



OFFICE *of*
RAIL REGULATION

**REVIEW OF RAIL SAFETY AND
STANDARDS BOARD: REPORT**

FEBRUARY 2005

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Executive summary

1. Following the recommendation of Lord Cullen in his second report into the Ladbroke Grove rail accident, the Rail Safety and Standards Board (“RSSB”) was established in April 2003 with the purpose of leading and facilitating the railway industry’s work to achieve continuous improvement in the health and safety performance of the railways.
2. Since RSSB has been established there have been a number of major changes in the rail industry environment, including: establishment of the Rail Accident Investigation Branch (“the RAIB”); Network Rail replacing Railtrack and taking infrastructure maintenance activity “in-house”; the White Paper (“The Future of Rail”) and subsequent legislative proposals; and implementation of the second EU railway package including the Railway Safety Directive (“the RSD”).
3. At the request of the RSSB and its rail industry members, the Office of Rail Regulation (ORR) has been leading a review of the role and functions of RSSB. The review has involved a high level steering group chaired by the Chairman of ORR, and a working group also chaired by ORR.
4. The aim of the review was to address the concerns raised by the Government in “The Future of Rail” about industry safety leadership, and to ensure the arrangements were fit for purpose in the light of the changes in the rail industry environment. The review also reflects the other changes to the industry structure and working arrangements.
5. The main conclusions of the review are:
 - (a) there remains a need for an industry body to carry out certain safety and standards related functions;
 - (b) for reasons of credibility both within the industry and with the public, this body should be independent of any individual industry company or grouping;
 - (c) the body’s functions should include those activities:
 - (i) which can only sensibly be done at the industry level;
 - (ii) where there are significant benefits in having an industry body; and

- (iii) where industry or public credibility require a body independent of individual industry interests;
- (d) whilst individual industry organisations must provide safety leadership within their own organisations, RSSB, through its role as an integral part of the industry's safety management processes, has a role in encouraging and facilitating effective safety leadership. Similarly, whilst most of the risks arising from railway activities, along with appropriate precautions, are generally well understood by duty holders, RSSB can assist them in continually reviewing risk, especially that arising at interfaces between duty holders, to ensure effective control and mitigation measures are in place;
- (e) it is now for the RSSB Board to review its activities against the principles set out in this report and produce a business plan to deliver them in an efficient way. This can build on the work already being done by RSSB but requires some further refocusing of RSSB's activities; and
- (f) the governance arrangements for RSSB should be reviewed by the RSSB Board, to ensure they are fit for the purpose of securing that RSSB is an organisation of the industry, but independent of any part of it, and credible with wider stakeholders and the public.

1. Introduction

- 1.1 At the request of RSSB and its rail industry members, ORR has been leading a review of the role and functions of RSSB. The review has involved a high level steering group chaired by the Chairman of ORR, and a working group also chaired by ORR. This review has aimed to address the concerns raised by the Government in *The Future of Rail*, in which it said “industry leadership of safety still remains weak. RSSB was established to provide safety leadership for the industry but it is very difficult to build pan-industry consensus across such a large number of member organisations. It is in everyone’s interest that there is strong safety leadership by the industry and it should consider with the ORR how best to achieve this.”
- 1.2 In addition to the concerns about safety leadership raised by the Government and mentioned above, the review has taken place in light of the changes in industry structure and working arrangements envisaged by the White Paper, and in the light of the requirements of the RSD.
- 1.3 Key questions addressed in the review were:
- (a) do the current functions of RSSB need to be carried out; and
 - (b) if so, should they be carried out by an industry body, or elsewhere in the industry?
- 1.4 This report:
- (a) outlines the background to the establishment of RSSB and the review;
 - (b) sets out the approach taken to the review of RSSB’s role and functions; and
 - (c) considers the role and functions of RSSB under four headings:
 - (i) system safety and safety leadership;
 - (ii) standards;
 - (iii) research;
 - (iv) services to the industry;

- (d) summarises the conclusions ORR has drawn from the discussions at the Steering and Working Groups; and
- (e) sets out next steps.

2. Background

- 2.1 Until 31 December 2000, key industry-level safety and standard-setting functions were carried out by Railtrack's Safety and Standards Directorate. As an interim measure pending the outcome of Lord Cullen's second report into the Ladbroke Grove rail accident¹, these functions were vested in a separate subsidiary of Railtrack Group PLC ("Railtrack"), Railway Safety.
- 2.2 In his second report into the Ladbroke Grove rail accident Lord Cullen recommended further change, with the establishment of a rail industry safety body, independent of Railtrack, to undertake a number of functions, including setting Railway Group Standards (recommendation 40), establishing and managing system authorities and providing safety leadership² (recommendation 55).
- 2.3 Lord Cullen's second inquiry report noted suggestions that the body should be set up under statute, but suggested that this was not the most appropriate way to proceed. It noted the Health and Safety Executive's (HSE) concern that "a statutory basis would tend to detract from the importance of the railway operators fulfilling their duties under the [the Health and Safety at Work etc. Act 1974]³". Lord Cullen went on to say that "quite apart from the point made by the HSE ... I have a concern that a statutory body would be seen as a "quasi regulator". It is important for public confidence that the regulation of safety should be seen to be unambiguously in the hands of one body.⁴"
- 2.4 Following an extensive process of consultation led by the Office of the Rail Regulator, RSSB was established in April 2003. RSSB's purpose was defined 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

¹ *The Ladbroke Grove Rail Inquiry Part 2 Report*, Health and Safety Commission, London, September 2001.

² *At paragraph 10.29, Lord Cullen said: "The creation of the body I have been discussing seems to me to provide an excellent opportunity to re-create part of what was lost as a result of the desegregation of the industry ... a rail industry safety body offers a clearly defined way in which the rail industry can collaborate in the promotion of safety in a way which cannot be achieved by any one member of the industry acting on its own."*

³ *Paragraph 10.24.*

⁴ *Paragraph 10.25.*

facilitate the reduction of risk to passengers, employees and the affected public so far as reasonably practicable, so aiding compliance by providers of railway services with their obligations under health and safety law”.

2.5 Key elements of RSSB governance are:

- (a) Network Rail and licensed train operators using Network Rail’s network are required to be members of RSSB as a condition of their licences enforced by ORR. Other rail industry companies (e.g. suppliers, other infrastructure managers) may become members of RSSB;
- (b) RSSB is a company limited by guarantee owned by its members. The RSSB constitution agreement, approved by ORR under the provisions of Network Rail and train operator licences, sets out governance and funding arrangements;
- (c) RSSB’s Articles of Association, approved by ORR under the provisions of the Safety and Standards licence condition, provide for its board to be composed of not less than ten and not more than 16 directors of whom: not more than three shall be executive directors; not more than five nor fewer than four (unless otherwise approved by the Regulator) shall be non-industry directors; not more than six shall be industry directors; and one shall be a non-executive director nominated by the Strategic Rail Authority (“the SRA”). The composition of the current board is: three executive directors; five non-industry non-executive directors, including the chairman; six non-executive directors representative of the industry; and a non-executive director appointed by the SRA; and
- (d) key decisions need the approval of members in general meeting, operating under a weighted voting arrangement.

Future context

2.6 While RSSB was being established, and since it began operation, there have been, and continue to be, major changes in the industry environment in which it operates. These include:

- (a) the establishment of the RAIB to provide independent investigation of accidents;

- (b) Network Rail replacing Railtrack as owner and operator of the railway infrastructure, and taking infrastructure maintenance activity “in-house”;
- (c) “The Future of Rail” and subsequent legislative proposals, in particular the proposed creation of a combined economic and safety regulator by transfer of responsibility for safety regulation in the railway to ORR; and
- (d) implementation of the second EU railway package. This includes the RSD, and its pending transposition into UK law, which sets out requirements in relation to the respective roles of the Member State, the Safety Authority, the Infrastructure Manager and Railway Undertakings, but which does not specifically envisage a body such as RSSB. It also includes requirements in respect of EU Technical Specifications for Interoperability (“TSIs”).

2.7 The RSD envisages a structure that includes roles for the Member State, Safety Authority, Infrastructure Manager and Railway Undertakings. The RSD is careful to draw a distinction between the roles of these parties, e.g. at paragraph 5 it states, “All those operating the railway system, infrastructure managers and railway undertakings, should bear the full responsibility for the safety of the system, each for their own part. Whenever it is appropriate, they should cooperate in implementing risk control measures. Member States should make a clear distinction between this immediate responsibility for safety and the safety authorities' task of providing a national regulatory framework and supervising the performance of the operators.” In addition, the RSD makes provisions in relation to the delegation of functions entrusted to the Safety Authority or Member State, for example, where the RSD entrusts the Safety Authority with certain specific tasks in Article 16, it makes clear these cannot be “transferred or subcontracted to any infrastructure manager, railway undertaking or procurement entity.”

3. Approach to the review

- 3.1 RSSB's current activities are summarised in Annex 1. In considering whether the activities still need to be performed, the approach taken in this report has been to review these activities against the four broad headings set out in paragraph 1.4(c) above, and to identify any which are not necessary (or where there are choices about whether they should be performed), and any which would be better performed at individual duty holder level rather than industry level.
- 3.2 In terms of where the "industry level" activities should be performed, ORR has considered three possibilities:
- (a) an industry body, such as RSSB;
 - (b) one duty holder, most obviously Network Rail given its central role in managing the network; or
 - (c) the safety regulator/safety authority, which if the Railways Bill currently before parliament is enacted will be ORR.
- 3.3 ORR considers that the key criteria for deciding on which of the options set out in paragraph 3.2 above would best serve the public interest are:
- (a) where the activities would be most efficiently performed. ORR considers that, in general, this would favour them being performed as industry activities, rather than by the safety regulator/safety authority, to the extent that this is consistent with public credibility/acceptability, and the RSD. It is arguable that, given the likely synergies between Network Rail's national safety management activities and industry level activities, and the costs associated with RSSB as a separate organisation, pure cost considerations might favour Network Rail taking on some or all of the responsibilities;
 - (b) credibility within the railway industry. ORR understands that the general view of train operators and suppliers is that the necessary industry level functions should be performed by a body separate from Network Rail, because this is likely to facilitate wider industry involvement, and thus better results, and because of concerns about Network Rail taking a partial view and not taking full account of industry views (a point made strongly at both the Steering and

Working Groups). This is however crucially dependent on the industry and the RSSB Board ensuring RSSB has the necessary capability;

- (c) credibility with external stakeholders. ORR believes that in many cases this would suggest the industry level functions would better be performed by a body separate from any individual industry party; and
- (d) ensuring compatibility with the requirements of the RSD which restricts the activities which can be performed by Network Rail as an Infrastructure Manager.

4. Roles and functions of RSSB

4.1 The following sections of this report analyse RSSB's current activities under the four broad headings set out in paragraph 1.4(c) above, against the criteria set out in paragraph 3.3 above.

System safety and safety leadership

4.2 Network Rail is infrastructure controller for the national rail network, and holds a safety case setting out how it manages risk from network operation. In excess of 40 other industry organisations also hold safety cases for operation on Network Rail's network setting at how they manage their own risks. Similarly, Network Rail interfaces with a number of other infrastructure managers (e.g. LUL). Each safety case duty holder relies heavily on other safety case duty holders ensuring their own risk is managed. In effect much of the risk on the network can be seen as shared, because of the interdependencies inherent in the industry structure. Recognising this, the RSD requires that, whenever it is appropriate, Infrastructure Managers and Railway Undertakings should cooperate in implementing risk control measures.

4.3 Individual industry organisations must provide leadership within their own organisations, and this leadership needs to include safety leadership. The heart of safety leadership comprises taking action where safety falls short of required standards, and challenging the organisation to achieve improvement. The rail industry is not a hierarchical organisation, so there is no single body able to lead the industry in the way the board of a hierarchical organisation would lead. RSSB, through its role, as set out below, as an integral part of the industry's safety management processes, can facilitate and encourage effective safety leadership within industry organisations.

4.4 The industry's safety management processes need to recognise the degree of interdependence and shared risk. The requirement can be considered under the three headings of a good process:

- (a) plan;
- (b) implement; and
- (c) review.

4.5 **Safety planning** at the individual duty holder level needs to be carried out within a framework which recognises the degree of interdependence and shared risk. Key elements of this framework are:

- (a) information about safety performance;
- (b) risk modelling; and
- (c) prioritisation of risks and actions to address them at the industry level.

Under current RSSB arrangements there is a coherent structure leading from the Safety Management Information System through the Safety Risk Model to the Railway Strategic Safety Plan. A key element of this process is identifying areas where the industry should be allocating resources to achieve the right outcome from a whole industry perspective, and identifying areas of misallocation, or gaps, and pointing these out to duty holders.

4.6 RSSB also provides a forum for identifying and exchanging best practice, which gives both an example and a challenge for duty holders. Given the importance to duty holders and their businesses of safety, this challenge would appear to be of benefit to individual industry parties, and is important at the industry level in respect of shared risks and interdependencies.

4.7 **Implementation** in the rail industry is by individual companies, and is based on individual plans and organisations themselves reflecting the safety priorities set out in the industry Railway Strategic Safety Plan. Because of the interdependencies in the system there needs to be cooperation, within a framework of rules established by the industry. This need for cooperation is recognised in the RSD, as are the limited, additional responsibilities of the Infrastructure Manager beyond those of Railway Undertakings (i.e. train operators). The RSD provides for the safety management system of the Infrastructure Manager to take into account the effects of operations by different railway undertakings on the network and make provisions to allow all railway undertakings to operate in accordance with TSIs and national safety rules and with conditions laid down in their safety certificate. The Infrastructure Manager's safety management system must also be developed with the aim of coordinating the emergency procedures of the Infrastructure Manager with all Railway Undertakings.

4.8 **Review** processes in respect of shared risk need to address two questions:

- (a) are the plans being delivered; and

- (b) are the plans proving adequate to address current and emerging risk?
- 4.9 RSSB has the capability, through monitoring safety data, to identify trends in delivery of safety performance and where further action may be required. The safety regulator monitors duty holder performance against legal requirements, but does not necessarily carry out monitoring against industry safety plans. The primary responsibility for monitoring delivery against individual duty holder safety plans sits with the duty holders themselves. In addition, duty holders will monitor the performance of other duty holders, in so far as they are vulnerable to risk imported by other duty holders, and take, as necessary, both immediate action (e.g. putting signals to red) and other action (e.g. making reasonable requests for remedial action). Ultimately, all duty holders have the option to report others to the safety regulator. Network Rail, as the infrastructure manager, has now, and will have within the context of the RSD, a central role, in effect *primus inter pares*.
- 4.10 Prior to the amendment of the Railways (Safety Case) Regulations 2000 in 2003, safety case holders were required to procure an independent audit of compliance with their safety case, which was provided by Railway Safety (and, during the transition phase, by RSSB). In consequence, a single industry body was able to form an overview of the effectiveness or interdependent safety management systems across the industry. Following the amendment of the regulations this link was broken when the requirement on the duty holder was changed to procuring an audit from a “competent body” and the decision was taken that RSSB would not continue to offer audit services. Under the RSD, the obligation is merely to have “internal audit”, though ORR believes it is likely that individual duty holders will want to have independent audit.
- 4.11 The implication of this is that:
- (a) responsibility for securing audit against compliance with safety requirements is a matter for individual industry parties; and
 - (b) there is a need for a process to review whether, overall, the industry is addressing shared risks and interdependencies, and the industry safety plan is working. This appears to be integrally linked to the safety monitoring system, the industry risk model, and the process for production of the safety plan.
- 4.12 This plan – implementation – review cycle needs to be embedded in industry processes. The primary role in ensuring delivery on-the-day of what is necessary to address shared risk lies with individual duty holders, with Network Rail ensuring

overall on-the-day co-ordination. This reflects Network Rail's involvement across all elements of industry processes.

- 4.13 In principle Network Rail could, in the current national legal framework, have the leading role in the planning and review elements of the cycle. Or the role could be performed by an industry body such as RSSB. Key considerations in deciding the approach appear to be:
- (a) credibility with external stakeholders. Is it better to have a body independent of any individual industry party, or could one industry party perform the role;
 - (b) credibility within the industry; and
 - (c) the implications of the RSD.
- 4.14 ORR considers that external credibility and credibility within the industry are likely to be best served if these roles are performed by a body with wide ownership and involvement, and that RSSB as an industry body independent of individual industry parties, with broadly its current structure achieves this. Furthermore it is not clear that all these functions could be performed by Network Rail once the RSD is in force.
- 4.15 The review has, however, highlighted the need to document in very simple terms how shared risk and interdependencies are addressed in the industry structure and this is something which the RSSB Board should do, clarifying in precise terms its own role. It is understood that the RSSB Board's position is that there is a need for agreed and transparent definitions of terms such as "shared risk" and "system risk", and that, for those risks arising at interfaces, it is vital for there to be a shared understanding of them by the parties at each side of that interface. In light of this shared understanding, actions to address these risks can be agreed between the parties which can then each work to mitigate them. Again, it is important that the efficacy of the agreed controls is assessed and the results shared by the parties in order that they can agree and apportion further actions.
- 4.16 In relation particularly to the review of RSSB's role and functions, ORR understands that RSSB is also of the view that key issues are the formality of any processes needed to enable the approach to "shared or system risk" to operate effectively and RSSB's role in securing the resolution of "system and shared risk" issues. These would need to be included in the RSSB Board's work to document the position.

- 4.17 In addition, there is a strong view, backed by research commissioned by RSSB, that the rail industry is not effective in making its voice heard on safety matters particularly with the public. There are clearly occasions where an individual duty holder must answer for an incident, but there are also occasions, for example when defending a risk based decision, when an impartial voice, such as that provided by an industry body independent of any one duty holder, could be much more effective in communicating with the public and opinion formers. However, for it to be effective, all duty holders must accept the legitimacy of an industry body taking on this role.
- 4.18 The implication of the above is that RSSB's contribution to safety leadership in the industry comprises:
- (a) the plan/review role for shared risk and interdependence (through the Safety Management Information System, the industry Safety Risk Model and the Railway Strategic Safety Plan and associated review mechanisms);
 - (b) as part of this, encouraging dissemination of good and best practice, and challenging individual duty holders or duty holders to adopt improved practices; and
 - (c) providing a respected and impartial, evidence-based, industry view on safety matters. This does not mean being a "cheerleader" for the industry, because a balanced view is likely to be far more effective and credible with the public. Since its creation RSSB has made a good start in developing public trust and confidence in its approach, and it needs to build on this

Standards

- 4.19 Railway Group Standards are defined in Network Rail and train operator licences as: "(a) technical standards with which railway assets or equipment used on or as part of railway assets by or on behalf of Railway Group members must conform; and (b) operating procedures with which the operators of railway assets must comply; compliance with which will contribute significantly to the safe operation of the rail network and the safe operation and safe interworking of railway assets used or to be used on or in connection with the rail network".
- 4.20 New and amended Railway Group Standards are established under the Railway Group Standards Code, which was revised in 2003 with extensive industry involvement, and approved by ORR. It requires extensive industry consultation and involvement in standards changes.

- 4.21 RSSB has put in place a standards strategy, key elements of which are:
- (a) focusing Railway Group Standards on the definition of the subsystems on either side of key industry interfaces; and
 - (b) aligning development of Railway Group Standards with the development of TSIs, which over time will replace many of the UK standards.
- 4.22 ORR considers that the strategy adopted by RSSB is a sensible way forward and priority needs to be given by RSSB and the industry to ensuring the maximum benefits from the proposed changes are delivered as soon as possible, with substantial progress within two years.
- 4.23 It is also important that specification of key interfaces from a whole industry perspective:
- (a) ensures safe and cost efficient operation of the interfaces;
 - (b) ensures efficient operation of the interfaces from a whole industry perspective; and
 - (c) contains a balance between prescription and flexibility which facilitates achievement of this, with prescription at interfaces allowing appropriate flexibility for duty holders to find the most efficient solutions away from interfaces.

Specification of interfaces needs to be followed through into control of the configuration of interfaces as systems develop over time, a point emphasised by the Uff report on the Southall accident.

- 4.24 To carry out technical and economic analysis of the key trade-offs, and to advise the industry on specification and management of key interfaces, system interface committees have been established for each key interface, facilitated by RSSB. In addition a Standards Strategy Group, chaired currently by the SRA with industry and regulatory involvement, discusses overall policy and strategy for standards.
- 4.25 The Railway Group Standards process is designed to take a whole industry view of standards against defined criteria including the safe and efficient specification of key interfaces. ORR believes it is important that the focus is on the most efficient way (from a whole-industry perspective) of delivering a safe railway in response to the

needs of customers and funders. The economic implications of standards change for individual parties are then addressed through the Network Code and other industry contracts.

- 4.26 In principle Network Rail could, within the current national regulatory regime, take on responsibility for establishing Railway Group Standards (with regulatory protection for other stakeholders through the network licence). Again it appears to be a matter of external stakeholder and industry credibility as to whether Network Rail or a separate body should perform the role. We understand that the industry preference is for it to be carried out by an industry body. This position aligns with the forthcoming transposition of the RSD, which does not permit the Infrastructure Manager to take this responsibility.
- 4.27 Further work needs to be carried out on a number of points:
- (a) facilitating RSSB involvement in European standard-setting processes where this will be of benefit to the UK. This is essentially a matter to be resolved between RSSB and the major duty holders/duty holder groups;
 - (b) ensuring alignment between the Railway Group Standards process and the industry economic architecture. This is being addressed through the work on Parts F and G of the Network Code;
 - (c) the arrangements for enforcement of compliance with Railway Group Standards by ORR when ORR becomes the joint safety and economic regulator. Currently this is addressed in the memorandum of understanding between ORR and the HSE; it will need to be reviewed by ORR and the HSE as part of the work on transition to the new arrangements;
 - (d) the future of the system interface committees and the SRA-chaired Standards Strategy Group. These have performed a valuable role, with the Standards Strategy Group addressing specific problems and facilitating and coordinating the system interface committees. ORR considers that the RSSB Board needs to establish arrangements for continuation of the system interface committees and the performance of the Standards Strategy Group role in the future. Separately, ORR will wish to consider with the Department for Transport (DfT), the HSE and RSSB how in the future discussions between the industry, the safety and economic regulator and government on strategic safety issues should be structured; and

- (e) whether there will be benefits in some parts of the industry in establishing common standards for matters not strictly covered by the definition of key interfaces, essentially so that duty holders do not have to develop their own standards. This could be carried out by RSSB as an industry service.

Research

4.28 Since 2001 RSSB and its predecessor organisation, Railway Safety, have been responsible for a programme of safety-related research and development. This was originally established as a five-year programme from 2001, so in any case the way forward would need to be subject to review. Current research expenditure is around £15m per annum.

4.29 The research programme has three key elements:

- (a) research necessary for individual duty holders to manage, and continue to manage, risks. This should be duty-holder led, and only carried out by RSSB where there are clear industry benefits in this;
- (b) research on “system” issues and interfaces linked to the work of the system interface committees; and
- (c) research and development work on possible major changes to safety-related priorities which affect the whole (or at least large parts) of the industry.

4.30 Under current arrangements, research will be funded direct by government from 2006. It is therefore essential that RSSB develops a prospectus for its future research programme, and appropriate governance arrangements. ORR suggests RSSB will need to set up new processes for coordinating the establishment of the research programme, and dissemination of results, working to objectives set by government and the requirements identified by the system interface committees and other relevant stakeholders.

Services to the industry

4.31 The main services carried out by RSSB on behalf of the industry comprise:

- (a) facilitating a number of national initiatives to improve safety (current ones are set out in Annex I). ORR believes that where these represent a clear need expressed by the industry **and** where RSSB involvement will add value, particularly by providing an impartial viewpoint and challenge, they should

continue to be performed by RSSB. RSSB should however keep national initiatives under review, and repatriate them to duty holders when this becomes the sensible approach;

- (b) facilitating the operation of the Confidential Incident Reporting and Advisory Service Trust (CIRAS) on behalf of the CIRAS Trust. CIRAS remains a key element of the industry safety architecture;
- (c) running the industry inquiries into major safety incidents. In principle the RAIB may take on some of this work, but it appears that there will still be a role for industry inquiries in many cases. RSSB needs to establish with its members and RAIB what this role should be. In any case there is likely to be a role in tracking and coordinating industry response to inquiries; and
- (d) coordinating and facilitating UK rail industry representation on EU safety and technical matters both with the UK government and within Europe. This is integrally linked to RSSB's work on the industry's safety strategy and standards.

Again, in principle these activities could be carried out by one industry party or grouping. In practice however they are more likely to have industry and external stakeholder credibility if carried out by a body independent of any individual industry party.

5. Conclusions and next steps

Main conclusions of the review

- 5.1 There remains a need for an industry body to carry out certain safety and standards related functions.
- 5.2 For reasons of credibility both within the industry and with the public, this body should be independent of any individual industry company or grouping.
- 5.3 The body's functions should include those activities:
 - (a) which can only sensibly be done at the industry level;
 - (b) where there are significant benefits in having an industry body; and
 - (c) where public credibility requires an independent body.
- 5.4 Individual industry organisations must provide safety leadership within their own organisations, but RSSB, through its role as an integral part of the industry's safety management processes, has a role in encouraging and facilitating effective safety leadership. Similarly, whilst most of the risks arising from railway activities, along with appropriate precautions, are generally well understood by duty holders, RSSB can assist them in continually reviewing risk, especially that arising at interfaces between duty holders, to ensure effective control and mitigation measures are in place.
- 5.5 It is now for the RSSB Board to review its activities against the principles set out in this report and produce a business plan to deliver them in an efficient way. This can build on the work already being done by RSSB.
- 5.6 The governance arrangements for RSSB should be reviewed by the RSSB Board, to ensure they are fit for the purpose of securing that RSSB is an organisation of the industry, but independent of any part of it, and credible with wider stakeholders and the public.

Next steps

- 5.7 The analysis above suggests that there remains a need for an industry organisation separate from any individual industry party to carry out the main functions currently

performed by RSSB, and that the public interest case for returning responsibility for these functions to Network Rail has not been made.

5.8 However it does suggest that RSSB's role does need to be clearly focused around:

- (a) the plan/review role for shared risk and interdependencies;
- (b) encouraging best practice and providing challenge;
- (c) being an impartial industry voice on safety matters;
- (d) the standards/system role;
- (e) a research programme agreed with government and the industry; and
- (f) specific other initiatives where an industry level body adds value.

5.9 It is now for the RSSB Board to develop an action plan for the changes it decides to make in the light of this report, and then a business plan to deliver the changed role, and identify the resources needed for efficient delivery of it. RSSB has made significant reductions in levels of expenditure compared with its predecessors, but like all elements of the industry it must recognise the need to look for further efficiencies.

5.10 RSSB's 2005/06 budget is subject to approval by ORR and adoption by RSSB members. The budget consists of two elements: the core budget (~ £25M); and the research budget (~ £15M). For 2005/06 the monies to cover both these budgets are paid to RSSB by Network Rail and recovered from train operators through the safety charge element of access charges. For some, but not all, franchised train operators this is a pass through to the SRA. From 2006/07 the core budget will be recovered direct from RSSB members, with the research budget being paid as a direct grant by the SRA (or, following the Railways Bill, the DfT). The members of RSSB, other than franchised passenger train operators and Network Rail, will pay a levy based on their turnover which is designed to recover around 10% of the total budget. The remainder of the monies will be recovered 50% from franchised train operators and 50% from Network Rail. The 2006/07 budget is not subject to approval by ORR, except in the sense that if it were inadequate for RSSB to perform the functions required under licence, a question of licence compliance could arise.

5.11 Finally, the review (and indeed the need for the review) suggests a need to review RSSB governance arrangements now they have been in place for almost two years, and to reflect the current industry structure.

5.12 RSSB's governance arrangements need to be such as to:

- (a) empower RSSB to challenge the industry to achieve improvement; and
- (b) empower RSSB to speak on behalf of the industry as a respected voice on safety matters.

This suggests that the existing overall structure of independent non-executives and industry appointments should be retained. ORR has asked the RSSB Board to review current governance arrangements and identify any changes it considers appropriate in the light of experience of the operation of the current arrangements, and of this report.

Annex 1

System safety and safety leadership
1) Co-ordinate production of a Railway Strategic Safety Plan.
2) Update and interrogate the Safety Risk Model.
3) Manage, analyse and report on safety-related data from the Safety Management Information System and other sources.
4) Develop with members a set of agreed safety decision making criteria.
5) Compile the safety legislation index.
Standards
1) Co-ordinate industry input into the revision and development of Railway Group Standards, codes of practice and guidance notes, and manage the industry process that decides on deviations from standards.
2) Co-ordinate and facilitate industry input into the European process for developing TSI's.
3) Facilitate operation and management of system interface committees.
Research
1) Manage a comprehensive safety R & D programme.
Services to the industry
1) Management of formal inquiries into certain accidents and incidents.
2) Tracking industry response to recommendations from formal inquiries.

3) National initiatives: – SPADs; railway crime; track workers’ safety; rail personnel security; Rail Fatality Management Group; safety critical communications; safety leadership training; and level crossings.

4) Accredite vehicle acceptance and conformance certification bodies on behalf of Network Rail (N.B. this is cost neutral).

5) New systems – GSM-R and ERTMS (N.B. separately funded by Network Rail).

6) Facilitate provision of CIRAS.