Our review

1.11 The aim of this review has been to establish whether RSSB’s role, governance and funding arrangements are still fit for purpose in the light of current needs and able to adapt to meet future challenges.

Our review considered:

- what activities RSSB currently undertakes?
- do these activities still need to be done?
- if so, is RSSB the appropriate place to do them?
- if it is, are they being done efficiently, and if not how might this be improved?
- are there any new or expanded roles that RSSB could/should undertake to add value to the industry?
- are the current funding arrangements appropriate?

1.12 In considering whether RSSB is the appropriate place for essential activities to be done, we have considered the need for independence from the commercial interests of the industry, in order to provide the trust and credibility necessary for decision-making that can affect the whole mainline industry. Lord Cullen stressed the importance of the body being independent of any part of the industry or the regulator.

1.13 During our review process we considered a range of options and their impact on RSSB and the industry together with the advantages and disadvantages of each option.
1.14 Initially, we asked whether there was still a need for an independent safety and standards body at all, or could the industry now manage such activities itself? Have the issues that were identified by Lord Cullen now been absorbed into the everyday working of the industry in such a way that makes RSSB irrelevant? We concluded that given the structure of the industry and with turnover of franchises and evident further challenges facing the industry in the near future, that there was still an important role for a central body such as RSSB.

1.15 We then debated whether RSSB should be scaled down by migrating any of its current activities to other parts of the industry. For example:

- to a single duty holder, most obviously Network Rail given its central role in managing the infrastructure;
- to another industry body such as the Association Of Train Operating Companies (ATOC) or the Rail Industry Association (RIA); or
- to ORR as the health and safety regulator and national safety authority.

1.16 We found no evidence to suggest that there is any merit in moving any of its roles to any other organisation at present.

1.17 When considering the efficiency with which its activities are carried out, we sought evidence from stakeholders of RSSB and also considered models of similar standards setting bodies internationally. We also examined the support and administrative activities of RSSB as "overheads" and considered whether these represent efficient spend of the monies it receives.

1.18 Given the expanding activity in Europe, particularly the drafting of Technical Specifications for Interoperability (TSIs) and other representational work on working groups at the European Railway Agency (ERA), we considered the involvement of RSSB currently and whether this should be extended, so that railways in Great Britain give better value for money.

Industry involvement

1.19 ORR wanted this review to be an evidence-based process and sought
evidence and opinion from a wide range of stakeholders and other interested and informed parties. We have done this through:

- informal discussions with senior representatives of industry bodies such as ATOC and RIA;
- consulting colleagues from within ORR both within the safety and economic regulatory functions;
- conducting an extensive public consultation exercise. The list of respondents is at Annex 1 and a summary of responses is at Annex 2. Full responses are available on ORR’s website;
- establishing an industry advisory panel to help us develop our thinking on key issues; and
- holding an open meeting in the final stages of the review to discuss some of the findings from the consultation exercise.

**Forming our conclusions**

1.20 In forming our conclusions, we systematically analysed the views expressed by the wide range of organisations and individuals that we consulted: we received a total of 46 responses to our consultation. However, we have not formed our recommendations solely on the basis of the majority view. We have also given careful consideration to opinions that were individual in nature.

1.21 Taking all this evidence, we then sought to reflect the current and prospective wider policy and economic context to formulate recommendations that we believe will contribute to helping RSSB meet its likely future challenges.

1.22 We have confined our recommendations to those areas that we feel are most important now. On certain other matters we have made some observations for the RSSB board to consider and these are presented in italics for ease of identification.
Key issues identified by our review

1.23 We acknowledge that RSSB has significantly reduced its operating costs, giving better value for money to its members in recent years. It has also delivered invaluable products and services to the industry, including an internationally acclaimed safety data collection and modelling process, established extensive support for EU safety and interoperability activities and delivered a research programme that has translated into better industry performance, including improved industry management of risks and issues such as:

- noise from train horns;
- passenger safety and escape from train following an accident; and
- all level crossing risk model.

1.24 We also recognise the useful publications that RSSB produces, such as the annual safety report, the rail safety strategic plan and safety briefing materials such as the RED series.

1.25 We have identified some key areas where we feel improvements can be made and we have made recommendations:

- railway group standards – see chapter 2 and recommendation 1;
- industry secondments – chapter 2 and recommendation 2;
- R&D – see chapter 2 and recommendation 3;
- membership – see chapter 3 and recommendation 4;
- the company’s primary objective – see chapter 3 and recommendation 5;
- board structure and functions – see chapter 4 and recommendations 6 and 7; and
- funding and resources – see chapter 5 and recommendation 8.

1.26 We found support for RSSB having a greater role in coordinating GB rail representation in Europe. Apart from this, we found no other areas for RSSB to have an expanded remit.
1.27 Our recommendations present a challenge to the RSSB board and its members but also an opportunity to change to deliver further efficiency gains for itself and the industry, and prepare RSSB for the further likely challenges ahead.
2. RSSB's role and functions

2.1. RSSB constitution defines the functions of the company as:

"the Company shall:

(i) in consultation with its Members, representatives of other Stakeholders, the DfT and the HSE, develop and publish the Railway Group Safety Plan;

(ii) monitor and report on the Railway Industry’s health and safety performance and facilitate the collection and flow of information on health and safety matters in the Railway Industry;

(iii) maintain a current record of:

(A) recommendations of accident investigations and formal inquiries;

(B) the responses of all the organisations to which the respective recommendations are directed; and

(C) the state of progress towards implementation within timescales recommended or prescribed by such investigations or formal inquiries;

(iv) disseminate and encourage adoption of good practice and encourage and facilitate co-operation in each case on health and safety matters in the Railway Industry;

(v) in consultation with its Members, facilitate the effective representation of the Railway Industry (including direct representation by the Company of one or more Railway Industry Parties if so agreed with those parties) in subject areas relevant to the Primary Objective in discussions with other industries, other railway companies and organisations, public bodies and European Union institutions; and

(vi) in consultation with its Members, representatives of other Stakeholders, the HSE and the DfT and within the constraints imposed by funding available from the DfT or other sources for this purpose, develop and implement a
2.2. The constitution agreement also allows RSSB, with the agreement of its members, to do other things relevant to its overall objectives. RSSB’s Strategic Business Plan 2009 – 14 describes what activities the company plans to do in the current control period.

**Data collection, analysis, modelling and reporting**

2.3. RSSB provides a national information system for the mainline railway (SMIS) to enable duty holders to report a wide range of health and safety incidents. It captures and facilitates the retrieval and does analysis of safety related data for the mainline railway. SMIS has over 1.5 million records of railway events going back to the late 1990s.

2.4. RSSB uses this data to:

- drive the safety risk model that gives a measure of overall system risk expressed in terms of risks to passengers, workforce and the public, together with a much more detailed assessment of each individual hazard. This is used by the industry to benchmark individual operator performance, identify gaps that need to be managed and develop plans for interventions to help improve safety performance. It is also used to monitor the industry’s safety performance against the safety metric for the DfT’s High Level Output Specification (HLOS);
- enable individual operators to determine their own risk profile and benchmark themselves;
- produce national and European, periodic and annual cross industry safety reports;
- monitor performance against common safety targets;
- maintain the “precursor indicator model” (PIM), which tracks a number of precursor events that can potentially lead to train accidents;

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4 See: www.rssb.co.uk/.../pdf/.../strategic%20safety%20%20plan%20%2009-14.pdf
• develop various forms of safety intelligence, which inform the industry on specific topics, such as level crossing and route crime, learning from operational experience (including accidents);
• support the industry and government in responding to media and Parliamentary questions about rail safety; and
• produce the railway strategic safety plan.

2.5. We found universal acclaim for this aspect of RSSB’s work. Work is already underway to include data from contractors, yards, depots and sidings. We acknowledge and endorse the value of this work and make no recommendations in this area.

Railway standards including European standards

2.6. Under the Railway Group Standards Code, established as a condition of operator licences, RSSB is the custodian of Railway Group Standards (RGSs). These govern the physical (eg. wheel and rail) and operational (eg. train driver and infrastructure signaller) interfaces.

2.7. RSSB facilitates the standards committees that develop, review and revise them. This work includes the management of the industry Rule Book, Railway Group Standards, Railway Approved Codes of Practice, guidance notes and voluntary Railway Industry Standards.

2.8. RSSB’s technical expertise is also deployed on European-led work by:

• supporting members and government in the development and revision of Technical Specifications for Interoperability (TSI) which are mandated at European level; and

• facilitating the UK side of the European Standards (Euronorms) and development process on behalf of the British Standards Institute (BSI).
2.9. ORR conducted a review of the industry standards regimes in 2009\(^5\), including individual company standards, Railway Group Standards and TSIs. It concluded that the Railway Group Standards process is largely fit for purpose, but also identified opportunities for the industry to align its standards regimes and have greater input from people with the right competences.

2.10. Our consultation exercise confirmed that the setting of industry standards is a key activity that must continue.

2.11. Given the complexity of the standards regime, we found an opportunity to help those in the industry who are infrequent users, to find their way around the standards regimes better, and to challenge or seek derogations when appropriate. *Whilst we make no recommendation on this matter, we note that there might be a role for RSSB having some visibility and oversight of all company standards with a view to identifying any inter-company incompatibility of standards and where further cost efficiencies might be made.*

2.12. The Committees that review draft and revise Railway Group Standards work on the principle of consensus, though the standards code makes provision for the RSSB board to make decisions where consensus cannot be reached, and for appeal to ORR. We have considered at length the role for consensus in standard setting. While we find that it ensures widespread adoption of standards by industry, we also find that it can introduce delay or could result in a compromise being adopted where one or more members do not agree with the proposal.

2.13. It is interesting to observe that Lord Cullen in his report also commented on a point made by Sir David Davies, then Chairman of Railway Safety: “Further, it is essential to avoid a situation in which the development of group standards is dependent on consensus: this could lead to a level of standard which represented no better than the lowest

common denominator.” Despite this, we record that the RSSB executive strongly supports consensus-based decision making for standard setting.

2.14. We consider that relying on consensus is not a satisfactory position and that standard-setting can be made more efficient by introducing an alternative such as majority voting in those situations where consensus is not readily forthcoming. In this situation, industry parties who are not happy with the outcome can appeal to ORR under the Railway Group Standards Code, something they have historically been reluctant to do.

2.15. We also found evidence that standards committees could be more effective by taking a wider strategic view with an emphasis on the implications of their proposals on the whole system, particularly cost. This can be achieved by having a balance of technical and commercial expertise on the committees. *Members of committees should also be up-to-date on the topic areas and we suggest that offering funded secondments from the industry for a fixed term to work on specific standards would be one way of ensuring that the freshest expertise is available.* This could then enable some downsizing of the current technical expertise within RSSB and would free up funding for the secondment. See also paragraphs 5.8 - 5.9.

2.16. The scope and nature of industry standards, and the methods for securing compliance, are likely to be a particular focus of the Value for Money review, and this highlights the need to ensure the process is fit for purpose. This is a significant challenge for RSSB and its board to address.

**Recommendation 1:**

1. The board should review the processes for the management of railway group standards and make any amendments necessary to achieve the following:

   a. reduce the scope for delay and unnecessary compromise where consensus is difficult to achieve, by making provision for majority voting where it is evident that
consensus is not forthcoming, always with the safeguard of appeal to ORR;

b. make standards committees more strategic in their work and require them to consider the available information on whole system costs. This will require consideration of the skills and breadth of expertise of working group members; and

c. ensure a balance between technical expertise and understanding of the whole industry cost.

Recommendation 2:

2 RSSB should consider promoting further funded secondments from industry for a fixed term to work on specific standards.

System interface committees and EU work

2.17. These have been set up by RSSB to facilitate the effective and efficient management of key industry interfaces and to identify best solutions from a broader industry perspective.

2.18. We find that Systems Interface Committees (SICs) are a valuable resource which can provide the system wide perspectives referred to in paragraph 2.15 above. The consultation responses revealed that their work is often poorly communicated and that they are not delivering to their full potential.

2.19. RSSB supports the industry and government in work on Technical Specifications for Interoperability (TSIs), the Railway Safety Directive, and in watching for legislative proposals in the field of safety that may affect the sector by:

- understanding the complexities of European legislation and achieving clarity about how to work with TSIs, Common Safety Targets (CSTs) and Common Safety Methods (CSMs);
• helping to develop an industry position and coordinating the industry’s input into the development of TSIs, CSTs and CSMs;
• participating (where nominated by members, DfT or the National Safety Authority) in European Union working groups on safety and interoperability issues;
• collating industry views and advice for DfT and ORR when they are representing the Member States or National Safety Authority at European Union meetings;
• where TSIs do not exist yet, developing proposals for National Technical Rules for DfT to propose; and
• assisting DfT and ORR in identifying National Safety Rules.

2.20. *We believe that this is very valuable work and should continue to and possibly be extended such that RSSB plays a bigger coordinating role in GB representation in Europe. We make no specific recommendation in this regard, but it is an important issue for RSSB and its board to pick up.*

**National programmes**

2.21. RSSB provides a range of services to support its members through facilitating safety cooperation and sharing of best practice, and delivering services to the industry from one place, where this is more efficient. Examples include:

• the provision of a national confidential incident reporting and analysis system (CIRAS), which is directly funded by the companies that use it;
• the development and ownership of a scheme to allow urgent notices to be communicated across the relevant parts of the industry; and
• the facilitation of the Operational Focus Group and the Community Safety Steering Group (both cross industry groups that identify cooperative actions to address identified areas of risk).
2.22. The needs of these programmes change over time. An example of a new activity is the project to develop an updated approach to supplier assurance, aiming to save the industry money while enhancing safety. The vehicle acceptance body accreditation is an example of an activity that is likely to cease in the future. RSSB has done a lot of good work to facilitate the industry Sustainable Rail Programme, but this current work programme is planned to conclude at the end of the first quarter of 2011.

2.23. Provision of these programmes by RSSB can offer benefits of scale economies and sharing of good practice. There is a need, however, to keep them constantly under review to ensure that they are focused on key strategic priorities and curtailed as soon as they have delivered on their purpose. Currently the main governance for these programmes is through stakeholder groups; the RSSB board needs to take a strategic overview.

Research and development

2.24. RSSB currently manages two research and development (R&D) programmes, largely funded by DfT. The programmes comprise of a tactical or business based ‘core programme’ which spends just under £10 million per year, and a Strategic Research programme which is supporting the development of the Rail Technical Strategy, and has been allocated £14.75 million through to 2014. Management and prioritisation of the programme is closely linked to the industry's objectives (such as performance, safety, efficiency and sustainable development). All the research is developed through stakeholder groups which comprise representatives of RSSB’s members, and where appropriate, DfT and ORR.

2.25. RSSB has, for some years, increased the proportion of research undertaken within the industry and in-house, and this has enabled RSSB to build a larger technical capability which supports both research and member-funded activities.

2.26. We consider that RSSB needs to build on its work to identify and consider the R&D done by other bodies such as the Health and Safety Executive (HSE), Health and Safety Laboratory (HSL), and other
European and world-wide organisations and to ensure cross industry research and development synergies are achieved. RSSB should be encouraged to use its industry data and intelligence gathering functions to help identify gaps in cross-industry R&D activities.

2.27. We also believe that there should be stronger top-down focus on research that supports the strategic development of the industry. This would reduce the amount of projects that are fed into the research programme from stakeholder groups.

2.28. Amalgamating the core research budget and the strategic research budget would help simplify the process.

2.29. Although the stakeholder groups that sponsor RSSB research contain representatives from across the industry, we think that further efforts should be made to ensure the results of these activities are disseminated, used and embedded in the industry. This includes greater focus on how the results can be brought into operation or integrated into industry plans.

2.30. We note that there is current activity within RSSB to review its research activities and that many of our recommendations are being adopted in advance of this report.

2.31. It is quite likely that government will not be able to maintain current levels of research expenditure funding in the future. RSSB needs to be prepared for this. When looking at the research, it would seem that the management costs are significant and we would encourage RSSB to find efficiencies in this area. We would also encourage it to explore alternative sources of funding for research.

Recommendation 3:

3 The board should review and amend the process for planning and commissioning research to better meet the needs of the industry and its funders. We recommend that:

   a. RSSB should put a greater emphasis on strategic research,
whilst retaining vital tactical projects;

b. RSSB should consider amalgamating the core and strategic research budgets. This will remove the need to allocate projects into one or the other; and

c. RSSB should seek to ensure better take-up of research findings.

Possible further changes

2.32. Since the founding of RSSB there have been further additions to the railway such as High-Speed 1 and future projects such as Crossrail.

2.33. Additionally, around London there are commuter services that run along infrastructure identical to that managed by Network Rail under the management of Transport for London, for example, the East London Line. Also London Underground services, in places, have for many years run on Network Rail managed infrastructure or lines adjacent to it, with some sharing of facilities. There is, therefore, a direct common interest in standards and operating practices and opportunities to share knowledge and ideas.

2.34. Infrastructure managers and operators outside the national network are not mandated by a licence to become members of RSSB and therefore, can only become voluntary members.

2.35. We see advantages in broadening RSSB’s membership to give a wider perspective of the industry. However, the main focus of RSSB’s work should continue to be the mainline industry and therefore any wider membership should not add a cost burden to either RSSB or existing railway group members. Equally, the cost of joining for any new voluntary member should neither be prohibitive nor subsidise the existing members.
Recommendation 4:

4 Membership: The board should consider how it might amend membership arrangements to allow relevant GB organisations outside the “railway group” but with a legitimate interest in the railway industry, to join. The cost of voluntary membership should be commensurate with any additional cost incurred by RSSB and also reflect the range of products and services from which non-mainline members might benefit.
3. RSSB’s purpose and safety leadership

RSSB’s current primary objective

3.1 RSSB’s Constitution Agreement, which dates from 2003, defines the Primary Objective of RSSB as:

“…to lead and facilitate the Railway Industry’s work to achieve continuous improvement in the health and safety performance of the railways in Great Britain and thus to facilitate the reduction of risk to passengers, employees and the affected public, so far as is reasonably practicable, so aiding compliance by providers of railway services with their obligations under health and safety law”.

The constitution also sets out principles of operation:

In pursuing the Primary Objective, the Company shall:

(a) exercise its functions in a manner best calculated to achieve an appropriate balance between the need:

(i) to protect the interests of users of railway services;

(ii) to promote the use of the Rail Network in Great Britain for the carriage of passengers and goods, and the development of the Rail Network, to the greatest extent economically practicable;

(iii) to promote efficiency and economy on the part of persons providing railway services;

(iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance;

(v) to facilitate the furtherance by the DfT of any strategies which it has formulated with respect to its purposes including by having due regard to the appraisal criteria, expenditure priorities and budgets which form part of those strategies;

(vi) to contribute to the development of an integrated system of transport of passengers and goods; and

(b) where it is necessary to impose restrictions on Railway Industry Parties, to do so to the extent proportionate to the achievement of the Primary Objective and having regard to the criteria set out in
3.2 RSSB is also required to carry out its functions in a transparent and non-discriminatory way, and where appropriate, encourage and foster cooperation between Railway Industry Parties to achieve the primary objective.

Leadership

3.3 The existing primary objective gives RSSB a leadership role. This reflects the fact that leadership is a key part of successful safety management and Lord Cullen acknowledged the need for better safety leadership for the fragmented industry. We believe that RSSB can facilitate industry leadership initiatives, and thus makes a key contribution to effective safety leadership in the industry. But it is not in a position to provide leadership itself. Safety leadership has to be a responsibility of the leaders of individual companies and organisations, both individually and collectively. We have found through our consultation that there is a common agreement that RSSB provides key functions that add significant value to industry health and safety leadership, such as providing data, risk modelling and other services such as research.

Health and Safety Strategic Leadership Forum

3.4 We consider that at the industry level there is a need for a leadership forum to ensure best practice is shared and to consider issues that cut across industry boundaries and affect the safety of the system as a whole. RSSB has already established a health and safety strategic leadership forum with support from ORR. The forum consists of Network Rail, train companies, ORR, DfT and main suppliers to the industry and the work of this group has already begun. RSSB supports and facilitates this forum but does not lead it.
Excellence in health and safety management

3.5 The current primary objective is focused entirely on helping the industry manage health and safety risk to passengers, employees and the public in a way consistent with legal obligations. In our view this aims too low. We consider that seeking excellence in health and safety risk control and management should be the aim.

3.6 Excellence is not about gold plating or increasing costs. An excellent organisation delivers legal compliance in an efficient manner. It is “how” it achieves risk management that defines excellence such that spend on safety is targeted in the most efficient way and considers benefits for the organisation as a whole. An excellent organisation is opportunistic in seeking further improvements in risk control alongside other business decisions. Excellence in health and safety management will not occur in isolation from other business processes.

RSSB’s role in improving value for money and business performance

3.7 With the need for the industry to use every lever it can to improve value for money, we consider that, alongside excellence in health and safety management, RSSB’s primary objective should make more explicit reference to improving efficiency and business performance. Much of RSSB’s work, particularly on standards and research directly relates to these issues as well as safety, and this needs to be recognised.

3.8 An issue raised in our consultation was RSSB’s role in occupational health. Many consultees said this should not be a significant role and indeed the RSSB board has in the past decided that there should be only be a limited role for RSSB in respect of occupational health risks. In our view the costs associated with ill health are a burden on the industry that have not yet been properly recognised and managed. RSSB is well placed to do more to help the industry improve management of occupational health, by helping duty holders to comply with their legal obligations and seeking potential business efficiencies. For example, RSSB could collect and analyse industry health data to identify trends, and disseminate good practice. We therefore conclude that health should continue to be part of the primary objective.
Proposed new primary objective

3.9 The current purpose of the company as laid out in RSSB’s 2009 - 2014 business plan is to work with our industry partners to:

- so far as is reasonably practicable continuously improve the level of safety in the rail industry;
- drive out unnecessary cost; and
- improve business performance.

3.10 We have considered what a new primary objective might look like and we feel that there should be an emphasis on providing supporting functions that will help the industry deliver health and safety leadership. Additionally, and increasingly important in the current economic climate, RSSB is well placed to help drive further cost reduction and efficient delivery of a business performance, whilst working towards achieving excellence in health and safety management.

3.11 Our view is that whilst the purpose set out in the business plan is more concise and focused, it does not indicate the ‘excellence’ that we believe should be an explicit goal for the industry. Moreover, it does not mention occupational health. We believe it should, reflecting statutory responsibility and the importance of good occupational health as a driver of business performance.

3.12 The ‘principles of operation’ are too general, insufficiently focused and too long. We suggest that the existing primary objective and principles of operation should be replaced by one focused statement of intent.

Recommendation 5:

5 The Company’s objective should be to facilitate the work of the rail industry in Great Britain to:

- achieve excellence in health and safety management in Great Britain, and in doing so:
• drive out unnecessary cost and improve business performance.

Explicit mention should be made in the company’s functions of facilitating rail industry safety leadership.
4. RSSB’s board and governance

Introduction

4.1 RSSB operates under the direction of its board and in support of its members. The current board structure and its operation reflect the current primary objective of industry leadership. We have considered whether the current structure of the board remains appropriate in view of:

- the proposed redefinition of RSSB’s purpose; and
- the challenges the organisation faces.

In particular we wish to see governance arrangements that promote success of RSSB as a whole, as well as the individual members.

4.2 Currently RSSB’s constitution allows for a board of not less than 10, and not more than 15 directors, comprising:

- not more than five non-executive directors from outside the rail industry (independent NEDs), though pending this review it is operating with three;
- not more than seven industry nominated non-executive directors (currently one from the train operating companies - a second attends as an observer, one freight operator; one infrastructure manager; one infrastructure contractor, one rolling stock leasing owner and one representing other suppliers); and
- not more than three executive directors, but it is currently operating with two.

Issues

4.3 The board’s core roles are to set and keep under review the strategy for RSSB as an industry body, and to ensure it is delivered. In our view the current board has focused too much on trying to provide the safety leadership role, and needs to refocus on the core roles. To this end,
we have concluded that the board should have strengthened industry membership. And whilst we acknowledge the immense value that independent non-executive directors have given to RSSB over the years, we believe that the time is right to reduce the numbers. These changes also reflect our view that the board is too unwieldy to carry out its core roles effectively.

4.4 The board conducts a series of structured reviews of system safety (interface) risks, and other industry risks where RSSB supports activity, and of the performance of each of the significant sub groups – the strategic agenda.

**Board structure**

*Size and composition*

4.5 We find that the board should be no larger than its current composition of 10 – 15 directors.

4.6 We have considered the constituencies from whom the industry non-executive directors are drawn and concluded a greater presence from the train operating community would better reflect the balance of RSSB’s work for the industry.

4.7 We note that the infrastructure manager, Network Rail, has a single director on the board. As *Network Rail provides around 50% of RSSB’s core funding, we have questioned whether it would not be better for there to be two directors from infrastructure management. Discussions with the industry have not been conclusive and we are not making a recommendation on this point, which in any case might need to be revisited if the membership of RSSB is expanded.*

4.8 We agree that the board benefits from the presence of industry non-executive directors (NEDs) from an infrastructure contractor, a rolling stock leasing company (ROSCO), as an asset owner, and the wider
supply chain.

4.9 We acknowledge the value that independent (non-industry) NEDs have added to the board in the seven years of operation. However, given the proposal that RSSB moves away from the original Cullen vision, we believe that the number of independent NEDs could be reduced without detriment and suggest that two would be the right number.

Board chair

4.10 Currently, an independent NED chairs the board. In view of the challenges facing the industry and RSSB, we feel there would be merit in the chair being one of the industry directors who would be able to bring direct experience of the rail industry. Therefore we suggest that, in future, a chair should be appointed from amongst the industry directors.

Expertise and role of directors

4.11 The success of the board hinges on having the right mix of members with a balance of up-to-date operational, business and strategic competencies. Thus it is important for credibility and the effective operation of the board that directors should come from a suitably senior level in the organisation to be able to influence both their own organisations and also the wider industry. We recommend that industry NEDs should normally be people with current operational roles in the railway industry, for instance, in train operator owner groups.

4.12 It is important for the success of RSSB that members of the board should work for the best interests of RSSB rather than just their own organisations or ‘constituents’. Currently, some industry NEDs are remunerated directly or their companies are paid for their services on the board. *We believe that any payment should in future be limited to only those expenses incurred.*
Report on ORR’s review of RSSB: 2 August 2010

Observers

4.13 We have considered the role of observers at the board. Currently ORR and DfT attend in this capacity. We see ORR’s presence as important because of the significance of RSSB’s functions in helping us assure system safety. The DfT observer reflects DfT’s interest in the impact of RSSB’s work on the long-term costs of the railways and as the principal funder of research. We have considered whether the devolved or regional funders should also send an observer but we are not convinced of the benefits this would bring.

Decision making by the board

4.14 Certain decisions are ‘reserved’ to members, but provided there is a unanimous decision of the board, a ‘reserved resolution’ can be passed without a members’ meeting. This mechanism was introduced in 2006 to enable widely supported changes to be made without the need to ask all members to attend a general meeting. Since this change was made to the constitution, it has only been necessary to hold one statutory annual general meeting at which the accounts and any new directors are approved.

4.15 The review was triggered in part by the failure of the board to agree a budget for the year 2010-11. Agreeing the business plan and budget requires a unanimous decision such that any director can block a vote on these matters. This conflicts with Lord Cullen's original vision of the industry safety body being independent of any one industry company or any part of the industry. We propose that the Constitution Agreement and Articles of Association should be amended to remove the requirement for a unanimous vote on these two key issues. We consider the issue of agreeing the budget further in paragraphs 5.3 and 5.4 below and make recommendation for how qualified majority voting might be introduced, with the additional safeguard of referral to ORR.

4.16 This will have an impact on the remit for members’ meetings which
previously could be called to resolve disagreement at board level. This process is very time-consuming and unwieldy, however there would still be a role for members meetings to discuss and facilitate agreement on matters relating to the budget where there is a split at the board. Notwithstanding this, members’ meetings primary purposes will be to approve changes to the Constitution and Articles of Association, and appointments to the board. Thus an amendment to the rules defining the need for members meetings will be necessary.

4.17 We make a number of recommendations about how the board might be structured and how it should function.

Recommendation 6:

6 The board structure should be reviewed in the light of its role in delivering the primary objective. We recommend the following:

a. the board should contain two independent (non industry) non-executive directors. These persons should have current understanding of health and safety management in an industrial or commercial setting;

b. passenger and freight train operators should be represented by people with current operational roles in the railway industry, for instance, in train operator owner groups: two for passenger train operating companies and one for freight operators; and

c. two infrastructure manager directors may be appointed.

Recommendation 7:

7 The functions of the board should support delivery of the revised primary objective:

a. the board should set the strategic direction for the work of RSSB. This will involve considering all the main industry risks and determining what RSSB should be doing to help the
industry address them;

b. the board should also maintain its key role of holding the executive to account for efficient delivery of that strategy; and

c. general decisions should be made by a simple majority vote: exceptions being agreeing the business plan and setting the budget where at least nine directors should agree (see paragraphs 5.3 – 5.4).

Advisory committee

4.18 Our consultation exercise explored the value of the advisory committee. We received no strong support for retaining this and many respondents noted that they did not have visibility of what the committee does or what it achieves. We acknowledge that this is a forum for wider representation of interested parties, but suggest that the advisory committee be abolished and the board makes arrangements to hold at least one open board meeting each year when the views of other interested parties can be received and considered.
5. RSSB funding and resources

5.1 RSSB funding comes from a number of sources:

- core activities are funded by RSSB members, i.e. those required by their licences to be a member, and voluntary members, such as rolling stock leasing companies, infrastructure contractors, and other rail industry suppliers;
- research and development is largely Government funded;
- the CIRAS scheme is funded directly by CIRAS user companies; and
- New Systems (embracing both ERTMS and GSM-R projects led by Network Rail) are funded directly by Network Rail.

RSSB’s total budget is £32.15m and it employs around 250 staff. As noted above it has significantly reduced its costs in the seven years since it was established.

5.2 Network Rail and passenger train operators together fund in excess of 90% of RSSB’s core member funded activity. The funding arrangements for RSSB were reflected in the Network Rail funding settlement for 2009-14, and were known to train operator franchise bidders so they could reflect the cost of them in their bids.

5.3 The failure of the board to agree a budget for the current year has been a matter of concern to the executive and members. We have considered the existing position, where unanimity is necessary, and questioned whether this remains appropriate. We believe that the requirement for unanimity should be replaced with the ability to adopt a qualified majority vote on the two key matters of agreeing the business plan and the budget. We offer ORR as the final arbiter where a significant split remains. We believe this is preferable to the current arrangement whereby if a budget cannot be agreed, the previous year’s budget rolls forward.
5.4 We have given very careful thought to how the qualified majority vote should work, and have received a range of opinion from interested parties. It is important to strike a balance between preventing any constituency exercising a “block” to a vote on the one hand, and avoiding a budget proposal being carried against the wishes of a significant group of directors, on the other. For example, the train operating community are major funders of RSSB and it would be inappropriate to define “majority” at a level where a budget could be passed against the combined views of the passenger and freight train operators. Equally, this could be seen as contrary to the spirit of Lord Cullen’s recommendations in that one part of the industry could still block adoption of a budget. We recommend that the business plan and budget should be agreed by at least nine out of the eleven directors. Where this majority cannot be reached, the matter can be referred to ORR for a binding decision, and we feel that this additional safeguard preserves the independence from any one industry group member or part of the industry.

5.5 To date, RSSB has set a five-year business plan but sets its budget annually. This annual exercise is time consuming and we believe that the board should seek to establish an annual budget within the context of a five-year business plan. We suggest that this should be tied to the Retail Price Index, less an allowance for cost reduction which would be agreed by RSSB’s board. Scope should be made for a ‘re-opener’ mechanism which could be triggered by the board in the event of a material change in circumstances.

Recommendation 8:

8 The board should be empowered to set the budget for the company:

   a. the annual budget can be agreed by qualified majority where consensus cannot be achieved. This will require changes to
the constitution to remove the need for unanimity;

b. to agree the budget by majority, at least nine directors, should agree the proposal;

c. where this majority cannot be reached, the matter can be referred to ORR for a binding decision; and

d. the annual budget should be a set within the context of a five-year business plan to coincide with the control periods of Network Rail’s funding (only three years of the current control period remain).

Other funding issues

5.6 Foremost in our thinking has been the current drive to reduce public spending and the pressure for greater efficiency. We are aware that the executive has significantly reduced the operating costs of RSSB in recent years. But like all other industry companies and organisations it will need to seek further efficiencies. We have not gone into detail on where we feel further cost reductions may be made in RSSB. We have looked at the reported management overhead costs and have not identified any specific areas for efficiency gains. We make comment on perceived management costs of the research and development programme in paragraph 2.31 and the potential to rationalise technical expertise elsewhere - see paragraph 5.8 below.

5.7 We suggest that the board makes preparations now for how it may respond to further restrictions on funding.

Staff resources

5.8 A significant portion of staff resource is in the area of technical expertise and given that technical experts also reside within ORR, DfT, and RAIB, as well as consultancies, there may be scope for better working together between the organisations and sharing of expertise. There should be clarity of where specialist expertise resides and
decisions made about how to deploy experts efficiently and to best effect.

5.9 We suggest that RSSB makes arrangements to initiate a review of technical expertise in partnership with the ORR and DfT.

5.10 The Confidential Incident Reporting and Analysis System (CIRAS), with a staff cadre of seven, receives on average 600 contacts a year of which around half are subsequently processed into reports. We have compared this with ORR's Customer Correspondence Team. This has a staff cadre of four and a half full-time equivalents. It deals with similar complaints from members of the public and employees etc and receives on average over 2,000 pieces of correspondence annually, of which 240 are the, often more difficult to handle, Freedom of Information requests.

Whilst we make no recommendation, we suggest that the board reviews the costs and resources associated with this scheme.
6. Next steps

6.1 We note that some parts of RSSB’s Constitution Agreement have become out of date and suggest that RSSB take the opportunity to amend the text to reflect more recent structural changes in the industry, the transfer of the Health and Safety Executive’s railways health and safety functions to ORR in April 2006, and the application of more recent changes to legislation, such as the Railways and Other Guided Transport Systems (Safety) Regulations, 2006 replacing the railway safety case legislation.

6.2 Implementation of these recommendations would require changes to RSSB’s Constitution Agreement and Articles of Association, with a members meeting to approve them. ORR does not have powers under the Constitution Agreement to require changes.

Recommendation 9:

9 That the RSSB board:

a. considers this report and responds to ORR on the issues contained in the report by mid October 2010; and

b. start the necessary processes to propose changes to the Constitution and Articles of Association as necessary.
Annex 1

List of respondents to ORR’s consultation

<table>
<thead>
<tr>
<th>Response number</th>
<th>Company</th>
<th>Name</th>
<th>Date of response</th>
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<tr>
<td>1</td>
<td>Crossrail</td>
<td>Leslie Calladine</td>
<td>4 March 2010</td>
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<td>2</td>
<td>Passenger Focus</td>
<td>John Cartledge</td>
<td>12 March 2010</td>
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<td>3</td>
<td>Volker Rail Group</td>
<td>Chris Hext</td>
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<td>Atkins</td>
<td>Jean Cakebread</td>
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<td>5</td>
<td>London Underground Ltd</td>
<td>Mike Strzelecki</td>
<td>16 April 2010</td>
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<td>6</td>
<td>British Transport Police</td>
<td>Ellie Hartup</td>
<td>23 April 2010</td>
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<td>7</td>
<td>Northern Rail</td>
<td>Gary Stewart</td>
<td>22 April 2010</td>
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<td>8</td>
<td>Neway Training &amp; Signet Solutions</td>
<td>Dr John D Penney</td>
<td>24 April 2010</td>
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<td>9</td>
<td>Gary Plant Associates Ltd</td>
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<td>10</td>
<td>Heritage Railway Association</td>
<td>D Woodhouse</td>
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<td>11</td>
<td>Rail Freight Group</td>
<td>Maggie Simpson</td>
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<td>12</td>
<td>South Eastern</td>
<td>Colin Clifton</td>
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<td>NIR Online Systems Management Group</td>
<td>James Collinson</td>
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<td>Southern Railway Ltd</td>
<td>Derek Epps</td>
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<td>15</td>
<td>Transport Scotland</td>
<td>Nikki Wilson</td>
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<td>16</td>
<td>Parliamentary Transport Committee on Transport Safety</td>
<td>Eleanor Besley</td>
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<td>17</td>
<td>Confederation of Passenger Transport UK</td>
<td>David Walmsley</td>
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<td>Direct Rail Services</td>
<td>Mark Hempton</td>
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<td>Angel Trains Ltd</td>
<td>John Collins</td>
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<td>20</td>
<td>Prof Andrew W Evans, Imperial College, London</td>
<td>Andrew W Evans</td>
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### Report on ORR’s review of RSSB: 2 August 2010

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<td>Porterbrook Maintenance Ltd</td>
<td>Tim Gilbert</td>
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<td>DB Schenker Rail (UK)</td>
<td>Alan Tordoff</td>
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<td>Martin Talbot</td>
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<td>Institution of Occupational Safety and Health</td>
<td>Murray Clark</td>
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<td>26</td>
<td>Associated Society of locomotive Engineers and Firemen</td>
<td>David Bennett</td>
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<td>Lloyd’s Register</td>
<td>Paul Seller</td>
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<td>Gilbert Fraser &amp; Paul Frost</td>
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<td>29</td>
<td>First Group</td>
<td>Seamus Scallon</td>
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<td>Transport Salaried Staffs’ Association</td>
<td>Gerry Doherty</td>
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<td>Gary Cooper</td>
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<td>Andrew Livingston</td>
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<td>Freightliner Group Ltd</td>
<td>Lindsay Durham</td>
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<td>Association of Train Operating Companies</td>
<td>Gary Cooper</td>
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<td>38</td>
<td>National Express East Anglia (+c2cRail)</td>
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<td>Railway Industry Association</td>
<td>Jeremy Candfield</td>
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<td>41</td>
<td>Network Rail</td>
<td>Julian Lindfield</td>
<td>21 May 2010</td>
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Five confidential responses were also received.
Review of the consultation responses to ORR’s review of RSSB

ORR conducted a public consultation exercise between 4 March and 7 May 2010. We sought views on 13 specific issues in a full consultation questionnaire and offered an alternative short form for those wishing to make general comments.

This is a summary of all 46 responses we received, which included five that we have been asked to treat as confidential. The remaining 41 responses are located on ORR’s RSSB website.

Q1. RSSB’s current objectives

1a. **Should RSSB’s current objective be revised to make explicit reference to facilitating improved business performance and driving out unnecessary cost?**

22 respondents said ‘yes’ (to helping and facilitate safety and standards, but not to look at budgets and cost profiles of individual duty holders);

8 said ‘no’ because it should not be RSSB’s primary objective; RSSB should be primarily focused on promoting safety). A total of 30 responses were received.

1b. **Should RSSB’s primary objective be amended to make explicit reference to helping the industry work towards achieving excellence in health and safety risk control?**

23 respondents said ‘yes’ including one suggestion that ‘facilitating’ or ‘enabling’ should replace ‘helping’; and a suggestion that ‘excellence’ needs a clearer definition.

11 ‘said no’ because ‘excellence’ is subjective and indefinable or at least needs definition, and because excellence could prove costly if duty holders are encouraged to go beyond their SFAIRP legal duties. The Safety Directive and Health and Safety at Work Act suggest that duty holders should seek ‘continuous improvement’ not excellence. A total of 24 responses were received.

1c. **What are the benefits and disbenefits of RSSB adopting a consensus-building approach for the resolution of cross industry issues?**

Most respondents agreed on achieving consensus as an initial approach, 12 out of the 26 who expressed an opinion, agreed the use of a non-consensus resolution mechanisms, governed by an established ‘code of practice’ (of process checks and balances) to speed up decision making. A total of 26
responses were received.

Some respondents suggested targeted weighted voting might reduce the burden on members (to attend meetings etc). Others thought consensus driven delays were worth the price of full industry engagement. Other individual comments included:

- consensus - building does not necessarily deliver ALARP solutions;
- RSSB should take a pragmatic approach to member engagement on different issues, i.e. let stakeholders decide how they want to engage;
- consensus could be speeded-up with less consultation of ‘external stakeholders’; and
- DfT direct funding of RSSB with weighted member voting may result in quicker solutions.

1d. Any other comments on RSSB’s objectives and purposes?

Comments received included:

- RSSB’s existing internal governance is now better aligned with industry’s needs;
- RSSB must continue to secure its own efficiencies;
- RSSB’s objective should be more prescriptive and encompass the breadth of its activities, e.g. the application of the SRM and PIM, system safety and managing interfaces; sustainable development; benchmarking; and sharing good practice;
- RSSB’s objective should reflect its mainline railway remit;
- the rail industry is ‘risk averse’ and RSSB’s current consensus approach stifles change and innovation;
- the rail industry could learn lessons from other industries by using accessible test facilities, using early cross-industry testing and, better knowledge sharing;
- a need for greater clarity between DfT’s and RSSB’s roles in Europe; on sustainable development and the technical strategy; and
- RSSB’s R&D work should be used to stimulate innovation and GB’s competitiveness in global markets (ie. stimulating the supply chain).

Q2. Leadership Forum

2a. Do you believe that the leadership forum can provide credible and effective safety leadership at the level of the industry as a whole? If not, what alternatives do you suggest?

21 respondents said ‘yes’ if the forum was to facilitate, and not lead, the industry and focus on RSSB’s high level strategy. Some suggested the forum should also cover occupational health issues. The forum needs industry visibility and the right role and status representation (which included the
suggestion of health and safety practitioner attendees, and not necessarily at CEO level), a shared sense of ownership and commitment to act as a forum for sharing good practice and cross-cutting safety improvements. The National Task Force provides a useful model for a ‘common objective’ forum. Other comments on RSSB’s membership included the need for better infrastructure contractor representation to improve track worker safety.

5 respondents said ‘no’: because they thought leadership is for duty holders (and RSSB already runs two annual senior management strategic safety events). 4 ‘don’t know’ replies were received. A total of 30 responses were received.

2b. **How can RSSB support and facilitate leadership in the industry?**

Respondents suggested:

- by delivering R&D sharing good practice and being a recognised centre of excellence;
- identifying trends and benchmarking industry performance.
- helping the industry manage interfaces;
- be forward looking and driving continuous improvement in safety.
- encouraging industry consistency and integration and customising its outputs for specific stakeholder groups;
- ensuring the leadership forum is properly constituted and governed;
- maintaining a pool of expertise and corporate memory;
- helping advocate the industry’s safety performance; and
- helping to deliver the optimum outcome for ‘GB Rail’ in Europe.

However, respondents also recognised that greater engagement from the industry was required than at present to achieve these things.

2c. **As part of this, is there value in RSSB being prepared to challenge the industry, and individual companies and organisations in respect of best practice and whole system safety issues, even if this means a less consensual approach to RSSB’s work?**

14 respondents said ‘yes’ because RSSB holds a unique position and independence from industry. Respondents suggested that RSSB can add value by being a mentor and helping to identify good practice.

11 respondents said ‘no’ because RSSB has no statutory powers and challenge could compromise its relationships with duty holders, particular if it challenged duty holders individually. Some respondents suggested that challenge was ORR’s job and it should be doing more. Some respondents said ‘no’ with the caveat that they would change their mind if the challenge could be done constructively to address whole system risks; 3 respondents said ‘don’t know’. A total of 28 responses were received.

2d. **How should safety leadership relate to wider industry leadership, particularly where there are strong links, for instance between better safety, better asset management, improved capability of industry people**
**Report on ORR’s review of RSSB: 2 August 2010**

*and improved efficiency?*

Respondents made general comments that could be characterised as ‘good health and safety is good business’ and that safety leadership needed to reflect the interdependencies between asset management, technologies and people. There was some support for the safety leadership forum and it containing some non-rail representation and ensuring it was visible to stakeholders. One suggestion was simply to rely on market forces: if a duty holder fails to manage safety and business risks then it would fail. RSSB should take opportunities to align safety with business risk management. Respondents suggested there was a role for RSSB in validating costs/benefits of cross industry change proposals. A respondent expressed concern about the safety focus on change management risk: most recent incidents were a result of ‘steady state’ issues, eg. poor routine maintenance.

**Additional comments?**

Safety leadership is for duty holders; a safety forum can encourage but industry must deliver commitments; there is need for managers to treat safety as an opportunity to proactively manage risk so that it is integrated into good business practice and to stop using them as a reason for continued inertia. A leadership forum needs competent representatives and to be inclusive; and the absence of occupational health work (reducing costs and improving productivity) is a major omission.

**Q3. Standards**

3a. *Do you agree that key standards affecting industry interfaces should be set by an industry body? If not, what alternatives do you suggest?*

All 31 respondents said ‘yes’ (0 ‘no’ and 0 ‘don’t know’). Respondents suggested that RSSB was knowledgeable, competent, reliable and independent and was doing a good job. Its consensus approach fosters cooperation amongst duty holders. Some respondent suggested that the alternative was standards set by ORR. A respondent suggested that DfT may want to lead on some standards where significant strategic or public subsidy issues were involved. A total of 31 responses were received.

3b. *Please identify any other standards that should be set in this way, rather than by individual industry companies and organisations?*

The majority of respondents suggested that RSSB should be involved in common company standards (i.e. those that affect more than one company), where it can add value. A respondent suggested a wider RSSB role in European common methods and targets and continued role in represent the GB industry’s view in Europe.

3c. *What improvements could be made to the standards process? For instance: do you think that a consensus approach to setting standards risks delay and unsatisfactory and inefficient compromises? Should RSSB move away from the consensus-building model and press more*
**proactively for timely decisions, even at the risk of appeals to ORR?**

Most respondents considered RSSB’s consensus approach to be effective, but some supported the use of ‘alternative mechanisms’, when needed. Some respondents suggested that RSSB’s standards consultation process could secure greater duty holder engagement (and hence external resourcing) if it was made more efficient, by the use of targeted consultations.

**3d. Do you have any other suggestions about the way in which the industry standards process currently operates? Please provide any evidence you have to support your suggestions.**

Respondents suggested that Railway Group Standards were difficult to navigate and could be streamlined. Some respondents supported a non-consensus mechanism to the resolution of standards. One respondent suggested that while RSSB standards work has improved over recent years, there was still scope for better harnessing competent and empowered industry engagement.

**Q4. Systems Interface Committees (SICs)**

**4a. Please give your views on how SICs can make a more effective contribution to improving value for money and safety in the railways?**

Respondents were split and there was no clear consensus on the value of the SICs. Some respondent suggested that SICs had delivered some cross industry issue successes, but others suggested they lacked industry visibility and need rationalisation (to help optimise industry representation). Respondents suggested they should go beyond their consensus building approach and focus on implementing their recommendations; and consider the economic and performance implications of their work because currently SICS are too engineering based.

Some respondents suggested that RSSB should communicate the work of SICs better e.g. via the Information Bulletin with timely and effective ‘industry agreed’ messages, rather than allowing duty holders to communicate their own messages. A respondent suggested that SICs should work closer with standards committees and Technical Strategy Advisory Group.

**Q5. Data gather and analysis functions**

**5a. Do you agree that RSSB’s data gathering and analysis functions are performing well? Please suggest any improvements.**

21 respondents said ‘yes’ because it was much improved and delivered very good work: the safety risk model is a vital input into duty holders’ risk assessments. Some suggested that RSSB’s risk models must continue to improve the probabilistic assumptions on which they are based and be made more user-friendly for duty holders.
1 respondent said ‘no’ and questioned the quality of RSSB’s data.

8 respondents said ‘don’t know’ and expressed concern about:

- the duplication of efforts with RAIB’s data gathering activities: there was a suggestion that RAIB and RSSB should review this to reduce the burden on industry;
- reduce the need to hold company level information;
- provide better trend analysis and benchmarking;
- provide less labour intensive method of risk modelling;
- the need for RSSB to focus on duty holders’ needs; and
- the ‘SMIS Vision’ project: it needs better duty holder engagement.

A total of 30 responses were received.

5b. Are there any additional areas into which RSSB’s data gathering and analysis work should be extended? What are they?

Some suggestions that RSSB:

- should develop better leading safety performance indicators;
- make better use of disaggregated SMIS data (by duty holders and regional, eg. construction accidents), to help identify emerging trends, good practice and to benchmark with Europe;
- should capture operational data not on Network Rail controlled infrastructure;
- improve the quality and reliability of precursor failures and near miss data; and
- collect occupational health data.

Some respondents suggested that some databases could be combined e.g. SMIS, NR Daily Log, BTP data and TRUST databases.

5c. Does the data analysis help the industry plan for the delivery of safety system as a whole, and could it be more effective? If so, how?

1 key respondent suggested that RSSB data analysis helps safety planning including work on interface risks, but expressed concern about whether all duty holders use it. One respondent suggested that there was a need for improved and better quality data, including more duty holder specific reports. One respondent suggested that RSSB’s data should assist the safety leadership forum in making evidence-based decisions.

5d. RSSB compiled and published the mainline industry's high level Rail Strategic Safety Plan for 2009-14, which is a compilation of industry duty holders’ strategic plans. Is the plan valuable to the industry and individual companies and organisations?

Comments included:

- the strategic safety plan is of value as a concise, single industry reference point and benchmark, but it lacked real strategic focus and output targets;
• the plan was probably not used and was of questionable benefit to individual companies because of the assumptions of which it was based; and
• the safety leadership forum should set the strategic safety agenda, in a similar way to the National Task Force drives rail performance issues.

5e. **Should RSSB be taking a more proactive role in challenging individual companies on their safety plans in light of what the data is saying and of emerging best practice?**

13 respondents said ‘yes’ because it already happens: RSSB challenges industry complacency. Respondents suggested that RSSB should also challenge duty holders on how they manage occupational health matters.

17 respondents said ‘no’ because it was ORR’s role to challenge the industry and check industry delivery. RSSB can give advice, encourage and motivate duty holders and take an independent safety review of duty holders’ plans.

1 respondent said ‘don’t know’. A total of 31 responses were received.

5f. **Additional comments on data collection, analysis, modelling and reporting?**

Respondents suggested that:

• further efforts should be focused on the needs of duty holders and making the best of the data RSSB already collects;
• RSSB’s work is poorly marketed and often duplicated (internationally) by others;
• we recognise how important RSSB’s SRM was in shaping European common safety methods and targets for ‘GB Rail’; and
• RSSB’s Incident Cost Model has not been rolled out to the whole industry and represented poor value for money.

Q6. **Core and strategic R&D**

6a. **Do you think that RSSB’s (a) core and (b) strategic research and development programmes are well targeted? Please comment on possible improvements to: (a) core and (b) strategic programmes separately, along with any evidence to support your concerns.**

16 respondents said ‘yes’ as it was well focused and produced some good user-led research, eg. work with Network Rail on level crossings research. RSSB should focus on short and long term duty holder requirements. A respondent suggested RSSB should do more research on occupational health. The core and strategic research programmes should be combined.
9 respondents said ‘no’ because:

- they regard RSSB’s R&D as slow, of questionable output value and lacking a member focus;
- R&D is currently predominantly tactical and bottom-up and needs to be more strategic, perhaps led by the strategic safety forum, be better targeted and produce a product with clearly defined outcomes;
- specific concern was expressed about research which concluded that ‘more research is needed’;
- operators with short franchises don’t necessarily engage with the long term strategic research agendas; and
- smaller players were not sufficiently resourced to provide SIC attendance, which can subsequently lead to a lack of priority being given to tactical R&D.

3 respondents said ‘don’t know’ and suggested that RSSB should review its long term strategic and short term tactical work streams and not adopt a ‘one size fits all’ approach to R&D. A total of 28 responses were received.

6b. Could RSSB’s core and strategic research and development programmes be delivered more efficiently? Please comment on how.

18 respondents said ‘yes’ and suggested the following efficiency improvements:

- speed up the initial R&D commissioning stages and ensure that research is really needed (to help secure member engagement);
- identify likely outputs/applications earlier;
- produce clearer project remits and timescales (to reduce the risk of scope creep from unchallenged stakeholder influence);
- better communication with duty holder on when interim research results will emerge (the freight train driver research was provided as a poor example of this); and
- make better use of existing research and market research.

A range of further comments included:

- greater external clarity on the pass/fail objective decision criteria for RSSB’s R&D work because it was largely funded by public money;
- a research supplier suggested that poor fixed price research specifications leads to future scope creep, researchers losing money and research going ‘outside of the RSSB family’;
- one respondent suggested that RSSB’s R&D work needed a radical overhaul and suggested that TSAG was slow and unfocused;
- R&D had improved over time and was now better targeted at members’ needs and delivered practical outputs; and
- some suggested the strategic safety leadership group should identify strategic R&D priorities.
1 respondent said ‘no’ because it was for the industry to get better at asking RSSB for the right research: it is for the industry to decide through its representatives in RSSB’s governance groups; the industry is to blame if RSSB is not doing the wrong R&D.

11 respondents said they ‘don’t know, but suggested that RSSB’s R&D management overhead resources seemed high and timescales seemed long. A total of 30 responses were received.

6c. How could the dissemination of RSSB’s research findings and their take-up by the industry be improved?

Respondents suggested that RSSB should:

- pay greater focus on practical, rather than, intellectually challenging R&D and ensure there’s a business case for it;
- make initial research output specification clearer;
- make use of in-house resources where possible;
- identify an industry project owner, if possible;
- target customised communication at specific duty holders, including drawing out links between research, risks and operational practice;
- ensure research is relevant to duty holders with clearly targeted outcomes;
- attend Rail Freight Operators Group meetings;
- improve its website to make research mining easier;
- continue to make better use of the bi-monthly news letter, including making it more succinct;
- develop two-way senior management communication with the freight sector;
- improve its engagement with ATOC’s operations and engineering councils;
- take opportunities to meet duty holders on their premises;
- develop a research-focused helpline to field research requests; and
- a research provider said that RSSB should be less concerned about ensuring its R&D delivers ‘on message’ results, as it increases costs and reduces the value of the research.

6d. Do you think RSSB should be encouraged to do more to identify and consider research that is done elsewhere?

2 respondents said ‘yes’ and suggested that RSSB should develop a portal for world wide rail research and act as a forum for collaborative and sharing non-commercially sensitive R&D. A suggestion that RSSB should continue to review (using in-house resources) relevant R&D from other sectors, before research contracts are finalised.

1 respondent said ‘no’ and 6 said ‘don’t know’. A total of 9 responses were
6e. **Do you agree that RSSB should continue to build its in-house capabilities to do research?**

13 respondents said ‘yes’ but, some suggested that even tighter management controls of external research were required and there was a need to strike a balance between internal and external R&D. Other respondents suggestions included the need for greater R&D coordination, but not the application of additional resources, a greater freight sector focus, and the provision of customised ‘at cost’ consultancy service to members.

5 respondents said 'no' unless additional in-house capabilities provided value for money, or because it needed to be done in the absence of market competition. There was some support for RSSB using secondees. 12 respondents said 'don’t know' because in-house resources relied on continued funding, but suggested that it was important that RSSB was an informed buyer of R&D services. Others suggested it was purely a management matter for RSSB and its board to decide. A total of 30 responses were received.

6f. **Additional comments on research and development activities.**

A respondent suggested that duty holder should directly fund all of RSSB’s R&D work, thereby incentivising duty holder engagement. Other comments included suggestions for RSSB’s R&D website to be reviewed, a more structured R&D results dissemination programme, and for RSSB to get better at managing external suppliers by aiming to be more commercial and demanding. There was a suggestion that some R&D could be completed by hand-picked industry contributions, leading to improved cross industry cooperation.

7. **National Programmes**

7a. **Do you believe that these programmes are of value to the industry and should continue? If you think that there are programmes that should cease please record them? If they still need to be done somewhere else in the industry, where should that be?**

26 respondents said ‘yes’, because they are cost effective and provide essential forums for the dissemination of good practice across areas of shared risks, but that some programmes required review: some were only ‘nice to have’. Some respondents suggested that it was difficult to assess because the programmes were different. Some respondents suggested that more needed to be on done on occupational health. Some concern was expressed about the future effectiveness of Community Safety Strategy Advisory Group.

There was support for the recent improvements and management of CIRAS (as an independent body) and support for the Rail Personal Security Group and the Operations Focus Group, but it was thought these groups needed more clearly defined roles and to show more strategic leadership. A
respondent suggested that the overlap between Operational Focus Group (OFG) and Traffic Management and Operational Standards Committee should be reviewed. There was significant respondent support for extending the use of tools and models, (eg. SRM), into the supply chain.

2 respondents said ‘no’ and suggested that CIRAS receives a low number of calls, is expensive and is reaching the end of its useful life. One respondent suggested that duty holders should already have their own reporting systems. 1 respondent said ‘don’t know’. A total of 29 responses were received.

7b. Please state any other improvements you would like to see to the way that RSSB facilitates industry coordination on specific safety initiatives?

Respondents valued RSSB’s conferences, seminars and bulletins, and suggested CIRAS should be absorbed into RSSB’s direct funding. A respondent suggested that all of RSSB’s work could be speeded up. One respondent suggested that senior RSSB freight liaison manager was needed.

7c. Please identify any other areas where RSSB could add value by facilitating industry cooperation?

Respondents suggested that RSSB was uniquely placed to identify, debate, resolve complex cross-industry operational and technical issues. Suggestions were made about RSSB:

- taking forward the identification of industry good practice;
- taking an independent role in harmonising and controlling the supply chain assurance process; doing more on non-health and safety and occupational health issues;
- having greater involvement in the train driver licence assessment process;
- setting up cross industry management databases eg. component trackers; helping overseas suppliers enter the UK market; and
- greater involvement in the industry’s accident inquiry process.

7d. Should RSSB continue to provide, at the request of individual members or non-members, specific support over and above that identified in RSSB’s planned activities and if so, on what terms?

23 respondents said ‘yes’ and suggested there was a need for a framework of charging options: as long as requests were charged at reasonable rates/ non-members charged as commercial rates for substantial work (unless output is of shared benefit), and it did not impact on RSSB’s ‘core activities’ (which need to be defined clearly). However, it should not be an alternative to members being sufficiently resourced to deliver safety. Requests should be considered by RSSB’s Safety Policy Group. Respondents encouraged the active participation of non-members, such as London Underground Limited or European duty holders, on schemes as the Railway Industry Supplier Assurance Scheme to reduce the burden and enhance the value to duty
holder and supplier cooperation.

1 respondent said ‘no’ because such request would be cross-subsidised from within RSSB’s existing overheads and any loses on commercial work would be borne by members. They preferred the use of consultants because it reduces the likelihood of duty holders building up their own in-house skills.

6 respondents said ‘don’t know’ included a suggestion that RSSB needed to be pragmatic about such requests. A total of 30 responses were received.

7e. Additional comments on national programmes.

RSSB is best placed for facilitating national programmes, but greater visibility of the costs of national programmes was needed.

8. Europe

8a. Could RSSB do more to identify risks, opportunities and solution in relation to Europe, and to help improve the effectiveness of GB’s representation and influence in Europe? If so, how?

Respondents suggested that there was a need for greater clarity of purpose between DfT, ORR and RSSB in Europe, so that roles and remits are clearly defined and opportunities and threats are identified and managed. Respondents noted that RSSB already has a good reputation in Europe, but that the level of resources used in such activities needed to be reviewed.

A respondent suggested that RSSB should focus on contributing to TSI drafting committees, rather than an expanded role.

One respondent suggested that RSSB needed to apply greater pragmatism to reflect the diminishing role of existing national standards and to make optimum decisions on ‘legacy networks’, eg. third rail networks.

A respondent suggested that RSSB could help to provide greater clarity on what is expected of operators to comply with TSIs. One suggestion we received was that GB Rail needed to seek opportunities to make TSIs fit GB rail without the need for costly customisation.

8b. As the industry standards body, should RSSB be taking a wider role in the implementation of European requirements in Great Britain? If so, in what way?

Respondents suggested that the lead role for implementing European requirements was DfT and/or ORR: DfT decides, ORR enforces and then RSSB facilitates. Another respondent suggested that RSSB should provide good practice guidance, briefings, and collective and individual support to industry duty holders on implementing new European requirements.

9. Occupational Health

9a. RSSB only takes a limited role in occupational health, focused on
55

research. Should it take a wider role particularly collecting occupational health data and identifying best practice? Please comment on what that role should be.

14 respondents said ‘yes’ because they thought better occupational health was the next significant step change needed to improve health and safety; and suggested the development of an occupational health risk model. Respondents suggested that RSSB could have a key role in identifying best practice in occupational health and commented that the issues involved were similar to those in other sectors. A respondent suggested that RSSB’s best practice guidance lacked easy transferability to operators.

A respondent noted RSSB’s successful driver musculoskeletal disorders research. One respondent thought RSSB should face up to challenging the industry’s perception that work on occupational health did not deliver value for money, through the use of positive occupational health business case studies.

11 said ‘no’ and 5 said ‘don’t know’ because they thought duty holders were best placed for directly managing occupational health. They wanted RSSB to only support research work on occupational health, but would support other work being done if it was requested by members. Some respondents thought RSSB should provide greater support to industry groups, such as ATOC’s safety forum. There was some support for RSSB gathering SMIS occupational health data (including the identification of rail-specific causal data) and fixing occupational health baselines (and international comparisons). A total of 30 responses were received.

9b. If this wider role is not performed by RSSB, where in the industry should it be?

Some respondents suggested this was primarily an issue for duty holders and for ORR as the enforcer. One of RSSB’s roles was converting R&D into good practice practical guidance, using guidance from other sectors to address generic occupational health risk issues and addressing rail-specific occupational health risks. One respondent identified the significant business and financial benefits in its active occupational health programme.

9c. Additional comments on occupational health.

One respondent suggested that there was a lack of industry interest in passengers’ health. Another respondent noted the role of managing occupational health has in improving worker productivity and the need for better communicating the positive value for money evidence and business performance benefits of managing occupational health.

10. Sustainable development

10a. Do you agree that this work has been of value to the industry?

While some noted that this work was directly funded by DfT, 17 respondents said ‘yes’ because they thought it was an important big picture issue that
needs to be better communicated and owned by duty holders; and included in their plans for control period five (2014-19). Some respondents thought the work had: provided an initial impetus, identified a common goal focus, delivered broad in-principle agreement and good results, but suggested that more time was needed to embed the value of the work across the industry.

6 respondents said ‘no’ and 6 ‘don’t know’ because of the lack of correlation between RSSB sustainable development activity and the benefits to members. Some thought the work had suffered from ‘scope creep’ by going beyond safety concerns, which had led to an increased demand on volunteer members.

A respondent suggested the work had yielded little or no visible benefits, lacked transparency and rigour, had lacked industry consensus and addressed no clearly identifiable business need. Another respondent questioned whether the current levels of activities were required: some evidence was provided where RSSB’s work had cut across other industry initiatives, such as freight emissions. A total of 29 responses were received.

10b. Are there any changes you would like to see RSSB make to its sustainable development work?

Respondents suggested there was a need for a wider industry communication strategy to ensure wide engagement and the strengthening of interfaces between RSSB’s Sustainable Railway Programme and other cross-industry groups. A respondent suggested there was scope for improving RSSB’s guidance, the implementation of sustainable issues and in realising the integrated benefit of cross-industry approach to economic, environment, social benefits issues. Another respondent suggested RSSB should focus on delivering long-term achievable benefits of sustainable development, identify overlaps with others industry work and seeking pragmatic industry take up of its work.

10c. Additional comments on RSSB’s sustainable development work.

One respondent suggested that DfT should take the industry lead on sustainability issues. Another suggested that RSSB staff should be seconded into operators to gain a better understanding of how operators deal with it.

A respondent suggested that RSSB needed to be better at coordinating sustainable development activities across the industry. Another respondent questioned whether of whether RSSB’s sustainable development work was directly funded by DfT meant it had been subject to less financial discipline. Another respondent suggested that RSSB needed to focus on the wider impacts of social sustainability, and not just in the context of economics or the environment.

11. Technical expertise

11a. Are there any competence that RSSB should add to its in-house capabilities to enable it to support the industry in achieving its
challenging agenda? If yes, which areas of competence should it consider improving?

8 respondents said ‘yes’ on the basis that RSSB recruit, on a temporary basis, expertise such as an environmental noise expert, but also suggested that this was an issue for RSSB’s governance arrangements.

3 respondents said ‘no’ and 20 said ‘don’t know’, primarily because they lacked knowledge of RSSB’s in-house capabilities. One respondent suggested that RSSB needed to improve its: supply chain management and development, train and freight operator operational competences; and operational expertise more generally. A total of 31 responses were received.

11b. Do you see scope for RSSB to increase its access to the necessary competences through the more extensive use of secondments to help ensure its technical capability and thinking is kept fresh? If yes, in what areas should this be developed?

12 respondents said ‘yes’, 1 said ‘no’ and 13 said ‘don’t know’. In general there was broad support for secondments to work on specific projects, but the recognition that employment contracts and finite industry specialists were often barriers. A respondent suggesting the use of temporary direct salary job swaps. Another suggested that RSSB staff should offer secondments to its members in return. A total of 26 responses were received.

11c. What do you think are the barriers to the industry’s involvement in secondments?

Respondents suggested that resource constraints, the availability of people, commercial confidentiality, costs and geography were barriers. Some respondents noted that the most valuable staff were often also the most critical to operators’ day-to-day operations.

11d. Additional comment on RSSB’s access to the necessary technical expertise.

Respondents suggested that any secondments must happen against a defined competency profile, with agreed timescales, deliverables and performance management arrangements. A respondent expressed concern that all of RSSB’s meetings were based in London. Another respondent suggested that there was a role for RSSB acting as the ‘informed buyer’ and another suggested that RSSB need to be cleverer about how it gets value out of industry volunteers’ time.

12. Governance

12a. Do you consider that RSSB’s board should concentrate on supervising RSSB’s activities, including the support for the safety leadership forum? If not, what wider industry safety leadership role
should it take?

22 respondents said ‘yes’ because they thought the board must provide internal leadership and direct the work of the executive team. There was broad support for the board focusing on its safety research role and providing a data exchange forum with duty holders.

A respondent noted that RSSB was respected and had the ability to bring industry together.

3 respondents said ‘no’ because they thought it was inevitable that strategic industry issues will be discussed at the RSSB board and they were not clear what a separate safety leadership forum would add.

2 respondents said ‘don’t know’. A total of 27 responses were received.

12b. Is the industry representation on the board still appropriate? If not, why not?

18 respondents ‘yes’ and 7 ‘no’. Those who said ‘no’ suggested that the board should have strengthened train operating company and freight operating company representation.

A respondent suggested that board members needed to better reflect the views of their constituency, and not just of their individual companies. Another respondent suggested the board must have effective, participatory and influential individuals and robust governance. A respondent expressed concerns about the disproportion between the board’s train operating company to non-executive director ratio. A total of 25 responses were received.

12c. Should there remain a requirement for non-executives from outside the rail industry, and if so, how substantial a part of the board should they comprise?

27 respondents said ‘yes’ because they aid the ideas churn and credibility of the board. One respondent suggested that between one and three NEDs was desirable but not essential. Another suggested that two NEDS (which included the chair) was about right. A respondent recommended that NED representation should come from similar high risk industries. Another suggested that the NEDS should be placed on rolling three year contracts.

One respondent said ‘yes’ but thought the board was too large and top heavy.

1 respondent said ‘no’ and 2 respondents said ‘don’t know. A total of 30 responses were received.

12d. Would it be desirable that DfT could nominate a member to RSSB’s board, rather than be an observer?

9 respondents said ‘yes’ because they thought it might help industry cohesion, ownership and oversee tax payer expenditure. But 16 respondents said ‘no’
because DfT’s governance role made such a position difficult. One respondent suggested that DfT could exert sufficient control as an RSSB board observer. 4 respondents said ‘don’t know’ and suggested that DfT already exerts significant control over RSSB’s through its R&D budget. A total of 29 responses were received.

12e. Do you consider that “members’ meetings” or some other member voting structure remain necessary for approval of key decisions where there is not unanimous agreement, and for changes to the constitution? If so, how could the arrangements be improved and streamlined?

Respondents expressed significant support for RSSB’s current consensus approach because it facilitates industry engagement, but others found members’ meetings to be costly and inefficient. Respondents suggested that the board vote on decisions where consensus could not be reached, with the chair having the deciding vote. Other respondents suggested weighted voting mechanisms for specific decisions. One respondent suggested that value of members’ meetings require significant review.

12f. Do you believe the formal Advisory Committee is of value?

5 respondents said ‘yes’ because it provided a forum for RSSB members and its wider stakeholders to input into RSSB. 4 respondents said ‘no’ because it was infrequent and poorly attended. An advisory committee member said it was of marginal benefit, bureaucratic and included too many stakeholders without direct financial incentives. One respondent suggested that if RSSB’s board wanted external views it could simply invite them. 17 respondents said ‘don’t know’, mainly because the committee lacked visibility and because they thought its purpose could be achieved through other means. A total of 26 responses were received.

12g. If no, what other means of consultation could you suggest?

Respondents suggested that the strategic leadership forum may offer greater value if it involves the ‘right players’. Another respondent suggested that RSSB board members had a role in canvassing industry view. A respondent suggested that RSSB could make greater use of other established industry groups.

12h. Additional comments on RSSB’s governance.

Respondents suggested that it must be tightened up to make sure it operated in the interests of duty holders, represents value for money and optimises industry risk control. One respondent suggested there was a need for an industry body, independent of government and the safety regulatory, to help industry coordination.

13. Funding

13a. Is it still appropriate for RSSB’s core activities to be funded by a
levy on the industry. Would alternative funding sources be more appropriate and what are they?

Respondents were broadly content with existing levy arrangements, but there was some support for the levy to only support RSSB’s core activities. A respondent suggested that DfT should full direct fund RSSB. A respondent recognised the need for long term certainty in RSSB’s funding. One respondent suggested that RSSB should sell its services commercially to offset members’ fees. A non-member expressed interest in becoming an RSSB member.

13b. Are there better ways of allocating funding between different parts of the industry?

One respondent suggested that funding allocations should be simple and transparent. One respondent suggested that using an operator’s total turnover did not necessarily take full account of a member’s ability to pay. A respondent noted that RSSB’s activities benefit operators irrespective of their size. One respondent suggested that while they found RSSB’s funding allocation arrangements to be about right they were concerned about the total cost of RSSB’s activities.

13c. Should the budget be set in a different way, particularly if agreement by the board or members cannot be reached? Who should ultimately agree RSSB’s funding?

One respondent suggested that it was an issue for RSSB’s board. Another respondent suggested that if a board consensus could not be achieved then RSSB should roll over the budget from its previous year (with a commitment to a percentage reduction in the budget), or use majority voting to come to a definitive decision. Respondents suggested that ORR should ultimately resolve matters if RSSB’s board could not. One respondent suggested that DfT should directly fund of all of RSSB’s activities.

13d. Do you think that setting funding levels for a long period, for example five years, would help medium to long term planning activities?

There was broad respondent support for a five year arrangement, but with scope for periodic annual and/or emergency review ‘reopener’ clauses.

13e. Can you suggest any other changes to the funding arrangements that would lead to RSSB being more effective in achieving its objectives and more efficient in doing so?

A respondent suggested that RSSB should do more bespoke research for individual companies. Another respondent suggested the use of majority voting when consensus could not be achieved. One respondent suggested tiered payments arrangements, such that those who placed a heavier burden on RSSB’s resources paid more. Another respondent suggested that this was an issue for RSSB's board.
13f. Additional comments on RSSB’s finance.

One respondent supported the idea of a five year budget. Another respondent reiterated that RSSB must be member funded and led.

Any additional comments on RSSB?

The following comments were made by respondents:

- the ‘end game’ may be for a dismantling of RSSB, as the industry matures;
- need for a forum that centrally makes clear industry policy, currently there’s no consistent approach to supplier assurance, its all done individually by companies;
- need for RSSB to ensure it delivers value for its members;
- need for RSSB to improve its communication processes to ensure messages are delivered to its stakeholders;
- amendments to its constitution, would allow RSSB to charge for its service overseas and such funds could be used to offset against members commitments;
- RSSB must cost less and impose less cost (in terms of time and money) on its members; the industry cannot support directly RSSB’s at its current level of funding;
- RSSB continues to deliver its role well, but can be academic and remote from operational practicalities; the review should address RSSB’s need to be realistic and relevant; and
- RSSB must take a pragmatic, business case approach to all its non-core activities, based on cross-industry consensus.

Responses to ORR’s shorter questionnaire

RSSB strengths:

- effective, respected and makes positive contribution;
- quality of work and professional people;
- seeks VfM through good working relations with suppliers;
- seeks industry efficiency through service and activities alignments;
- facilitating meetings of cross industry groups;
- wealth of safety data;
- independent, impartial, consensus building and builds industry improvement;
- high quality training packages, particularly legal updates;
- forward looking information;
- provides whole industry view, particularly on Europe;
- steady improvement in railway safety across the network; and
- pivotal at framing discussion about human factors, risk profiling, helping the industry understand the strategic and tactical implications of the business they operate.
RSSB weaknesses:

- lack of leadership and tendency to manage by consensus, which leads to improvements and innovations being diluted;
- lack of staff and industry understanding of RSSB’s primary objective: two recent surveys of staff and stakeholders indicated a lack of purpose and strategic direction. Feedback was acted on but it’s still a concern;
- poor, unprofessional, costly and damaging communications (because of a lack of leadership);
- its website was not user (or Disability Discrimination Act) friendly, even after external review;
- weak and inconsistent relationship with levy paying members;
- focused skewed towards TOC areas (SPADs, human factors in train drivers), lacks focus on contractors who are then left to Network Rail’s agenda;
- cost of RSSB and of rail safety too high; more work needed on reducing safety costs;
- needs more independence of duty holders and less concern about how it is perceived by its members;
- perceived as being elitist, so their delivery may not be fully understood and can result in RSSB being perceived as barriers to progress without industry understanding the impact of what RSSB is seeking to achieve;
- fails to make best use of external advice to which it is provided;
- its funding mechanism leads to a perception of bias towards paying members, particular rail vehicle maintenance suppliers, leaving vehicle engineering a poor relation, eg. limited work done on human error in rail vehicle maintenance; and
- need to identify research overlaps and ensure research is well targeted.

Is there anything that RSSB should do differently?

- focus on its primary and company objectives and clearer, consistent, confident corporate messages and then streamline the organisation;
- improve its website and clarity of messages;
- could learn lessons from well run, professional trade associations;
- develop its intelligence on contractor issues;
- should only ensure the safety of the railway (as per Lord Cullen’s vision);
- do more on rail suicides (and the role of mental health in them);
- do more on trespass;
- need to clarify RSSB’s purpose (is it dealing just with interfaces or showing leadership);
- RGS changes are slow and ponderous;
- should be funded by the industry’s profits;
- fixed contract periods for NEDs;
- timely handling of contract renewal;
- review and rationalise the various ‘broadcast’ safety reporting systems;
- do more on rail vehicle maintenance management at local levels;
- share knowledge of best practice (including from other industries) across
rail industry;
• continue to ensure corporate knowledge is captured and retained;
• develop key performance indicators from the Chemical Industries Association (CIA);
• be proactive in ensuring the under-pinning knowledge (eg. specific modules aimed at safety for rail apprentices) to help educate the next generation of professional railway personnel;
• build a contingency budget to be able to provide for a staff pay rise;
• passenger numbers increases are a good reason for expanding RSSB’s role and funding: RSSB has a crucial rail to play in a safe and sustainable railway; and
• more work on rail personal security/crime anti-social behaviour and occupational health was needed.
List of recommendations:

Recommendation 1:

1. The board should review the processes for the management of railway group standards and make any amendments necessary to achieve the following:

   a. reducing the scope for delay and unnecessary compromise where consensus is difficult to achieve, by making provision for majority voting where it is evident that consensus is not forthcoming;

   b. make standards committees more strategic in their work and require them to consider the available information on whole system costs. This will require consideration of the skills and breadth of expertise of working group members; and

   c. ensure a balance between technical expertise and commercial understanding of the whole industry cost.

Recommendation 2:

2. RSSB should consider promoting further funded secondments from industry for a fixed term to work on specific standards.

Recommendation 3:

3. The board should review and amend the process for planning and commissioning research to better meet the needs of the industry and the funders. We recommend that:

   a. RSSB should put greater emphasis on strategic research, whilst retaining vital tactical projects;

   b. RSSB should consider amalgamating the core and strategic research budgets. This will remove the need to allocate projects
into one or the other; and

c. RSSB should seek to ensure better take-up of research findings.

Recommendation 4:

4 Membership: The board should consider how it might amend membership arrangements to allow relevant GB organisations outside the “railway group”, but with a legitimate interest in the railway industry, to join. The cost of voluntary membership should be commensurate with any additional cost incurred by RSSB and also reflect the range of products and services from which non-mainline members might benefit.

Recommendation 5:

5 The Company’s objective should be to facilitate the Railway Industry’s work to:

• achieve excellence in health and safety management in Great Britain, and in doing so:

• drive out unnecessary cost and improve business performance.

Explicit mention should be made in the company’s functions of facilitating rail industry safety leadership.

Recommendation 6:

6 The board structure should be reviewed in the light of its role in delivering the primary objective. We recommend the following:

a. the board should contain two independent (non industry) non-executive directors. These persons should have current understanding of health and safety management in an industrial or commercial setting;
b. passenger and freight train operators should be represented by people with current operational roles in the railway industry, for instance, in train operator owner groups: two for passenger train operating companies and one for freight operators; and

c. two directors from infrastructure management may be appointed.

Recommendation 7:

7 The functions of the board should support delivery of the revised primary objective:

a. the board should set the strategic direction for the work of RSSB. This will involve considering all the main industry risks and determining what RSSB should be doing to help the industry address them;

b. the board should also maintain its key role of holding the executive to account for efficient delivery of that strategy; and

c. general decisions should be made by a simple majority vote: exceptions being agreeing the business plan and setting the budget where at least nine directors should agree.

Recommendation 8:

8 The board should be empowered to set the budget for the company:

a. the annual budget can be agreed by qualified majority where consensus cannot be achieved. This will require changes to the constitution to remove the need for unanimity;

b. to agree the budget by majority, at least nine directors, should agree the proposal;

c. where this majority cannot be reached, the matter can be referred to
ORR for a binding decision; and

d. the annual budget should be a set within the context of a five-year business plan to coincide with the control periods of Network Rail’s funding (only three years of the current control period remain).

Recommendation 9:

9 That the RSSB board:

a. considers this report and responds to ORR on the issues contained in the report by mid October 2010; and

b. starts the necessary processes to propose changes to the Constitution and Articles of Association as necessary.