



# Monitoring Highways England

First consultation document

March 2015

# Contents



<b>Executive summary</b>	<b>4</b>
Roads reform	4
A new role for ORR – monitoring Highways England	5
What we will do next	10
Seeking your views	11
<b>1. Overview of this consultation</b>	<b>12</b>
Summary	12
Overview	12
<b>2. Background and context</b>	<b>14</b>
Summary	14
Roads reform	14
Developing our role to date	18
Renaming the ORR	19
Highways Monitor governance	19
<b>3. The scope of the Highways Monitor role</b>	<b>21</b>
Summary	21
Our role defined in the Infrastructure Act	21
Respective roles of Highways Monitor and DfT	22
The scope of our monitoring and enforcement	24
Interface with our rail role	27
<b>4. Our objectives</b>	<b>31</b>
Summary	31
What are we aiming to achieve through monitoring?	31
How might we define our objective?	32
Applying best practice	32
Best practice principles	33
<b>5. How we propose to monitor</b>	<b>36</b>
Summary	36
A flexible approach to monitoring in RP1	36
Engaging stakeholders	36
Ensuring that our monitoring reflects the views of stakeholders	38

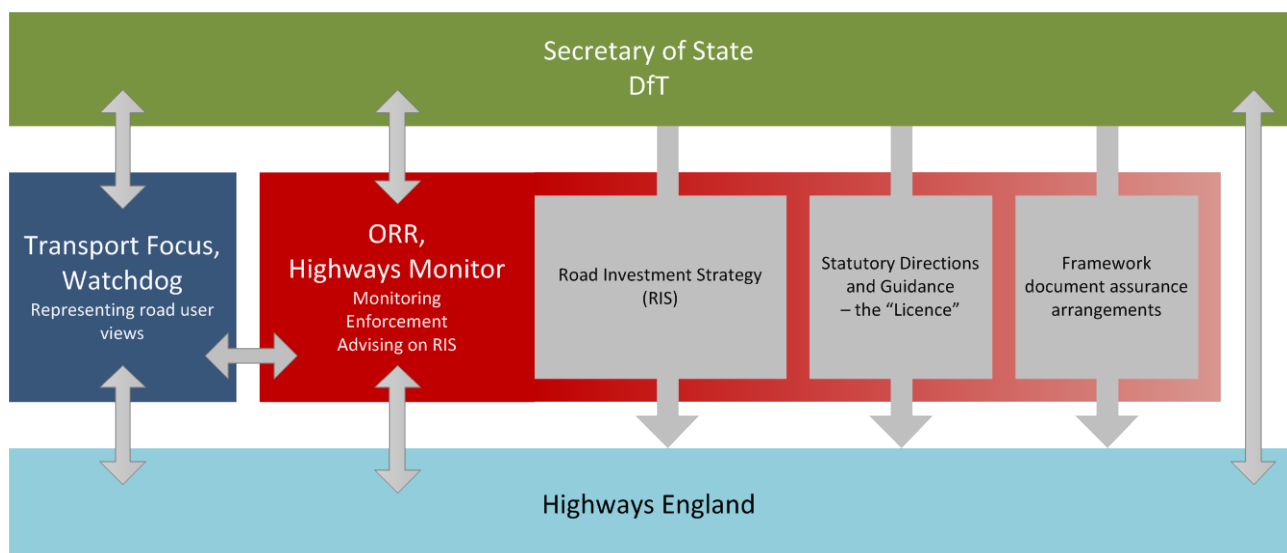
Assuring our work	39
The monitoring framework	40
Key challenges	51
<b>6. Escalation and enforcement</b>	<b>56</b>
Summary	56
<b>7. Informing future Road Investment Strategies</b>	<b>59</b>
Summary	59
Reviewing performance in the first Road Period	59
Benchmarking	60
Future RIS timetable	62
<b>8. Next Steps</b>	<b>63</b>
Summary	63
Our initial work plan	63
Responses	65
<b>Annex A – The Strategic Road Network</b>	<b>66</b>
<b>Annex B – List of road reform documentation</b>	<b>67</b>
<b>Annex C – Summary of Highways England’s licence and of the ORR / DfT     Memorandum of Understanding</b>	<b>69</b>
<b>Annex D: The Infrastructure Act – sections relating to the scope of the Highways     Monitor role</b>	<b>71</b>

# Executive summary

## Roads reform

1. This is a time of major change for the highways industry in England. The government has announced significantly increased investment in England's motorways and main 'A' roads (the Strategic Road Network (SRN)), with over £15 billion to be invested from 2015-16 to 2020-21. At the same time it is changing the structure of the roads sector to support the delivery of the investment programme and to drive value for money.
2. The reforms, implemented through the Infrastructure Act 2015 (the Act), include transforming the Highways Agency into a government-owned company called Highways England, with the powers, duties and increased flexibility needed to operate, maintain and enhance the SRN. The government has set out long-term funding for Highways England – over a five year Road Period – which should help the company and its supply chain deliver work more efficiently. It has specified the investments and levels of performance that the company must deliver during the first Road Period which will make a real difference to road users and those affected by the SRN. And it has established two new roles, with ORR taking on responsibility for monitoring and enforcing the performance and efficiency of Highways England, and Transport Focus (previously Passenger Focus) taking on responsibility for protecting and promoting the interests of road users.

**Figure 1 – Illustration of ORR's new highways monitoring role**



## A new role for ORR – monitoring Highways England

3. Because the government is now providing Highways England with greater decision-making powers and increased, longer-term funding to manage the SRN, it requires independent assurance about the levels of performance and efficiency that Highways England is delivering. Our independent monitoring and enforcement will provide that assurance, and we will publish an annual report setting out our findings.
4. At a high level our role has four main aspects:
  - to monitor how well Highways England is delivering against the Performance Specification, Investment Plan and aspects of its licence, to publically report our findings and to advise the Secretary of State;
  - if there are problems with delivery, to require improvement and potentially levy a fine (together, 'enforcement');
  - to advise the Secretary of State on the development of the next Road Investment Strategy (RIS) including advice on deliverable efficiencies; and
  - to advise the Secretary of State on any other relevant issues as requested.
5. This consultation document focuses mainly on the first of these roles because we need to give the company as much notice as possible of our monitoring requirements. In relation to the second role, in Summer 2015 we plan to carry out a separate consultation on our intervention and enforcement policy. This document briefly covers the third role but we intend to publish more details on this later in 2015. The fourth role will be subject to requests from the Secretary of State and, if relevant, additional funding.
6. Our role is defined at a high level in legislation and we are ensuring that we and DfT are clear about the detailed scope of both our roles so as to avoid duplication. We set out our respective roles in chapter 3.

## Renaming the ORR

7. In light of our new responsibilities for monitoring highways our current name does not fully reflect our functions and duties in law. We have decided that we will use the name "Office of Rail and Road" from 1 April 2015. (Our legal name will remain the Office of Rail Regulation pending the passing of secondary legislation, expected later this year and we will continue to use this name in all documents, decisions and matters having legal effects or consequences until such time.)

## The benefits our role will bring

8. Our monitoring role has been established to place a greater level of scrutiny on the company than has been the case in the past. We will hold Highways England to account for its management of the SRN – making the network safer, increasing its capacity, reducing the impact of incidents, minimising disruption from roadworks, managing its assets for the long-term, delivering better environmental outcomes and helping cyclists, walkers and other vulnerable users. This will help drive better outcomes for road users and those affected by the SRN.
9. We will work closely with Transport Focus to determine whether the company is delivering on improved user satisfaction. Our role will ensure that the company is making a real contribution to economic growth and delivering value for money for stakeholders.
10. We will also advise the government on the levels of funding and performance requirements for future road periods to help frame challenging and deliverable future performance and efficiency requirements.
11. Overall, in carrying out this role we intend to deliver a step-change improvement in transparency in the roads sector. The monitoring framework will require Highways England to publish far more information on its plans and performance, and we will make public our assessment of its operational and financial performance each year. Importantly, improved transparency will allow other stakeholders to play a more informed role in holding the company to account, to complement our work.
12. We will realise synergies between our rail regulation and highways monitoring roles. The roles will draw on joint support functions, we will share best practice and lessons learnt, and we will set up our roles with a view to facilitating cross-industry benchmarking resulting in benefits to both sectors.

## Our objective

13. The package of roads reforms has been implemented to support the delivery of increased investment, the delivery of better performance and increasing efficiency in the management of the SRN. In this context we have set out a strategic objective for our highways monitoring role and are consulting on it:

**“Secure improved performance and value for money from the strategic road network:**

Secure improved performance, including efficiency, safety and sustainability, from the strategic road network, for the benefit of road users and the public, through proportionate, risk-based monitoring, increased transparency, enforcement and robust advice on future performance requirements”

## Our work to date

14. We began discussions on our role in October 2013. Since then, we have had engagement with Department for Transport (DfT), the Highways Agency, Transport Focus and stakeholders more broadly on what this role should cover and how it should be carried out<sup>1</sup>. As an entirely new role, there was no pre-set approach. We have carried out preparatory work and formed some early views about how we might monitor. We have also identified some key challenges which it will be important to address to support our monitoring, and set these out below.
15. During the course of 2014, DfT and the Highways Agency continued work on the roads reform programme, with major milestones in December 2014 when DfT’s RIS, including a Performance Specification and an Investment Plan, and Highways England’s Strategic Business Plan (SBP) were published. Together with the Statutory Directions and Guidance (in the form of a licence) and the Framework Agreement, these documents set out what Highways England will need to deliver over the five years of Road Period 1 (RP1, April 2015 to March 2020). More detail is set out in Highways England’s Delivery Plan published in March 2015.

---

<sup>1</sup> These discussions have been limited because we were not legally able to recruit permanent staff until the passing of the Act, so we had a small team working on the development of our role, separately funded by DfT.

## Challenges

16. The development of our monitoring role will reflect challenges, such as the extent to which information is available now or needs to be developed, and the speed at which we build our staff resources. We recognise that the reforms to the roads sector are significant and will need time to embed. The data provided to inform the RIS, SBP and the Delivery Plan are not yet at the level of detail and quality that would best support the new roads sector structure and our monitoring role.
17. We have identified challenges for our monitoring and Highways England's reporting in the following areas:

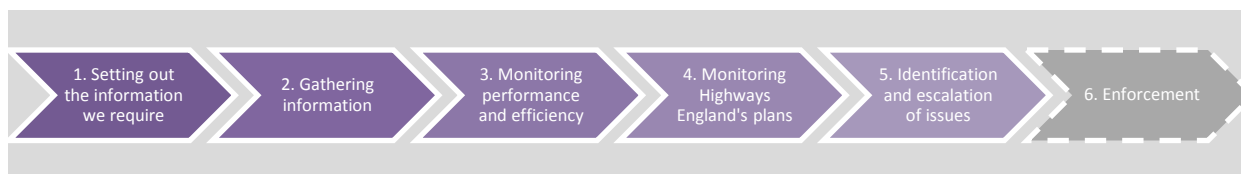
Developing clear milestones for enhancement schemes	<ul style="list-style-type: none"><li>• To monitor how Highways England is performing in delivering its enhancements, we need to be clear on what it is expected to deliver during the road period for the funding it has been set in the RIS.</li></ul>
Working with Highways England to develop its business management reporting to meet our monitoring requirements	<ul style="list-style-type: none"><li>• In some areas the company's business management reporting needs further development to ensure that it is equipped to report its performance under the new framework. For example, Highways England recognises that it needs to improve its monitoring and reporting of efficiency.</li></ul>
Ensuring that Highways England is doing the right amount of work to maintain and renew its assets	<ul style="list-style-type: none"><li>• Our monitoring needs to understand whether Highways England is maintaining and renewing its assets in a way which minimises costs in the long-term.</li><li>• Highways England has identified that it can strengthen its approach to managing its assets. For example, it plans to improve its asset information systems.</li></ul>
Developing an agreed approach to financial performance and efficiency assessment	<ul style="list-style-type: none"><li>• Assessing Highways England's financial performance and delivery of efficiencies is challenging. It requires a clear understanding of what must be delivered, the timeframes for delivery, the funding assumptions and whether there is evidence to demonstrate that efficiencies are being achieved.</li><li>• Highways England has further work to do to provide the information to support our efficiency assessment and we will work with the company to develop this capability.</li></ul>

18. We have agreed with Highways England that a data improvement plan is needed to cover these areas and improve data quality. It is crucial that all parties focus the appropriate resources to develop and implement the data improvement plan so that Highways England provides the data that we need to monitor its performance and efficiency and to inform future RISs, as soon as possible. We are working on the scope of this improvement plan with Highways England and expect the plan to be agreed in Summer 2015. Before the improvement plan delivers the information we require, we will use Highways England's current data.



## How we will monitor

19. We have set out a monitoring framework consisting of six steps:



20. The planned framework covers:

- setting out the information we require and agreeing how it should be provided;
- gathering that information;
- monitoring and reporting on the delivery of the Performance Specification, Investment Plan and aspects of the licence;
- monitoring and reporting on plans that Highways England is already formulating to tackle areas needing improvement;
- identification and escalation of new issues; and
- enforcement, where appropriate through informal action, improvement notices and fines.

21. In carrying out our role it is essential that we listen to, understand and take into account the views of road users and those affected by the SRN – and we are setting up a programme of stakeholder engagement to support this. Transport Focus’s new role as watchdog, surveying and representing the views of users, will provide an important input to our work. We will consider those aspects of Highways England’s performance that are of greatest importance to users and those affected by the SRN when prioritising our monitoring and enforcement activities. When we review Highways England’s plans for future delivery we will consider the extent to which it has sought and responded to views, and our advice to the Secretary of State on future RISs will consider stakeholder priorities.

22. Our ambition is to build constructive working relationships with Highways England and wider stakeholders, working collaboratively to improve the management of the network and ensure alignment on the promotion of value for public money, whilst providing robust scrutiny and challenge.

23. We expect our role will evolve over time as we – and the industry – learn from experience. We will be flexible in our approach, recognising that this is a new role.

24. We will assure our work so that our monitoring, reporting, advice and decisions are of high quality. We think that it is important that we too are held to account. We and the Secretary of State will jointly commission independent reviews of how effectively we exercise our functions at intervals to be agreed.

## What we will do next

25. At the start of RP1 we will need to prioritise our work carefully because it will take time to develop our understanding and capability to fulfil our new role.
26. We will continue to work with stakeholders to build our understanding of Highways England's business and the roads sector.
27. For our monitoring role we will:
- Work with Highways England and DfT to clarify the baselines we will be monitoring against;
  - Work with Highways England to improve the information that it provides to us and monitor the delivery of its data improvement plan;
  - Publish our monitoring reporting guidelines and templates, setting out the data we require and how they should be reported; and
  - Publish our first assessment of Highways England later this financial year, delivering improved transparency.
28. For our enforcement role we will:
- Consult on our intervention and enforcement policy in Summer 2015.
29. For our role in advising the Secretary of State on future road investment strategies we will:
- Publish our plans to develop a benchmarking programme, in Winter 2015-16.
30. In each of these areas we will draw on the responses to this consultation document and our on-going programme of stakeholder engagement, which will expand as we increase our staff resources.
31. We will be recruiting to the new function during 2015-16 and expect to be fully staffed by the end of the financial year.

## Seeking your views

32. We welcome views on any aspect of this document. However we are particularly interested in your views with respect to the following questions:

1. Are you clear what our role will involve? Are there aspects of our role which you would like more clarity about?
2. Do you agree with our strategic objective for our highways monitoring role?
3. Are there specific ways you would like us to engage with you beyond the industry forums already referred to in this document?
4. Have we identified the key areas that require monitoring? Are there particular areas of Highways England's performance and efficiency which you consider require specific focus or an alternative monitoring approach?
5. We have set out our initial plans for reporting on Highways England's performance and efficiency. Is there further information or analysis that you think we should produce?
6. Is there specific information relating to Highways England which is not currently in the public domain which you think should be prioritised for publication?

# 1. Overview of this consultation

## Summary

This chapter gives an overview of this consultation and sets out how to respond.

---

## Overview

- 1.1 This is the first consultation document of the Highways Monitor, a new division of the Office of Rail and Road (ORR). The Highways Monitor has been established to monitor the performance and efficiency of Highways England, a new government owned company tasked with managing and improving the Strategic Road Network (SRN).
- 1.2 In this document we set out the reforms that are being implemented for the management and operation of the SRN, what they mean for the development of the Highways Monitor and the scope of our new role. We then describe our planned approach to monitoring in more detail.
- 1.3 By monitoring we mean both our assessment of Highways England's performance and how our monitoring informs our future analysis of Highways England that will be included in the advice we provide to the Secretary of State on the development of the next Road Investment Strategy (RIS).
- 1.4 The document is structured as follows:
  - chapter 2 sets out the background to roads reform, the establishment of Highways England and the Highways Monitor, and developments to date, including the agreed governance arrangements;
  - chapter 3 sets out the scope of the Highways Monitor role, including a comparison with ORR's rail regulation role;
  - chapter 4 sets out the key principles that we will adopt in carrying out the role and our proposed strategic objective;
  - chapters 5, 6 and 7 set out how we propose to carry out our role to monitor the requirements of the RIS<sup>2</sup> and licence, and (briefly) our plans to develop our capability to advise on future RISs; and
  - chapter 8 sets out our next steps.

---

<sup>2</sup> The RIS includes the Strategic Vision, the Performance Specification and the Investment Plan

## Responding to this consultation

1.5 The consultation period begins on Thursday 26 March 2015 and will run until Friday 19 June 2015. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <http://orr.gov.uk/highways-monitor/consultations/policy-consultations/open-consultations/monitoring-highways-england> or you can contact us on the details below if you need alternative formats (Braille, audio CD, etc.).

1.6 Please send your consultation responses to:

**Richard Coates**

**Head of Highways Monitor Development**

**Office of Rail and Road, 3rd Floor, One Kemble Street, London W2B 4AN**

**Email: [highwaysmonitor@orr.gsi.gov.uk](mailto:highwaysmonitor@orr.gsi.gov.uk)**

**Telephone: 020 7282 2166**

1.7 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

1.8 You should indicate clearly if you wish all or part of your response to remain confidential to ORR. Otherwise we will publish it on our website, and may quote from it. Where you send us a response in confidence, you should attach a summary, excluding the confidential information, which can be published freely. We may also publish the names of respondents in future documents or on our website, unless a respondent indicates that they wish their name to be withheld.

## Freedom of Information

1.9 Information provided in response to this consultation, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

1.10 ORR will process your personal data in accordance with the Data Protection Act 1998 (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## 2. Background and context

### Summary

This chapter sets out the background to roads reform, the key documents that make up the framework, and ORR's role with respect to monitoring Highways England and taking enforcement action where appropriate. We are renaming the Office of Rail Regulation to "The Office of Rail and Road".

---

### Roads reform

- 2.1 The motorways and main 'A' roads in England form the Strategic Road Network (SRN) – infrastructure which is vital to keeping our population connected and the economy flowing<sup>3</sup>. The way in which the SRN is managed is being reformed. The changes are aimed at delivering more efficient management of the network and supporting the delivery of a programme of significantly increased investment to maintain and upgrade it. That programme includes investment of over £15 billion from 2015-16 to 2020-21<sup>4</sup>.
- 2.2 The government's package of roads reform is fundamentally changing the structure of the roads sector:
- Prior to roads reform, the Highways Agency (an executive agency of the Department for Transport (DfT)) managed the SRN and was funded through yearly budgets. It has now been transformed into a government-owned company called Highways England, appointed as a highways authority, with the powers and duties needed to operate, manage and enhance the network;
  - the government has set out its first Road Investment Strategy (RIS) including:
    - its Vision for the SRN;
    - the Performance Specification – the objectives that Highways England must deliver in Road Period 1 (RP1) from 1 April 2015 to 31 March 2020;
    - the Investment Plan – including the schemes that government is funding and the Statement of Funds Available (SoFA) for RP1; the SoFA sets out the capital (enhancement and renewal) funding and resource maintenance funding that government will provide for RP1;

---

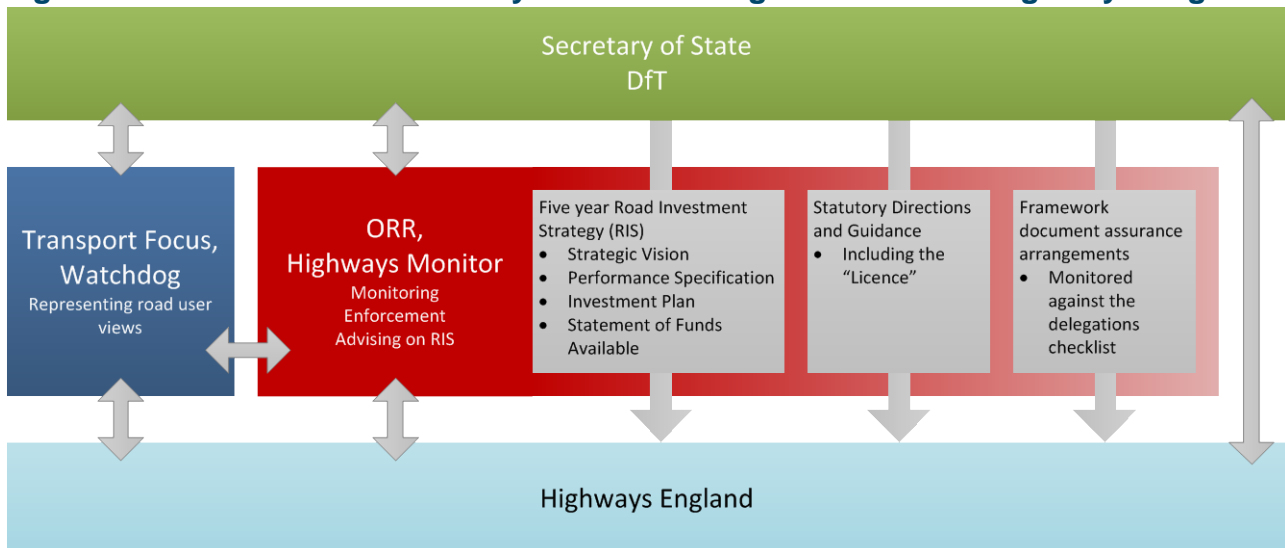
<sup>3</sup> A diagram of the SRN is provided in Annex A

<sup>4</sup> Funding for Road Period 1 (1 April 2015 to 31 March 2020) includes nearly £8 billion for enhancements to the SRN and over £5 billion to carry out the required maintenance and renewal of the assets

- the Secretary of State has issued Statutory Directions and Guidance (in the form of a licence) which sets out the conditions under which Highways England must carry out its functions;
- the Secretary of State has established a framework document that sets out the overall framework within which Highways England must operate;
- a new Monitor has been established called the Highways Monitor, a division of ORR, to monitor the efficiency and performance of Highways England, to enforce compliance with the RIS and the licence and to provide advice to the Secretary of State on the development of the next RIS; and
- a new Watchdog has been established, as a function of Transport Focus, to represent the interests of road users.

2.3 An overview of the new framework is presented in figure 2.1.

**Figure 2.1 – Illustration of industry framework of governance for Highways England**



2.4 The reforms are backed in law through the Infrastructure Act 2015 (the Act). They mean that more decision-making power is delegated to Highways England than was the case for the Highways Agency, giving it greater control and the ability to deliver more flexibly. Through the five year funding, Performance Specification and Investment Plan set out in the RIS, Highways England and its supply chain are given the greater certainty required to plan over a longer period. This should allow efficiencies to be realised. Government has estimated that the reforms will save the

taxpayer at least £2.6 billion<sup>5</sup> over ten years through more efficient operation and faster delivery, of which £1.212 billion of capital efficiencies are required to be delivered in RP1.

- 2.5 The reforms have wide implications. They will provide greater autonomy and longer-term certainty of funding for those who plan, operate, maintain, renew and enhance the network – which should make it easier for them to deliver the investment required and to carry out their work more efficiently. For those who use the network and for those who are affected by its wider economic and environmental impacts, the reforms will set out clearly the network improvements and levels of performance which they should expect. For DfT, there will be greater clarity and assurance about the delivery of the outputs they are buying and the value for money that they are receiving. And the reforms will provide clearer accountability and greater transparency – with ORR providing the assurance about whether the network is being managed efficiently to deliver the outcomes that road users and other stakeholders want.

## Highways England

- 2.6 The Act received Royal Assent in February 2015, establishing the legal basis for Highways England as a government-owned company.
- 2.7 The government published its RIS for RP1 in December 2014. In the same month Highways England published its first Strategic Business Plan (SBP) setting out its main activities and its plans for delivering the RIS<sup>6</sup>. The SBP sets out Highways England's plans to operate and improve the SRN by:
- modernising the core motorways and upgrading the most important major routes to provide more capacity and better connections;
  - maintaining the network safely and efficiently with minimal impact on drivers and communities; and
  - operating the network to keep traffic moving and customers better informed.

---

<sup>5</sup> Savings of £2.6 billion are estimated in DfT's "Roads reform: final stage impact assessment": <https://www.gov.uk/government/publications/transforming-the-highways-agency-into-a-government-owned-company-impact-assessment>

<sup>6</sup> The licence sets out the process for how the RIS and SBP will interact for future Road Periods. In future Road Periods, the draft RIS and draft SBP would not be published at the same time, as the SBP is intended to be a response to the draft RIS. Publishing the documents at the same time for RP1 has impacted on the level of detail included in these documents.



- 2.8 Highways England plans to deliver this transformation through improved planning for the longer-term, growing its capability, building stronger relationships with industry stakeholders, improving the efficiency and effectiveness of its delivery and improving its customer service.
- 2.9 Highways England is currently developing more detailed plans to complement the SBP. These are largely set out in its Delivery Plan, published in March 2015. It is also producing new strategies and plans (referenced in the Delivery Plan) to improve its capability in certain key areas. We set these out in more detail in chapter 5. The monitoring of these and providing transparency about their delivery will form part of our role for RP1.

## Highways Monitor

- 2.10 Our independent monitoring provides government with confidence that greater autonomy for Highways England will be accompanied by a consistent pressure for better performance and greater efficiency. We bring our expertise and experience in the assessment of financial and operational performance, to assess whether the company is delivering its requirements efficiently for stakeholders. We have a role in enforcing compliance with the RIS and the licence and providing advice to the Secretary of State on the development of the next RIS. And our role brings greater transparency as we plan to make more data available on Highways England's plans, performance and efficiency.

## Transport Focus

- 2.11 Transport Focus (previously Passenger Focus) has taken on a new role in relation to roads acting as the "Watchdog" - carrying out activities to protect and promote the interests of road users. We have been working with Transport Focus to develop a clear understanding of our respective roles, how they might interface, and how we might work together to ensure that the interests of road users form a central part of our monitoring and the roads reform framework more widely.
- 2.12 Transport Focus wants to build on and develop the existing data on road user views. Its current work plans include:
- qualitative research into the needs and experiences of road users;
  - piloting of the use of an online panel to get road user feedback;
  - quantitative research into road user priorities for improvement;
  - a review to improve the methodology for surveying road user satisfaction; and

- developing a new user satisfaction survey to replace the National Road Users' Satisfaction Survey.

## Developing our role to date

2.13 The Act gives us new powers and duties with respect to monitoring Highways England. Prior to the Act being passed we could only commit limited resource, funded by DfT, to carry out preparatory work on the development of our role. Our preparatory work has focused on:

- working with DfT to make sure that we understand the basis of its RIS, particularly the Performance Specification and Investment Plan;
- working with the Highways Agency to develop our understanding of the roads sector, the company's business and its management reporting;
- working with the Highways Agency / Highways England to understand its Strategic Business Plan (SBP) and its Delivery Plan;
- working with DfT to understand the scope of our role, with focus on ensuring that monitoring is comprehensive whilst avoiding duplication between DfT's role and our own;
- working with Transport Focus, road users and those affected by the SRN to develop our approach to stakeholder engagement;
- developing a framework for carrying out our highways monitoring role; and
- implementing a programme of engagement with the roads industry.

2.14 Because we were awaiting our legal duties and powers we did not have a formal role in advising on the first RIS or in assessing the SBP. The development of these documents was primarily through bilateral discussion, challenge and agreement between DfT and the Highways Agency. The documents were informed by a review of the cost and efficiency projections that formed the basis of Highways England's SBP. However, we participated informally, engaging with all parties to understand the work and to ensure that it supported the development of the monitoring framework.

2.15 The compressed timescales for implementing roads reform have meant that Highways England has focused on developing its SBP and Delivery Plan. We have had positive initial engagement with the company and it has agreed to develop a data improvement plan - see chapter 5.

2.16 Despite these constraints on our role to date, we have carried out a significant amount of preparatory work and formed some early views about how we might monitor and we set these out in the remainder of the document. We have also

identified some key challenges which will be important to address to support our monitoring and we set these out in chapter 5.

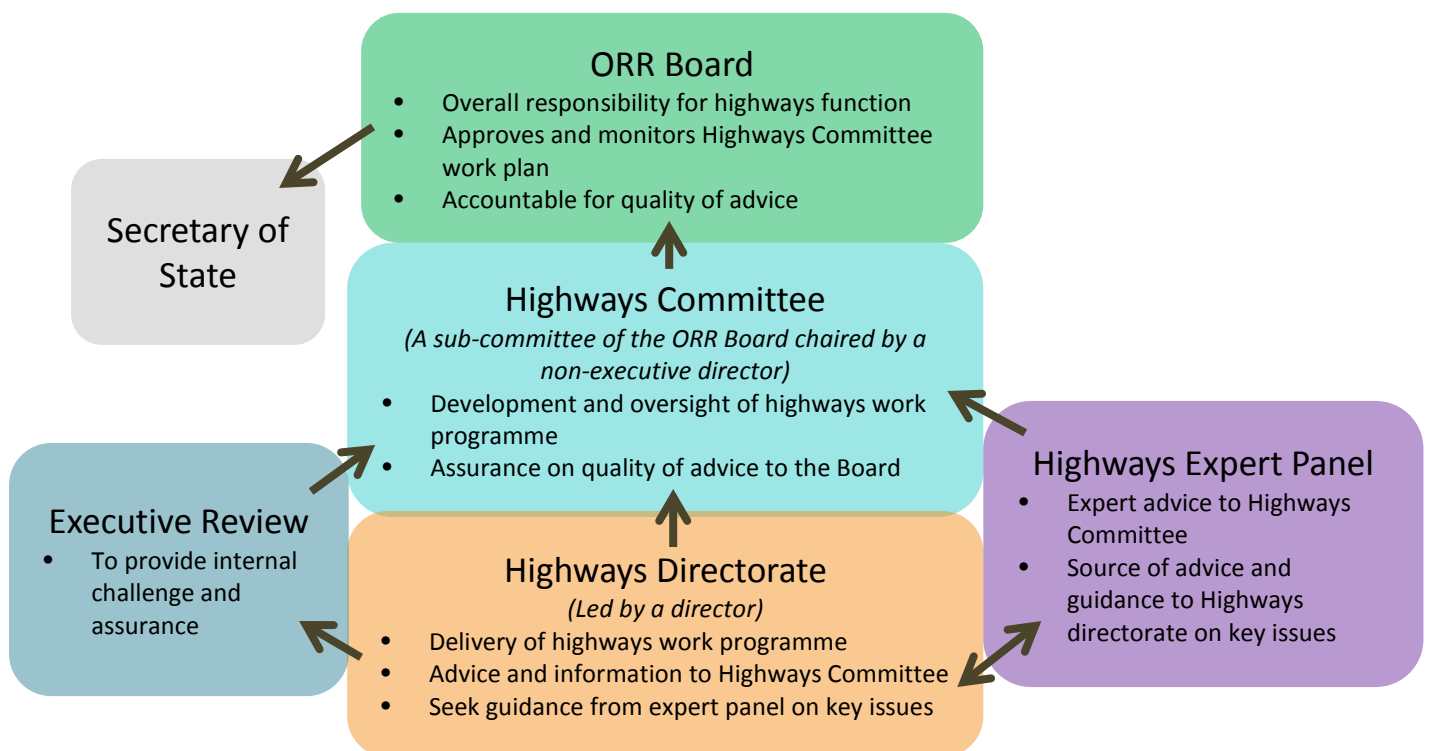
## Renaming the ORR

2.17 In the light of our new responsibilities for monitoring highways our current name does not fully reflect our functions and duties in law. Following consultation with key stakeholders and after seeking the views of our staff we have decided that, from 1 April 2015, we will use the name “Office of Rail and Road”. (Our legal name will remain the Office of Rail Regulation pending the passing of secondary legislation, expected later this year and we will continue to use this name in all documents, decisions and matters having legal effects or consequences until such time.)

## Highways Monitor governance

2.18 We have developed our internal governance arrangements for our Highways Monitor role as illustrated in figure 2.2.

**Figure 2.2 - Highways Monitor internal governance**



2.19 We are forming a new Board committee for the highways function (the Highways Committee), chaired by a newly appointed non-executive director (NED) who is appointed by the Secretary of State as a member of the ORR Board in line with our normal procedures. We have recruited a NED with the appropriate experience to fill this new role.

- 2.20 The Board's Highways Committee, under terms of reference set by the ORR Board, will oversee the work of the Highways Monitor function and will advise the Board on all matters relating to highways. The chair of the Highways Committee reports to the ORR Board after all Highways Committee meetings and the ORR Board retains responsibility for oversight of the function and key policy issues. Membership of the Highways Committee will include at least one other ORR NED and a mix of non-executive and executive members from the ORR Board.
- 2.21 A new executive director of the Highways Monitor has been appointed with the experience required to lead successfully the delivery of our new role.
- 2.22 To support the Highways Committee and the wider roads team, we will establish a roads expert panel, made up of technical and other specialists, to ensure that we have access to high-quality advice and support.
- 2.23 Our roads work is entirely funded by DfT. Our rail safety and economic regulation activities are funded by levying charges on the rail industry. These separate funding streams show a clear distinction between our road and rail functions, and provide assurance to those funding the roles. We have agreed a three year funding settlement with DfT for our highways monitoring role which is set out in a Memorandum of Understanding (MoU) between DfT and ORR. We have set up internal processes to ensure that there is clear delineation between resources (including time) spent on rail and highways.

## 3. The scope of the Highways Monitor role

### Summary

This chapter describes the scope of the Highways Monitor role as defined in legislation and supporting framework documentation. It compares our new highways role to our existing rail regulation responsibilities. We are seeking your views on the following question:

Question 1: Are you clear what our role will involve? Are there aspects of our role which you would like more clarity about?

---

### Our role defined in the Infrastructure Act

- 3.1 Our new role is defined in the Act. In simple terms, it requires us to carry out activities to monitor how Highways England is exercising its functions. As such, our monitoring relates to the Strategic Road Network in England and not, for example, the local road network in England or roads in the rest of the UK.
- 3.2 The monitoring activities are not detailed in the primary legislation but it says that they may include monitoring the company's delivery of the RIS and advising on a future RIS. The Act gives us the power to require Highways England to provide the information which we need to carry out our role. It also gives us the power to carry out enforcement action where Highways England has contravened or is contravening compliance with the RIS or compliance with its licence.
- 3.3 Further details of the scope of our role are set out in a Memorandum of Understanding (MoU) between DfT and ORR. This specifies that the role also includes:
  - benchmarking of the company's performance;
  - assessing the company's continued compliance with the assurance arrangements in sections 7.2 to 7.8 of the framework document, and in the delegations letter;
  - assessing whether a proposed future RIS is deliverable and challenging;
  - providing advice on further topics, linked to our duties, as may be requested by the Secretary of State;
  - carrying out further investigations which we believe to be justified; and
  - assuring our own work.

3.4 A summary of the roads reform documentation is provided in Annex B and a summary of key aspects of the licence and MoU is provided in Annex C. An excerpt of the sections of the Act relevant to the scope of our role is included in Annex D.

## **Respective roles of Highways Monitor and DfT**

3.5 It is important that we work closely with DfT but it is equally important that our respective roles are clearly defined. DfT is responsible for setting the RIS (with input from our efficiency review) and varying the RIS if required. Once the RIS is finalised we monitor and enforce Highways England's delivery of it. Table 3.1 summarises the roles of DfT and ORR in developing the RIS, and in monitoring and enforcing the RIS and licence.

**Table 3.1 - Respective roles of Highways Monitor and DfT**

	Activity	ORR role	Secretary of State / DfT role
Developing the RIS	<b>Setting the RIS (and varying the RIS)</b>	Assesses the draft RIS. Advises Secretary of State on whether the proposed requirements are challenging and deliverable within the proposed funding.	Produces a draft RIS. Takes account of advice from Highways Monitor. Revises the draft RIS if necessary. Finalises the RIS, including the Strategic Vision, Performance Specification, Investment Plan and Statement of Funds Available. Manages the change control process.
	<b>Highways England's SRN Initial Report (SRN IR) and SBP</b>	Engages Highways England on development of the SRN IR. Assesses the draft SBP. Carries out an efficiency review, informed by benchmarking. Advises Secretary of State on whether the SBP is challenging and deliverable within the proposed funding.	Consults on the SRN IR. Takes account of advice from Highways Monitor. Directs Highways England to make revisions to draft SBP if required. Approves the draft SBP, making it final.
	<b>Highways England's Delivery Plan</b>	Advises on whether the Delivery Plan delivers the RIS requirements and whether it supports monitoring. Assesses delivery of the plan.	Approves the Delivery Plan.
Monitoring and enforcement against the RIS	<b>On-going performance and efficiency assessment</b>	Sets performance and efficiency reporting requirements. Assesses delivery of the RIS and monitors aspects of licence compliance. Assesses Highways England's financial performance and delivery of efficiency, informed by benchmarking. Publishes an annual assessment of Highways England's performance and efficiency.	Draws on ORR's advice, including its annual assessment of Highways England's performance and efficiency. Oversees performance related pay arrangements. Monitors aspects of licence compliance. Monitors delivery and value for money of investment projects which are >£500m, novel or contentious.
	<b>Compliance with the framework document assurance arrangements</b>	Advises Secretary of State annually on whether Highways England is complying with its assurance arrangements requirements.	Decides on the level of delegation to Highways England and whether it is complying with Managing Public Money requirements. Takes advice from Highways Monitor.
	<b>Enforcement of the RIS and licence requirements</b>	Manages a staged approach to escalation of non-compliance. Assesses appropriate response to non-compliance with the RIS or licence, including consideration of Highways England's level of control. May issue improvement notices. May issue fines.	Issues guidance to ORR on fines. May alter level of delegation. May replace Highways England's board members. May revoke licence.

## The scope of our monitoring and enforcement

- 3.6 Whilst our role is defined at a high level through the Act and MoU, much of the detail of what we are monitoring and enforcing for RP1 is set out in the Performance Specification, Investment Plan and licence. The contents of these is summarised in tables 3.2 to 3.4, with examples of the types of information that we will be monitoring. We will also monitor Highways England's plans as set out in its SBP and Delivery Plan. We will monitor compliance with the licence partly through monitoring compliance with the RIS. We are separately agreeing those areas of the licence where we take primary responsibility for monitoring and those where DfT or another body does.
- 3.7 The Performance Specification sets out that the performance of the company and network is to be assessed against:
- Key Performance Indicators (KPIs);
  - Performance Indicators (PIs); and
  - Requirements that will help to develop future strategy or performance measures.
- 3.8 In some cases targets have been set for KPIs. We will monitor Highways England's delivery of these targets and its delivery of requirements, to assess whether it is complying with the RIS. Where KPIs do not have associated targets and where PIs are to be reported, we will monitor, report on them and form a judgement to provide additional information on performance. In certain areas new PIs are to be developed and we will engage with Highways England as it develops these. In table 3.2 we provide examples of the information which we will monitor, including all KPIs.



**Table 3.2 – Summary of Performance Specification**

Document	Component for monitoring	Example of information to be monitored
<b>Performance Specification</b>	Making the network safer	KPI: the number of people killed or seriously injured (KSI) on the SRN. Target: on-going reduction in Network KSI to support a decrease of at least 40% by the end of 2020 against the 2005–09 average baseline.
	Improving user satisfaction	KPI: the percentage of National Road Users' Satisfaction Survey respondents who are very or fairly satisfied. Target: achieve a score of 90% by 31 March 2017 and then maintain or improve it.
	Supporting the smooth flow of traffic	KPI: network availability - the percentage of the SRN available to traffic. Target: maximise lane availability so that it does not fall below 97% in any one rolling year. KPI: incident management: percentage of motorway incidents cleared within one hour. Target: at least 85% of all motorway incidents should be cleared within one hour.
	Encouraging economic growth	KPI: average delay – time lost per vehicle mile. Target: none set.
	Delivering better environmental outcomes	KPI: noise – number of noise important areas mitigated Target: mitigate at least 1,150 noise important areas over RP1.  KPI: biodiversity - delivery of improved biodiversity, as set out in the company's biodiversity action plan. Target: the Company should publish its Biodiversity Action Plan by 30 June 2015 and report annually on how it has delivered against the Plan to reduce net biodiversity loss on an on-going annual basis.
	Helping cyclists, walkers, and other vulnerable users of the network	KPI: the number of new and upgraded crossings. Target: none set.
	Achieving real efficiency	KPI: cost savings – savings on capital expenditure. Target: total savings of at least £1.212 billion over RP1 on capital expenditure.  KPI: Delivery Plan progress – progress of work, relative to forecasts set out in the Delivery Plan, and annual updates to that plan, and expectations at the start of RP1. Target: meet or exceed forecasts.
	Keeping the network in good condition	KPI: the percentage of pavement asset that does not require further investigation for possible maintenance. Target: percentage to be maintained at 95% or above.

**Table 3.3 – Summary of Investment Plan**

Document	Component for monitoring	Example of information to be monitored
Investment plan	Key investments – 127 major enhancement schemes across 6 regions	Delivery Plan Progress: meet or exceed forecasts.
	Maintaining and renewing the network	Delivery Plan Progress: meet or exceed forecasts.
	Ring-fenced investment funds: environment fund; cycling, safety and integration fund; innovation fund; air quality fund; growth and housing fund.	Delivery Plan Progress: meet or exceed forecasts.

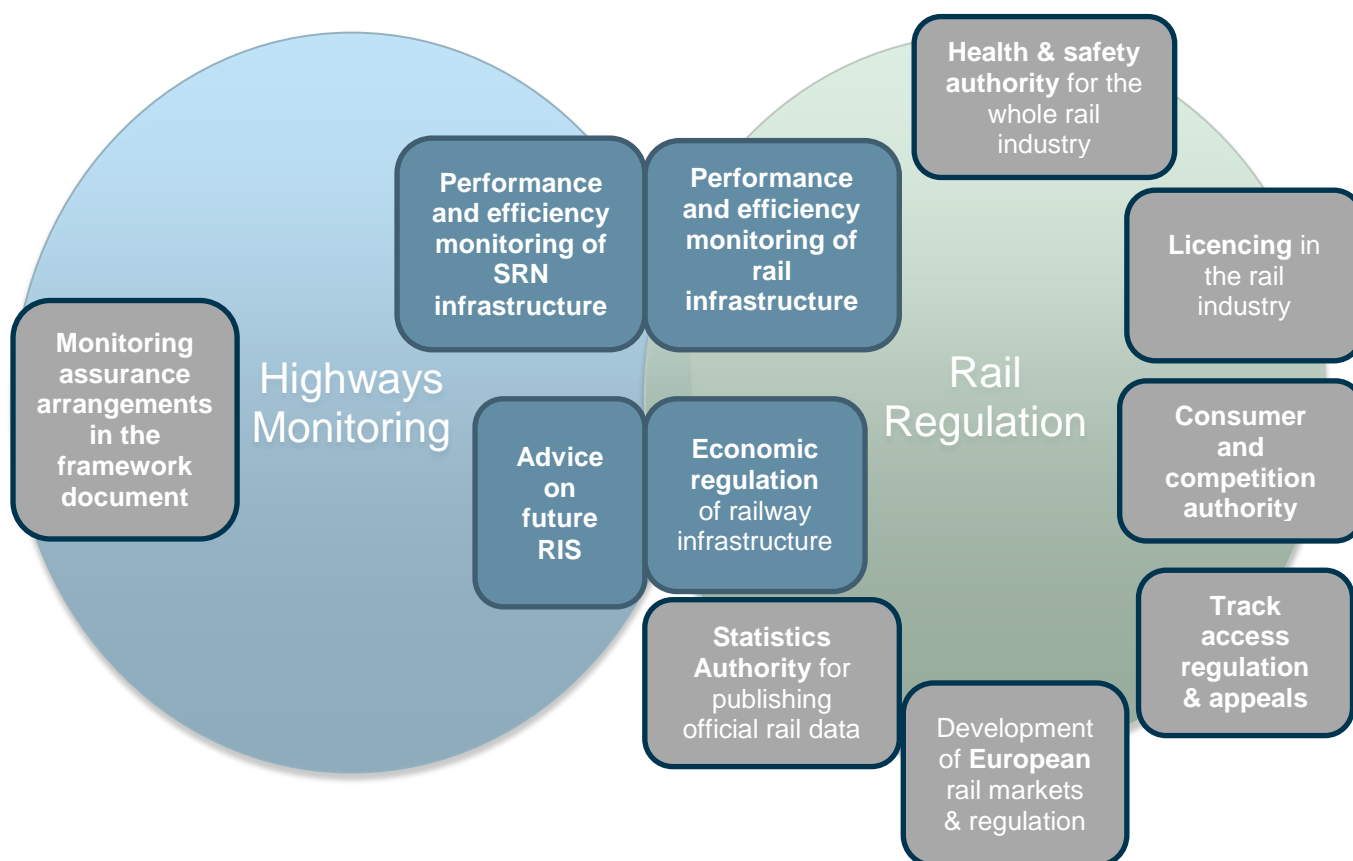
**Table 3.4 – Summary of licence**

Document	Component for monitoring	How we will monitor compliance
Licence	Ensure the effective operation of the network	Performance Specification: network availability target, incident management target.
	Ensure the maintenance, resilience, renewal, and replacement of the network	Performance Specification: condition target.
	Ensure the improvement, enhancement and long-term development of the network	Delivery Plan Progress: meet or exceed forecasts.
	Ensure efficiency and value for money	Performance Specification: efficiency target.
	Protect and improve the safety of the network	Performance Specification: safety target.
	Cooperate with other persons or organisations for the purposes of coordinating day-to-day operations and long-term planning	Responding to and investigating stakeholder concerns.
	Minimise the environmental impacts of operating, maintaining and improving its network and seek to enhance the quality of the surrounding environment	Performance Specification: noise target, biodiversity target. Responding to and investigating stakeholder concerns.
	Conform to the principles of sustainable development	Performance Specification: biodiversity target. Responding to and investigating stakeholder concerns.
	All other licence conditions	On-going discussion on the role of the Highways Monitor.

## Interface with our rail role

3.9 In requesting that ORR takes on the role of Highways Monitor, the DfT was mindful that as the independent regulator of the railways, ORR has a unique ability to leverage its existing expertise and its experience in monitoring performance and efficiency. However, whilst there are similarities between ORR’s existing rail responsibilities and its new highways monitoring responsibilities, there are also important differences. These similarities and differences are highlighted in figure 3.1 and explained in further detail below.

**Figure 3.1 - Comparison of ORR’s existing rail responsibilities and its new highways monitoring responsibilities**



## Similarities between our rail and highways monitoring responsibilities

3.10 Our highways monitoring role will draw on our expertise in rail regulation in a number of important respects:

- a) *Independence* – as an independent statutory body, ORR is directly accountable to Parliament and the courts rather than through a

ministerial department. Governance is provided by a board of executive and non-executive directors whose powers are vested by Parliament. Our governance arrangements will apply to our new roads responsibilities;

- b) *Transparency* – ORR is a trusted source for publishing rail industry analysis including official statistics (we are ONS accredited). We engage openly with stakeholders through conferences, workshops and other tailored events. Formal consultations are an important part of how we carry out our responsibilities and we review all feedback so that we can make informed decisions. We intend to apply this approach in fulfilling our highways responsibilities;
- c) *Monitoring and enforcement* – we have considerable experience of monitoring rail infrastructure companies' delivery against outcome / output frameworks and taking enforcement action where appropriate. We publish half-yearly Monitor publications of Network Rail and annual reports on HS1 which cover our impartial assessments of performance on punctuality, asset management and delivery of major projects. We will also carry out monitoring and enforcement activities for highways and publish our findings;
- d) *Efficiency and financial monitoring* – we have existing expertise in assessing efficiency and financial performance in the rail industry, for example in our annual efficiency and finance assessments of Network Rail. An important part of our roads role will be to assess whether Highways England is making the efficiency improvements required. Over time we will aim to leverage our analysis to inform better both our highways and rail roles;
- e) *Benchmarking and economic analysis* – robust benchmarking and economic analysis of efficiency is fundamental to both our highways and rail roles. Our highways benchmarking and efficiency analysis will be central to informing our advice on future road investment strategies. There will be opportunities to learn from best practice in both sectors;
- f) *Advice to the Secretary of State on the development of the next RIS* - we have existing expertise in providing advice to the DfT and Transport Scotland on their output requirements and funding in the rail sector. An important part of our roads role will be to provide advice to the Secretary of State on whether the proposed requirements are challenging and deliverable within the proposed

funding. Over time we will aim to leverage our analysis to inform better both our highways and rail roles; and

- g) *Incentives* – our rail regulation provides incentives for improved performance and efficiency – including for Network Rail. Similarly, our highways monitoring and enforcement provides strong incentives for Highways England to deliver its performance and efficiency requirements through increased transparency of its plans, performance and efficiency. Our assessment of performance and efficiency will inform performance related pay and DfT's approach to delegation. Our advice on future RISs will inform development of a performance framework which sets strong incentives around performance and efficiency.

3.11 We will seek to develop our highways monitoring in a way which facilitates sharing of information to inform both our highways and rail roles. For example, where possible we will require submission of cost information in a way which makes comparisons easier.

## Differences between our rail and highways monitoring responsibilities

3.12 Our highways monitoring role is different from our rail role in a number of important ways:

- a) *Performance, finance and efficiency monitoring not determining outputs and funding* – the focus of our highways monitoring role will be monitoring Highways England's delivery of the requirements of RISs and to advise DfT on the objectives for future RISs. Our economic regulation role in rail is broader – for example, we determine the outputs that Network Rail must deliver and its funding;
- b) *Primarily economic, less on safety* – our highways monitoring role will include monitoring Highways England's delivery of the safety requirements specified in Highways England's Performance Specification. This is a smaller remit than in rail where we are the health and safety regulator for the whole industry and have a range of formal enforcement powers including as the crown prosecutor;
- c) *No charges* – an important part of our economic regulation of the railways is determining how much different users have to pay to access different types of rail infrastructure (track, stations etc.). With the exception of a few components such as the M6 Toll and Dartford

crossing, the SRN is largely free to users at the point of use. We will have no responsibility for determining who should pay, or how much for access to the SRN; and

- d) *Geographical scope* – our role in rail applies to the vast majority of Great Britain’s mainline rail network including in Scotland and Wales (and all other railways for safety e.g. London Underground). Our highways monitoring role applies only to Highways England’s management of the SRN. We will have no accountability to the Scottish or Welsh governments in relation to our highways role, and our role with respect to local roads is limited to monitoring Highways England’s management of integration.

3.13 Because of these differences our expenditure on highways monitoring will be lower than for rail. We expect to fulfil our highways monitoring requirements with approximately 20 staff. Most staff will work on either roads or rail, but back-office and some support functions will be shared proportionately.

## 4. Our objectives

### Summary

This chapter describes what we aim to achieve through our monitoring role. We set out our strategic objective for our highways monitoring role and the principles which we propose to use in achieving our aims. We are seeking your views on the following question:

Question 2: Do you agree with our strategic objective for our highways monitoring role?

---

### What are we aiming to achieve through monitoring?

- 4.1 The Highways Monitor has been set up to provide scrutiny of Highways England's performance and efficiency, and to give assurance to stakeholders that the company is delivering its requirements. The role is vital in providing a step-change in the transparency of the management of the SRN: the monitoring framework will require Highways England to publish far more information on its plans and performance than it currently does, and we will make public our assessment of its operational and financial performance each year. Importantly, improved transparency will allow other stakeholders to play a more informed role in holding the company to account to complement our work.
- 4.2 Our monitoring supports the provision of longer-term funding and an increase in Highways England's decision-making powers by providing stakeholders with the assurance that its performance and efficiency will be subject to independent scrutiny. In providing this independent scrutiny, we support a framework which should allow more efficient delivery of SRN infrastructure.
- 4.3 As we carry out our role, it is essential that we listen to, understand and act on the views of road users and those affected by the SRN. Transport Focus's new role as watchdog, surveying and representing the views of all road users, will provide an important input to our work and the work of DfT and Highways England. We have already had extensive engagement with Transport Focus and we will continue to do so as we develop our approach for working together. We will consider those aspects of Highways England's performance that are of greatest importance to users and those that are affected by the SRN when prioritising our monitoring and enforcement activities. When we review Highways England's plans for future delivery we will consider the extent to which it has sought and responded to the views of road users and those affected by the SRN, and our advice to the Secretary of State on future RISs will consider stakeholder priorities.

- 4.4 In monitoring the performance and efficiency of Highways England, we aim to secure its compliance with its licence and the RIS, and to provide robust, transparent and independent reporting which meets the needs of all stakeholders. We also aim to provide robust advice to the Secretary of State to support the setting of future RISs, by drawing on our monitoring and our programme of benchmarking work.
- 4.5 In the long-term, we want our monitoring to actively support an industry where Highways England, its suppliers and wider stakeholders work together to meet the needs of road users and stakeholders, delivering an efficient, safe, sustainable and high-performing SRN.

## How might we define our objective?

- 4.6 The Infrastructure Act defines ORR's duty: "The Office of Rail Regulation must exercise its functions under sections 10 and 11 in the way that it considers most likely to promote - (a) the performance, and (b) the efficiency, of the strategic highways company." To reflect this duty and encapsulate the purpose of our monitoring and enforcement activities we propose that our strategic objective for our highways monitoring is:

**“Secure improved performance and value for money from the strategic road network:**

Secure improved performance, including efficiency, safety and sustainability, from the strategic road network, for the benefit of road users and the public, through proportionate, risk-based monitoring, increased transparency, enforcement and robust advice on future performance requirements”

- 4.7 In order to deliver this objective, we are seeking to learn from other monitoring and regulatory bodies to identify and apply best practice. We are also drawing on well-established best practice principles, including “Better regulation” and the MacRory principles relating to enforcement<sup>7</sup>.

## Applying best practice

- 4.8 Our role in monitoring Highways England and its management of the SRN is new and it is important that we learn from similar regimes in place in other industries. In

---

<sup>7</sup> The Better Regulation Task Force published its Principles of Good Regulation.



developing our proposed approach to monitoring, we have reviewed best practice with our regulatory and monitoring peers, including learning from our experience of rail regulation. We have held discussions with other members of the UK Regulators Network and carried out a literature review of other monitoring frameworks including:

- The Office of Gas and Electricity Markets (Ofgem);
- Water Services Regulation Authority (Ofwat); and
- Civil Aviation Authority (CAA).

4.9 It is clear from our discussions and review of literature that there are certain principles common to all monitoring regimes that are equally applicable to monitoring Highways England. These include:

- risk-based, proportionate collection / reporting of disaggregated cost and output information;
- collection / reporting of data in templates, seeking consistency over time;
- collection / reporting of numerical financial and output information, and explanatory text;
- collection / reporting of information in a format which supports comparative analysis;
- regular engagement meetings with the monitored company / companies;
- regular reporting of the regulator's / monitor's assessment of performance; and
- transparency of monitoring information, analysis and decisions.

4.10 We have also engaged the National Audit Office (NAO) to understand the work that it has done over recent years to assess the Highways Agency's management of the SRN. Our discussions with NAO have highlighted both the scale of the challenge for Highways England in delivering its Performance Specification and Investment Plan requirements, and the opportunities that the new roads reform framework brings for delivering more efficiently through longer-term asset management decisions and improved supply chain management.

## Best practice principles

4.11 Our proposed approach to delivering our role is based on well-established principles of better regulation. Whilst we recognise that our highways monitoring role has differences to full economic regulatory models, there are also clear parallels to parts of other regimes, and we consider that the principles of better regulation outlined below are relevant to our role in the ways described.

## Transparent

4.12 Transparency is a fundamental requirement of our role and was one of the key drivers of the roads reform package. We will set up and agree a monitoring and reporting framework in which Highways England's plans and reported performance is published as part of its business-as-usual activity. We will consult on and publish our key policies and our proposed approach to delivering the role. We will set out clearly our monitoring analysis, our decisions and the reasons for them and will publish our assessment of the performance and efficiency of the company.

## Accountable

4.13 We must be accountable for our actions and decisions. Highways Monitor is accountable to the public for our actions through Parliament and through the courts. We have an obligation to give written and oral evidence to the Committees of Parliament and to prepare an annual report to the Secretary of State for Transport for him / her to lay before Parliament. We are subject to scrutiny by the NAO and are answerable to the Parliamentary Commissioner for Administration in cases of alleged maladministration. Ultimately, our decisions are subject to judicial review and scrutiny by the courts. In addition, we and the Secretary of State will jointly commission independent reviews of how effectively we exercise our functions at intervals to be agreed.

## Proportionate

4.14 It is important that Highways Monitor is proportionate in exercising its functions. Being proportionate means focusing our monitoring and enforcement activity on those aspects of Highways England's activities that are most important for stakeholders. For example, we will place greater emphasis on monitoring Highways England's delivery of its Performance Specification KPI targets than on monitoring its reported PIs.

## Consistent

4.15 The Highways Monitor must be consistent in its approach to monitoring and enforcement. This means, as far as possible, taking a similar approach in similar circumstances to achieve similar ends. We will do this through the application of published policies and agreed processes. In deciding on a course of action we will have regard to any guidance from the Secretary of State and Treasury. We will also consider our duty and balance those factors which are set out for consideration in the Act.

## Targeted

4.16 It is important that Highways Monitor targets its monitoring activity to deliver its legal requirements and functions in the most efficient and effective way. We will target our detailed monitoring, escalation and enforcement at those areas where an issue, such as a potential non-compliance, has been identified and is material to delivery of the RIS and / or licence requirements.

## Independent

4.17 We see our independence as a vital aspect of our role. Being independent helps to ensure that our analysis, advice and decisions are based on objective evidence and are not subject to changing government policy. Our independence provides assurance to all stakeholders that our assessment of Highways England's operational and financial performance is fair and unbiased.

## 5. How we propose to monitor

### Summary

This chapter sets out how we propose to deliver our role in a way which is consistent with the principles set out in the previous chapter. It explains our proposed monitoring framework and sets out the key challenges which we have identified to date. It sets out our proposals for a flexible approach to monitoring as we develop the role. We are consulting on the following questions:

Question 3: Are there specific ways you would like us to engage with you beyond the industry forums already referred to in this document?

Question 4: Have we identified the key areas that require monitoring? Are there particular areas of Highways England's performance and efficiency which you consider require specific focus or an alternative monitoring approach?

Question 5: We have set out our initial plans for reporting on Highways England's performance and efficiency. Is there further information or analysis that you think we should produce?

---

### A flexible approach to monitoring in RP1

5.1 Much of the detail of how we will carry out our role in practice is still to be defined and will be established during the first year of RP1. We set out our initial plans for how we might carry out our monitoring activities here, but it is important that we maintain a flexible approach during the early stages of monitoring so that we can respond to emerging stakeholder requirements and modify our approach as we improve our knowledge of the industry. We are aware that in some areas Highways England has further work to do to provide the information needed to support our performance and efficiency assessment. Highways England recognises this and has committed to producing a data improvement plan to deliver improved reporting during RP1. We will agree this plan with the company and monitor its delivery.

### Engaging stakeholders

5.2 To successfully carry out our role, it is essential that we continue to improve our understanding of the roads sector and the Highways Agency / Highways England. To develop this understanding, we have established and started to implement a programme of stakeholder engagement including:

- working with the Highways Agency to understand its business, its management information, its plans and processes;
- discussions with DfT to understand its RIS, including its Vision, Strategy, Performance Specification, Investment Plan and Statement of Funds Available;
- engagement with Transport Focus to understand its developing approach to gathering and representing the views of road users; and
- wider discussions with road users and stakeholders, including a stakeholder event attended by a wide range of interested parties.

5.3 The engagement we have had to date has been positive, and proved invaluable in developing our understanding of the industry, its stakeholders and their key concerns - but we have much more to do.

## Initial engagement with stakeholders

During our initial programme of engagement, stakeholders have expressed views and raised queries under certain themes:

- **Clarity about our role and the role of DfT:** many stakeholders have asked for clarity about the scope of our role. They have asked how DfT's and ORR's roles dovetail and whether the monitoring regime might extend to include monitoring local roads. We have been clear that our role only relates to monitoring the management of the SRN. The roles of DfT and ORR with respect to highways monitoring and enforcement are set out in chapter 3 of this document.
- **Publication of information:** many stakeholders consider there to be a need for greater transparency and see our role as vital to delivering it. They have asked for transparency of Highways England's plans and performance (including efficiency and delivery). They have also asked for our assessment of its performance to be made public. As set out in this document we consider increased transparency to be integral to our highways monitoring and will seek to realise improvements early in RP1.
- **The interface with our rail role:** some stakeholders have asked how our rail and highways roles interact and whether there are opportunities for a joined-up approach. We see real synergies between parts of our rail regulation role and our highways monitoring role. For example, both roles require in-depth analysis of performance, asset management engineering expertise, benchmarking and financial performance assessment. But our rail and highways roles are not structured to make trade-offs between investments in different modes – those

decisions are for DfT. However, we recognise that there is potential to set up the highways monitoring framework in a way that could make comparisons between the sectors easier – for example collecting cost information on a similar basis.

- Engaging with our highways monitoring role: many stakeholders have asked how they can engage us on specific issues. We expect to adopt a wide range of approaches to engaging stakeholders, such as bilateral meetings, attendance at forums, stakeholder events and consultations.

5.4 Stakeholder engagement will continue to form an integral part of our monitoring regime so that we listen and consider the needs and concerns of all industry stakeholders. We will continue to seek views through formal consultation and regular communication, including face-to-face meetings. We have identified the following industry forums which we will seek to engage with:

- The Strategic Road Reform Expert Group – chaired by DfT;
- The Stakeholder Advisory Board – chaired by Transport Focus;
- Building a World Class Highways Supply Chain – chaired by ICE; and
- Principals Group, Asset Support Group – chaired by the Highways Agency.

5.5 We understand that our level of engagement must be appropriate to stakeholder needs and must not be too burdensome. We are therefore asking for your views on how we can best engage going forward.

## Ensuring that our monitoring reflects the views of stakeholders

5.6 Our monitoring needs to reflect the real requirements of road users and those affected by the SRN. We will ensure that we do this in several ways:

- engaging road users and those affected by the SRN through our stakeholder engagement plans outlined above;
- understanding road user views and priorities across a range of Highways England activities by engaging closely with Transport Focus;
- reviewing Highways England's approach to the development of route strategies to ensure that it follows a process that fully captures and reflects the views of road users and those affected by the SRN;

- reviewing Highways England's governance processes for its designated funds, and ensuring that prioritisation of schemes within the funds considers the views of road users and those affected by the SRN;
- holding Highways England to account for levels of user satisfaction as required by the performance specification;
- ensuring that our advice with respect to future RIS performance specifications reflects the views of road users and those affected by the SRN; and
- ensuring that our monitoring reflects the priorities of road users and those affected by the SRN.

## Engaging with Transport Focus

- We have been engaging Transport Focus as we have developed our proposals for monitoring and we will continue to do so once we formally take on the role. As Watchdog, Transport Focus's role is to understand road user requirements and priorities and we need to ensure that we draw on its expertise, both to inform our monitoring in the period, and our advice on future RISs.
- Transport Focus has commissioned research to identify road users' priorities for improvement. It has said that it will attempt to identify the relative importance that road users place on a range of attributes that make up their journey on the SRN and understand the differences in priorities between road user types, regions, type of road used (motorways or A-roads within the SRN), and by journey type. The priorities identified by Transport Focus will be used to inform our priorities for monitoring.
- Transport Focus is also developing its approach to surveying road user satisfaction. We will monitor the results of its user satisfaction surveys to inform our assessment of Highways England's performance.

5.7 We will look closely at what further information about user experience can be published.

## Assuring our work

5.8 It is important that we too are held to account. Our monitoring, reporting, advice and decisions must be based on the best available evidence, high-quality analysis and robust processes. In chapter 2 we outlined our governance arrangements, which will serve to ensure the quality of our work. A key aspect of the arrangements is the road

expert panel, made up of technical and other specialists, which will provide our highways monitoring function with high-quality advice and support.

5.9 In addition to internal assurance arrangements, it is important that we are held to account externally. ORR's Board and its members are answerable to Parliament and this includes the obligation to supply written and oral evidence to Parliamentary committees when requested. We also see real value in independent reviews and commission these periodically to review our work. We have agreed with the Secretary of State that we will jointly commission periodic, independent reviews of how we exercise our functions.

## The monitoring framework

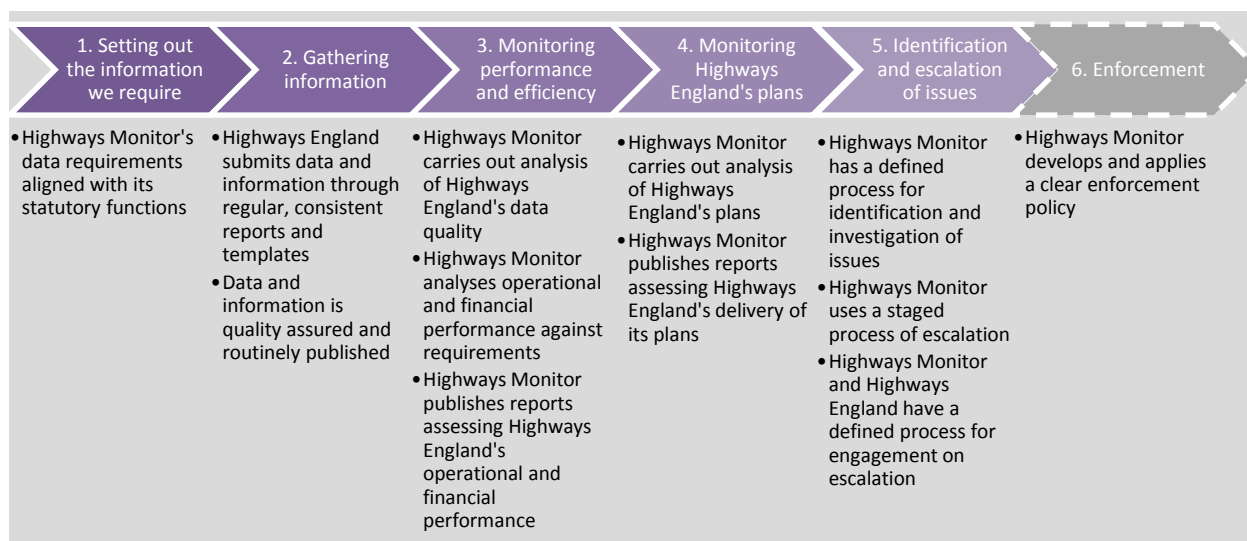
5.10 Our proposed monitoring framework, in overview, consists of six steps:

- Step 1: Setting out the information we require and how it should be provided;
- Step 2: Gathering information;
- Step 3: Monitoring and reporting on the Performance Specification, Investment Plan and aspects of the licence;
- Step 4: Monitoring and reporting on action plans that Highways England is already formulating to tackle areas needing improvement;
- Step 5: Identification and escalation of new issues (this is covered in chapter 6); and
- Step 6: Enforcement, through improvement notices and fines (this is covered in chapter 6).

5.11 This process is summarised in figure 5.1.



**Figure 5.1 – Overview of the monitoring framework**



## Step 1: Setting out the information we require and how it should be provided

5.12 Our monitoring is dependent on Highways England providing us with good quality data and information. The Act gives us the power to direct Highways England to provide the information we need to fulfil our role. We have been engaging the Highways Agency to develop an agreed understanding of our information requirements. In doing so we have sought to be clear on the purpose of our requirements by referring back to our role as set out in the Act and agreed through the MoU between DfT and ORR.

5.13 Our approach is to use Highways England's internal management information that it requires to run its business wherever possible. However, where particular issues are identified we may require bespoke data and information to be submitted to support our investigations.

5.14 We have begun the process of setting out the information that we consider is needed for monitoring operational and financial performance (including efficiency), and have engaged the Highways Agency in the process. This information will be published to aid transparency. We are proposing a standard form for its submission for easy comparison year on year and with the RIS. The information will inform our annual review of Highways England's performance. However, if required, we will modify our information requirements as our understanding of the industry and the relevant information increases. We will set out our proposed initial information requirements in two documents:

- Monitoring Reporting Templates, which specify the data that we require and the format for its submission; and

- Monitoring Reporting Guidelines, which provide guidance on our reporting requirements, on population and submission of the monitoring reporting templates and on where we would expect Highways England to provide commentary on, and explanation of, its performance.

5.15 Our Monitoring Reporting Templates will separately distinguish information requirements for monitoring the Performance Specification, monitoring the delivery of the Investment Plan, assessing compliance with licence requirements and monitoring efficient expenditure. The templates will generally require comparison to a baseline and explanation of the variance to the baseline and / or to the previous year.

5.16 We have set out our Monitoring Reporting Templates and Guidelines to capture Highways England's performance, cost and efficiency information in a way that will best support analysis of whether it has delivered its objectives. Much of this information is currently available for reporting in our templates, but some is not. This is partly because the Highways Agency was focused on managing annual budgets, whereas Highways England will be more focused on longer-term planning. For example, Highways England needs to develop its capability to produce longer-term forecasts of the volumes of maintenance and renewal work that it will undertake, against which we can assess delivery. Highways England's data improvement plans should deliver increased planning and reporting capability during RP1. In the interim period, when the company is working towards delivering the data improvement plan, we will expect the company to set out how it will provide assurance that it is delivering its objectives and will require robust evidence to support any claimed outperformance.

## Example template Performance Specification – Killed and seriously injured

	Source of baseline	Annual				Cumulative				Less than prior year Y/N
		Actual	baseline	KPI/PI/Req	Difference	Actual	baseline	KPI/PI/Req	Difference	
<b>KSI</b>										
On-going reduction in Network KSIs to support a decrease of at least 40% by 1 January 2020 against the 2005-9 average baseline										
2014		X								
2015	Delivery plan	X	X	KPI	X	X	X	PI	X	X
2016	Delivery plan	X	X	KPI	X	X	X	PI	X	X
2017	Delivery plan	X	X	KPI	X	X	X	PI	X	X
2018	Delivery plan	X	X	KPI	X	X	X	PI	X	X
2019	Performance specification	X	X	KPI	X	X	X	KPI	X	X

## Efficient expenditure – Summary expenditure

	Actual	2015-16 Baseline	Difference	Actual	Cumulative Baseline	Difference	2014-15 Actual
<b>Resource expenditure</b>							
Operations general	X	X	X	X	X	X	X
Operations traffic	X	X	X	X	X	X	X
Support expenditure	X	X	X	X	X	X	X
Maintenance expenditure	X	X	X	X	X	X	X
Protocols	X	X	X	X	X	X	X
PFI payments	X	X	X	X	X	X	X
Other	X	X	X	X	X	X	X
<b>Total resource expenditure</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Capital expenditure</b>							
Renewals	X	X	X	X	X	X	X
RIS enhancements	X	X	X	X	X	X	X
<b>Total capital expenditure</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Total expenditure before change control</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Change control adjustment resource		X	X		X	X	
Change control adjustment capital		X	X		X	X	
<b>Total expenditure after change control</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

5.17 We will publish draft versions of the Monitoring Reporting Templates and the Monitoring Reporting Guidelines later this year.

5.18 We propose that Highways England delivers its reporting requirements through three regular submissions. Firstly, the company will submit a Delivery Plan to the Secretary of State and publish it before the start of each financial year, setting out its projections of expenditure and output delivery for the year ahead and the remainder of the Road Period. Secondly, it will submit a quarterly reporting pack which will set out its in-year operational and financial performance, and provide an early indication of whether its performance requirements may be at risk. Finally, the company will submit and publish annual monitoring reporting statements following the financial year-end, which will provide the detailed information required to carry out a full review of its operational and financial performance during the previous financial year and, where requested, over the Road Period to date. It will also provide the information that we need to assess its compliance with its licence and managing public money

requirements. The annual monitoring reporting statements will include narrative to explain its outturn performance and efficiency.

## **Step 2: Gathering information to inform our monitoring**

5.19 It is important not only that we receive data from the company, but that we fully understand it. We therefore consider explanatory information from Highways England to be a fundamental requirement of the reporting process, and we expect this to be provided through written explanation as an integral part of regular, published reporting.

5.20 We expect all of the information that Highways England reports to us to be subject to an appropriate level of quality assurance. We will work with the company to understand the current quality of its information and, where required, its plans for improvement.

5.21 To fulfil our role we will need historical, forecast and trend information relating to the following areas:

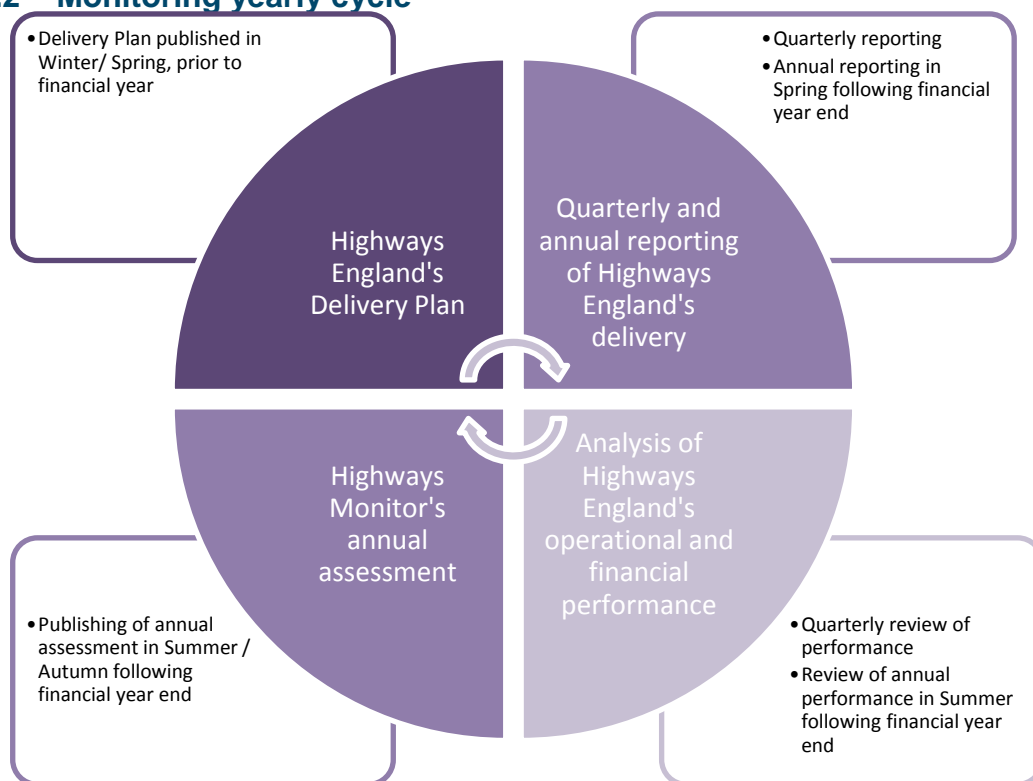
- the operational performance of the company: to assess delivery against the requirements of the RIS, including the metrics set out in the Performance Specification;
- the delivery of the investment programme: to assess progress in delivering the enhancements, maintenance and renewals work set out in the SoFA and Investment Plan;
- the financial performance of the company: to assess delivery of the efficiency requirements set out in the Performance Specification and reflected in the SoFA; and
- the compliance of the company with its licence and managing public money requirements: to provide assurance that the company is acting in compliance with its requirements.

5.22 This information will also be used to inform the advice we will provide to the Secretary of State on the development of the next RIS.

### Step 3: Monitoring and reporting on performance and efficiency

- 5.23 We recognise that we need to set up a clear process for the analysis of performance and efficiency, and for reporting our findings. We propose that this process works as follows.
- 5.24 Highways England's regular data and information submissions will be subject to the review of our analysts and technical experts. This will provide an on-going view of current financial and operational performance, with particular focus on how Highways England is performing against its RIS requirements and licence conditions. This work will feed in to regular Highways Monitor review groups to report on progress and on-going issues, and to highlight emerging issues.
- 5.25 Where we identify (or Highways England alerts us to) a risk of RIS requirements not being met and / or a risk to compliance with licence conditions (for example, the infrastructure not being managed sustainably) then we will consider conducting a 'deep-dive' review of the issue. This review may focus on financial or operational performance and may require review of data which are not routinely reported to the Highways Monitor. Where appropriate, we will use consultants to provide assurance and expert commentary on the information we receive from Highways England or to assist with the deep-dive review.
- 5.26 We plan to report our assessment of Highways England's performance through an annual published report, the Highways Monitor Annual Assessment, which will review the operational performance, financial performance and efficiency of Highways England during the financial year and cumulatively for the Road Period to date, as informed by the company's annual Monitoring Reporting Statements.
- 5.27 During the first year of the Road Period we will consider whether a six month review is appropriate given the evolving nature of the framework. In addition to the regular reporting outlined above, we will undertake and report on ad-hoc investigations as required to address emerging issues and concerns. We will also produce and publish reports that will provide advice for future RISs as detailed later in the document.
- 5.28 The proposed cycle of gathering information, analysing it and reporting is set out in figure 5.2.

**Figure 5.2 – Monitoring yearly cycle**



5.29 In assessing both operational and financial performance it is important to have a clear understanding of the baseline against which performance is being assessed. That means being clear upfront (that is, ideally before the start of the Road Period) about the total level of funding that is available, the assumptions underpinning the funding and the disaggregation of the funding. It also means being clear about what should be delivered with the funding – which will allow more robust monitoring. For RP1 the baselines have been set through:

- the Performance Specification, which sets the operational (and to some extent financial) performance requirements;
- the Investment Plan (including the SoFA), which sets the capital and resource maintenance funding available and names specific projects and funds; and
- Highways England's SBP and first Delivery Plan, which set out milestones for enhancement schemes and further details of Highways England's operational and financial plans.

5.30 During RP1 Highways England will set further baselines for enhancement schemes, and other aspects of operational and financial performance, in its annual Delivery Plan updates.

5.31 Our monitoring will primarily focus on, and hold Highways England to account for, outcomes and outputs rather than inputs. This approach has several advantages, including:

- it focuses Highways England's attention on those high level outputs / outcomes that are of most importance to stakeholders; it also targets our monitoring at those high level outputs / outcomes;
- it allows Highways England to be innovative in the way in which it delivers its requirements and therefore delivers efficiencies – we do not intend to hold Highways England restrictively to the delivery of detailed plans which may become obsolete during the road period; and
- it is a proportionate approach, keeping the burden of additional scrutiny to an appropriate level and is consistent with how other regulatory organisations monitor network companies, e.g. our approach to monitoring Network Rail.

5.32 However, we consider that, in some cases, it may be appropriate to monitor at a more detailed level. For example, as the monitoring framework is developed in RP1 we will seek to understand whether sufficient volumes of maintenance and renewal work are being delivered to manage the network sustainably and in line with asset management best practice (as required by the licence). However, we would not expect to hold Highways England to account for the delivery of those volumes if it has good reasons for its delivery materially diverging from its plans and / or historical trends.

5.33 In assessing all aspects of performance monitoring and enforcement it is important that we apply professional judgement. This must take into account Highways England's explanations for its level of performance. For example, where Highways England does not meet a requirement for reasons that we assess to be wholly outside of its control we would not expect to take enforcement action. And where Highways England does not deliver a requirement but responds proactively to this underperformance in a timely way, by producing and delivering an appropriate improvement plan, we would expect to reflect this in our reporting and consideration of enforcement action. Our proposed approach to enforcement is described in more detail in chapter 6.

## **Analysing operational performance**

5.34 Our monitoring of operational performance will include:

- assessing outturn of the Performance Specification KPIs, PIs and requirements against the targets and projections specified in the Performance Specification,

the SBP and the Delivery Plan; understanding the reasons for variances between actual performance and targets or plans;

- assessing delivery of the projects, programmes and funds specified in the Investment Plan against the milestones, scopes and outputs set out in the SBP, Delivery Plan and annual Delivery Plan updates; understanding the reasons for variances between actual performance and targets or plans, and the reasons for any changes to plans; and
- assessing whether Highways England has met the operational performance requirements of its licence – for example, whether it is adopting a long-term approach to asset management, consistent with the International Standard for asset management (ISO 55000).

## Analysing financial performance

5.35 To understand Highways England's financial performance, including delivery of efficiency and value for money, it is not sufficient to look only at Highways England's expenditure compared to its funding allowance. We also need to consider what Highways England has delivered, as ultimately the reason Highways England spends money is to deliver its required outputs in a safe and sustainable way. That is, our assessment of efficiency will consider whether outputs are being delivered effectively.

5.36 Our role in monitoring financial performance includes:

- assessing Highways England's actual level of expenditure against the funding available, as set out in the SoFA; understanding the reasons for variances between actual expenditure and funding;
- assessing Highways England's actual level of expenditure against its plans as set out in its Delivery Plan and annual Delivery Plan updates; understanding the reasons for variances between actual expenditure and plan; and
- assessing Highways England's operational performance as set out above.

5.37 In carrying out these assessments we will seek to understand the extent to which Highways England has financially outperformed or underperformed the requirements of the RIS and whether it has met its licence conditions. There could be two situations where the company has financially outperformed the RIS: either it delivers its requirements (or more than its requirements if agreed through a change control process) for less than the funding available, or it delivers more than its requirements (if agreed through change control) for the funding available. We would consider that the company has financially underperformed the RIS if it fails to deliver its requirements for the funding available. Figure 5.3 sets out the possible scenarios.



**Figure 5.3 – Financial outperformance and underperformance scenarios**

RIS requirements not delivered	RIS requirements delivered for funds available	RIS requirements delivered for less than funds available
<p>Underperformance:</p> <ul style="list-style-type: none"> <li>Highways England does not deliver its RIS and licence requirements and spends either less than or equal to the funds available</li> <li>Highways Monitor assesses the impact of undelivered requirements</li> </ul>	<p>No outperformance or underperformance:</p> <ul style="list-style-type: none"> <li>Highways England delivers its RIS and licence requirements and spends equal to the funds available</li> </ul>	<p>Outperformance:</p> <ul style="list-style-type: none"> <li>Highways England delivers its RIS and licence requirements and it spends less than the funding available</li> <li>There may be agreement with DfT that the remaining funds available should be used to fund delivery of further outputs</li> </ul>

5.38 One of the aims of our assessment of financial performance is to develop an understanding of whether Highways England is delivering efficiently and delivering value for money. The RIS includes a requirement for Highways England to deliver capital expenditure efficiency of £1.212 billion over RP1. The SoFA assumes that this level of capital expenditure efficiency will be delivered and that a level of efficiency on resource<sup>8</sup> expenditure will also be delivered. We will compare actual efficiency to these assumptions. Our assessment of financial performance is also driven by Highways England's licence which requires it to act in a manner which it considers best calculated to ensure efficiency and value for money.

5.39 In producing the RIS, DfT assessed what the cost of Highways England delivering its requirements would be before efficiencies (i.e. the pre-efficient cost). It also assessed the level of efficiency that Highways England should deliver during the period and what the cost should be of the company delivering its requirements after delivering efficiencies (i.e. it funded Highways England on a post-efficient basis)<sup>9</sup>. Figure 5.4 illustrates the RIS pre-efficient assumption, the post-efficient funding baseline and its assumed level of efficiency. As illustrated in scenario 1 of figure 5.4, where Highways England delivers its requirements (including compliance with its licence conditions) and spends less than the funds available, we would consider underspend to be financial outperformance. In this scenario the efficiency achieved would be the difference between the RIS pre-efficient assumption and the actual expenditure.

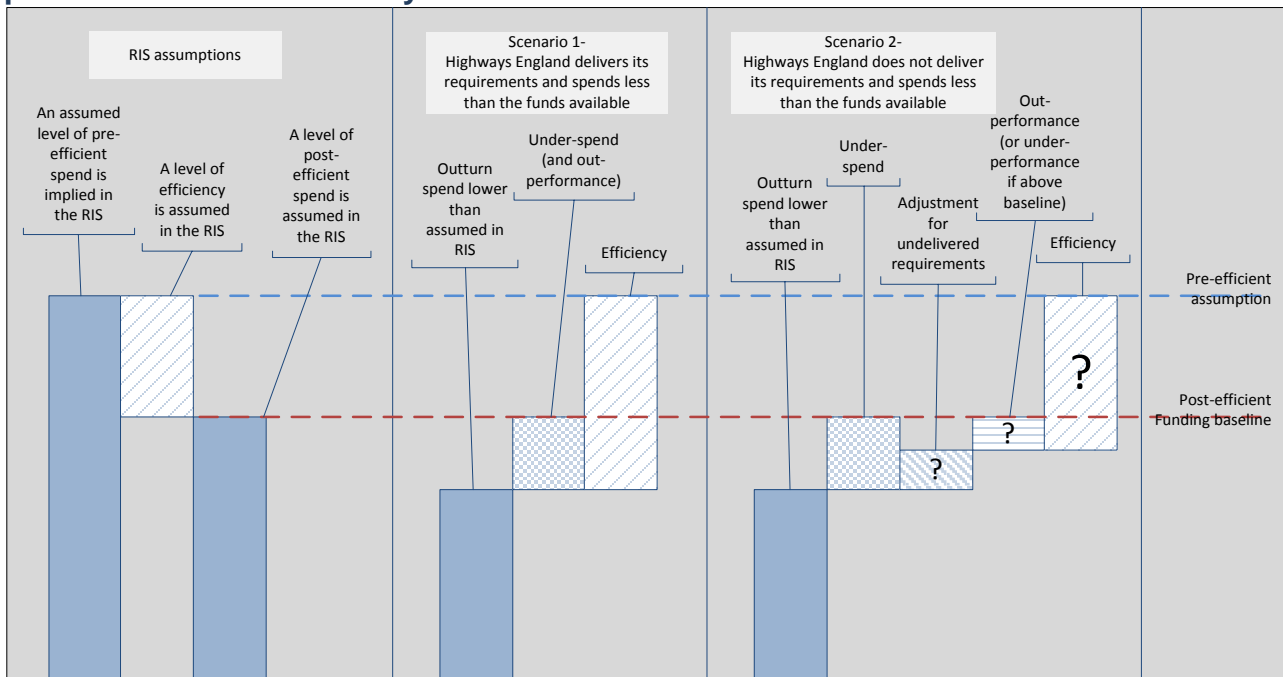
5.40 However, where Highways England does not deliver its requirements, or does not comply with its licence conditions, the assessment of efficiency and financial

<sup>8</sup> Resource spending is money that is spent on day to day resources and administration costs. Capital spending is money that is spent on investment and things that will create growth in the future.

<sup>9</sup> DfT also reviewed Highways England's assumptions on inflation.

outperformance or underperformance is more complicated. Scenario 2 in figure 5.4 considers the situation in which Highways England does not deliver its requirements and spends less than the funds available. In this scenario we consider that we would have to apply our professional judgement to assess whether Highways England has, in the round, delivered its efficiency requirements or not. We would propose to set out the reasons for our assessment in our annual assessment and in our advice to the Secretary of State.

**Figure 5.4 – An illustrative example of how we assess efficiency, financial performance and efficiency**



5.41 We do not propose to set out upfront the rules for determining our final assessment of financial performance or efficiency. This is because we consider that it would not be practical to do so whilst we are in the early stages of establishing the monitoring framework for the following reasons:

- we are about to take over our role and we do not yet have a sufficient understanding of the issues and the way the baselines were calculated;
- the industry’s understanding of the link between performance and expenditure is not sufficiently developed, so to set rules in advance for financial performance adjustments could lead to inappropriate outcomes, e.g. an adjustment could be smaller or bigger than appropriate;
- it is important that we are able to exercise discretion in carrying out our monitoring and enforcement role depending on the context of any issues arising; and

- setting rules for financial performance assessment adjustments might lead to Highways England considering these in how it decides to manage its work.

5.42 There is a range of approaches that can be adopted for assessing efficiency and we are considering how these can be used in our annual assessment. These include:

- comparing actual performance and expenditure to clear performance requirements and efficient expenditure baselines set in advance of the Road Period;
- monitoring costs of delivering units of output and their trends over time;
- comparing actual expenditure to cost estimates at specific stages of scheme development;
- monitoring the management actions that have been taken to deliver more efficiently and the quantification of their effects; and
- benchmarking against other companies to understand relative efficiency.

## **Step 4: Monitoring and reporting on Highways England's action plans**

5.43 With the step change in investment in the SRN, and with funding and performance requirements being set over a five year period, it has become even more important that the Highways England sets out clear longer-term strategies, policies and plans to deliver what is required. The RIS sets out a number of documents that must be produced in RP1 and the licence requires certain plans and policies to be published and kept up-to-date.

5.44 In addition to the RIS and licence requirements, Highways England has committed to producing further strategies and plans in its SBP and Delivery Plan. In some cases these set out the company's action plans in areas where it has identified a need to improve.

5.45 Monitoring and providing transparency about the delivery of these strategies, policies and plans will form an important part of our agenda for RP1 – particularly for areas essential for the delivery of the company's KPIs and efficiency programme.

## **Key challenges**

5.46 During the early stages of developing our monitoring approach we have identified a number of challenges in implementing the monitoring framework. We set these out below.

## Developing Highways England's business management reporting

- Through our engagement with Highways England we have identified that, in certain areas, its current business management reporting needs development to meet the new requirements being placed on it through the package of roads reforms. The data provided to inform the RIS, SBP and the Delivery Plan can be improved in detail and quality to enable the new industry structure to work efficiently and for us to properly carry out our role. In order that Highways England is clear about the information we require to carry out our role and complete our analysis, we have provided it with our aspirations for the data we require and how we will use those data<sup>10</sup>.
- The monitoring role has been established to place a greater level of scrutiny on the company than in the past. The five year funding and performance settlement places new requirements on the company in terms of the robustness of its longer-term planning. The licence conditions which the company must now comply with include requirements which were not previously explicitly set out. These factors mean that there are now some new requirements of Highways England's business management reporting and we will look to reflect these in our monitoring. We are setting out our reporting requirements in our Monitoring Reporting Templates.
- We understand that providing good quality data in the form that we need is a new challenge for Highways England and that it will need to improve its systems and processes to meet our requirements. In order to ensure that the improvement we require will be delivered, we have agreed in principle a data improvement plan with Highways England. We are working on the scope of this improvement plan with Highways England and expect the plan to be agreed in Summer 2015. Before the plan delivers the information we require, we will use the current data that Highways England has.
- For example, the company has identified that it needs to develop its processes for efficiency reporting, to provide evidence that it is meeting the challenges set out in the RIS. It also needs to demonstrate more clearly its approach to asset

---

<sup>10</sup> This is particularly important as our role is not that of an auditor/reviewer who check that processes are working efficiently, instead our role is analytical, which requires good quality data to allow us to develop informed views.

management, and to provide indicators that its approach is sustainable – which may include providing information on its planned and outturn volume of work delivery.

- We will continue to engage Highways England to agree appropriate reporting of its business management information to the monitor.

## Developing clear baselines for enhancement schemes

- One of the key challenges for our monitoring will be establishing clear milestones and expectations with respect to enhancement schemes delivery. The schemes specified in DfT's investment plan are at varying stages of development – from those which are newly identified through feasibility studies to those already in construction. While the Investment Plan committed to starting construction during RP1, it did not fully specify how far delivery should have progressed by the end of the period. This creates a challenge around assessing whether financial outperformance comes from genuine efficiency, or from some elements of the plan being delayed. Highways England's Delivery Plan and yearly updates to this plan will provide further detail, and will serve as a baseline for future reporting.
- For those schemes in early stages of development, there is naturally more uncertainty about delivery schedules and costs. Therefore updates to the Delivery Plan will progressively establish the firm output requirements and baseline costs for these schemes. There will also be a change control process which can adjust outputs if required. Both of these mechanisms need to be properly understood in order to determine whether Highways England is delivering its efficiency target.
- A further complication is that the Investment Plan included over-programming of schemes to mitigate the risk that deferral of work might lead to under-delivery in RP1. This is in line with other infrastructure programmes, but adds significant complexity to our monitoring role as it will be very difficult to distinguish between what is not delivered due to the implications of this approach and what is not delivered due to inefficiencies and deferral. Establishing a baseline for over-programming on an annual basis will be extremely important.
- We will continue to engage DfT and Highways England to establish an agreed process for monitoring delivery of enhancement schemes.

## Developing Highways England's asset management capability

- From our initial engagement with Highways England we understand that it plans to further develop its asset management capability. The company's SBP states that it plans to develop more accurate and timely data systems that will predict how assets perform under both normal and stress conditions, which will provide important inputs into developing a minimum whole life cost approach to managing its assets. Through adopting a more structured approach to the management of its assets, Highways England should be able to deliver its objectives in a more efficient way.
- We understand that there are opportunities for it to: develop its understanding of the condition and degradation of its assets; develop its understanding of a minimum whole life cost approach to managing its assets; set out its asset management policy, asset management strategy and asset intervention strategies; develop its asset information systems; develop its long-term asset management plans; embed best practice asset management in its supply chain through appropriate contracts; and develop the asset management capability of its staff.
- We will continue to develop our understanding of Highways England's asset management capability in the early years of RP1. We will look for the company to set out its plans to deliver improvements in its capability in the key areas identified early in RP1, in time to inform our advice to the Secretary of State on the development of the next RIS.

## Developing an agreed approach to financial performance assessment

- Understanding financial performance will be one of our key challenges. We will provide annual advice to the Secretary of State on how the company is performing financially – including whether it is delivering the efficiencies required by the Performance Specification.
- The financial performance of the company can be complicated by a number of factors, which will require a degree of professional judgement to be applied. First, not all baselines are clearly established as discussed earlier. Second, if baseline deliverables are not met there may be extenuating circumstances that need to be

accounted for. Third, data quality may not be sufficient to establish whether performance and efficiency has been achieved with certainty. Fourth, assessment of whether Highways England is delivering the maintenance and renewal work required to deliver in line with minimum whole life cost (in line with its licence) is likely to require a degree of judgement. Fifth, investment schemes may be accelerated or deferred for many different reasons, all of which need to be understood – for example, there may be planning consent issues, or new information might become available which changes priorities.

- We need to work with DfT and Highways England to establish an appropriate approach to financial performance assessment which meets the needs of stakeholders but also recognises the complicating factors identified above.

## 6. Escalation and enforcement

### Summary

This chapter sets out our proposed approach to escalating our concerns about Highways England's performance, both with the company and with DfT. It also sets out the enforcement action that we may take if issues remain unresolved. We intend to consult on this matter in more detail later this year.

---

#### Step 5: Identifying, escalating and resolving areas of concern

- 6.1 Our highways monitoring role provides assurance to stakeholders about Highways England's management of the SRN. We propose to put in place a robust process for the communication and staged escalation of issues. We want to encourage Highways England to work constructively with us, and our monitoring and enforcement will take account of when issues are proactively flagged by the company.
- 6.2 It is important that we are transparent about any issues that we identify. Where we identify an issue, we propose to proactively engage with the company to resolve it. Where the company does this we will take consideration of it in the way that we take the issue forward. We will seek evidence from the company on the cause of the issue, the management steps it has taken to address the issue, and its action plans to mitigate and resolve it. We may use independent expert consultants to do a deep-dive review if appropriate.
- 6.3 After reviewing the evidence, we will adopt a staged approach to escalating our concerns. This process is intended to provide a clear opportunity for Highways England to implement plans to resolve issues prior to consideration of enforcement action. It also allows us to escalate our concerns to the appropriate level of seniority within Highways England.
- 6.4 We will manage and govern the process of escalation through an internal oversight group, and meetings will be chaired by the Director responsible for highways monitoring or his deputy. The group will maintain a prioritised register of current issues (both operational and financial) relating to Highways England's delivery. This will set out the nature of our concerns, the level of concern, the action we have taken and intend to take and the effect our actions should have. We will inform Highways England of our key concerns following each meeting of the oversight group and will also report them to the Highways Committee and to DfT through quarterly meetings.



6.5 Where issues remain unresolved they will be considered for the next stage of escalation. Ultimately issues may be escalated to the point that they are considered for formal enforcement action.

## Step 6: Enforcement

6.6 The Act provides the Highways Monitor with statutory powers related to enforcement. In simple terms, if we identify that the company has contravened or is contravening its requirements under the RIS or licence, it allows us to provide a notice to the company requiring it to take action or to issue it with a fine. The relevant clause of the Act is set out below.

### Section 11

#### Monitor: compliance and fines

(1) If the Office of Rail Regulation is satisfied that a strategic highways company has contravened or is contravening-

(a) section 3(6) (compliance with the Road Investment Strategy), or

(b) section 6(3) (compliance with directions and regard to guidance),

the Office may take one or more of the steps mentioned in subsection (2).

(2) The Office may-

(a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;

(b) require the company to pay a fine to the Secretary of State.

6.7 In assessing whether Highways England has contravened or is contravening compliance with the RIS we propose to interpret this as assessing whether the company has:

- delivered the KPI targets and requirements set out in the Performance Specification; and
- delivered the major scheme milestones specified in the Investment Plan, the Delivery Plan and annual updates to the Delivery Plan.

6.8 The Statutory Directions and Guidance referred to in the Act include the licence. In assessing whether Highways England has contravened or is contravening compliance with its licence we propose to focus on compliance with the conditions in paragraph 4.2 of its licence, and as further detailed in the subsequent conditions. We will consider compliance with these requirements in the round, informed by the full suite of metrics and information reported by Highways England and by our analysis and assessment of performance.

6.9 We are developing a draft intervention and enforcement policy which sets out how we will carry out our enforcement role and will consult on this later this year. Our policy will reflect guidance issued by the Secretary of State and HM Treasury as to the circumstances in which payment of a fine should be required<sup>11</sup>.

---

<sup>11</sup> Guidance issued by the Secretary of State and HM Treasury:  
<https://www.gov.uk/government/publications/roads-reform-monitor-statutory-guidance>

# 7. Informing future Road Investment Strategies

## Summary

This chapter describes our initial work on how we propose to fulfil our role in providing advice to the Secretary of State to support the setting of future RISs.

---

## Reviewing performance in the first Road Period

7.1 To carry out the requirements of our role, we must provide advice to the Secretary of State to inform the setting of future RIS objectives and funding. A key input to this advice will be our assessment of Highways England's performance in RP1, which will inform our understanding of:

- the baseline costs and performance for Road Period 2 (RP2);
- the link between expenditure and performance delivery to ensure that funding is consistent with the required outputs;
- potential future trajectories of costs and performance, based on analysis of historical trends;
- how Highways England's management of the SRN compares to best practice;
- Highways England's asset management capability, including its strategic business planning;
- Highways England's unit costs;
- the extent to which Highways England has control over its performance; and
- the extent to which future performance targets are deliverable and challenging within the constraints of the funds available.

7.2 We want Highways England's increased reporting requirements in RP1 to lead to improved transparency of industry costs and performance. Highways England's data improvement plan should lead to the development of a more robust reporting framework being established for RP2. We will review the data improvement plan and monitor its delivery.

7.3 During the period, Highways England's reporting and our monitoring of its operational and financial performance should lead to insights about the factors that drive performance and efficiency, the challenges that the industry faces and the opportunities for improvement. In providing our advice to the Secretary of State we will conduct a comprehensive review of our performance assessments during RP1 and use this to inform our recommendations for RP2. We will also draw on our

engagement with Transport Focus on road user views, outlined previously, in developing our advice.

## Benchmarking

- 7.4 Our advice on future RISs can be informed not only by looking at Highways England's costs and performance, but also by comparing it to best practice seen elsewhere. Benchmarking is used extensively in regulatory regimes and in industry more widely. It has the potential to provide valuable insight to inform our analysis of efficiency gains and potential for future efficiencies. It is also a tool which Highways England can use in developing its understanding of best practice, its efficiency opportunities and the performance of its suppliers.
- 7.5 There is a range of approaches that can be used to carry out comparative analysis. For example, benchmarking might be conducted using different sets of comparators such as:
- business units within a company;
  - comparators from other industries;
  - national comparators, such as other road infrastructure managers; and
  - international comparators.
- 7.6 Benchmarking might also be based on different techniques. Top-down, econometric benchmarking uses statistical techniques to provide high-level comparative analysis of a company's cost of delivering outputs. Typically these analyses seek to identify the best performing, or frontier, of a set of comparative organisations and estimate the efficiency gap to the frontier (or an adjusted frontier).
- 7.7 An alternative to using top-down econometric analysis is to carry out bottom-up benchmarking. This might look at unit costs of specific work items, or the best practice approaches to conducting specific types of work. This analysis can be used to inform the range of opportunities for improvement and the potential for efficiency gains. Bottom-up benchmarking can also be used to compare management approaches (such as asset management practice) or to understand specific elements of outturn costs (such as cost of materials, or project management costs).
- 7.8 During the development of the first RIS, DfT and the Highways Agency commissioned some research into previous benchmarking work, and some new analysis to inform the RIS efficiency assumptions. This work included:
- Top-down assessments:

- analysis of historical real unit operating, maintenance and renewal expenditure reductions made by other infrastructure companies; examining the profile of these trends and assessing the Highways Agency's likely point on the profile;
  - analysis of the historical productivity of comparable sectors of the UK economy, to provide an indication of the rate of change in efficiency from technological progress or frontier shift;
  - a review of efficiency targets set by regulators in other sectors; and
  - a review of historical rates of efficiency improvement achieved by the Highways Agency.
- Bottom-up assessments:
- a desktop review to compile efficiency evidence from previous studies;
  - assessment of the Highways Agency's existing contracts with the supply chain; and
  - a review of bottom-up cost projections, including a sample of major projects which were reviewed for: project selection and project control; proposed levels and sources of efficiency; project cost estimates, focusing on treatment of risk and uncertainty.

7.9 The analysis carried out was used by DfT to inform the first RIS, and in particular the SoFA, the efficiency KPI in the Performance Specification and the scale of the Investment Plan requirements. We will build on this work as we develop our approach to benchmarking.

7.10 We have reviewed the range of benchmarking techniques used in other monitoring/regulatory regimes. For those industries where there is horizontal separation of network management (such as in electricity distribution and water and sewerage services) benchmarking tends to focus on comparison of companies nationally, with extensive use of both top-down benchmarking techniques and bottom-up unit cost analysis. Where there is a national monopoly, such as in the provision of rail infrastructure, benchmarking tends to focus on international comparison, with use of both top-down benchmarking and bottom-up unit cost and practice analysis. However, Network Rail's devolution to operating routes is opening up new sources of comparisons.

7.11 No single approach to benchmarking can provide a definitive view of a company's delivered efficiencies, or scope for future efficiencies. In other industries a range of approaches is used reflecting the availability of comparable data, the industry structure and the need to draw on a range of evidence.

7.12 We are likely to draw on a range of benchmarking techniques. Our initial investigation will consider benchmarking of:

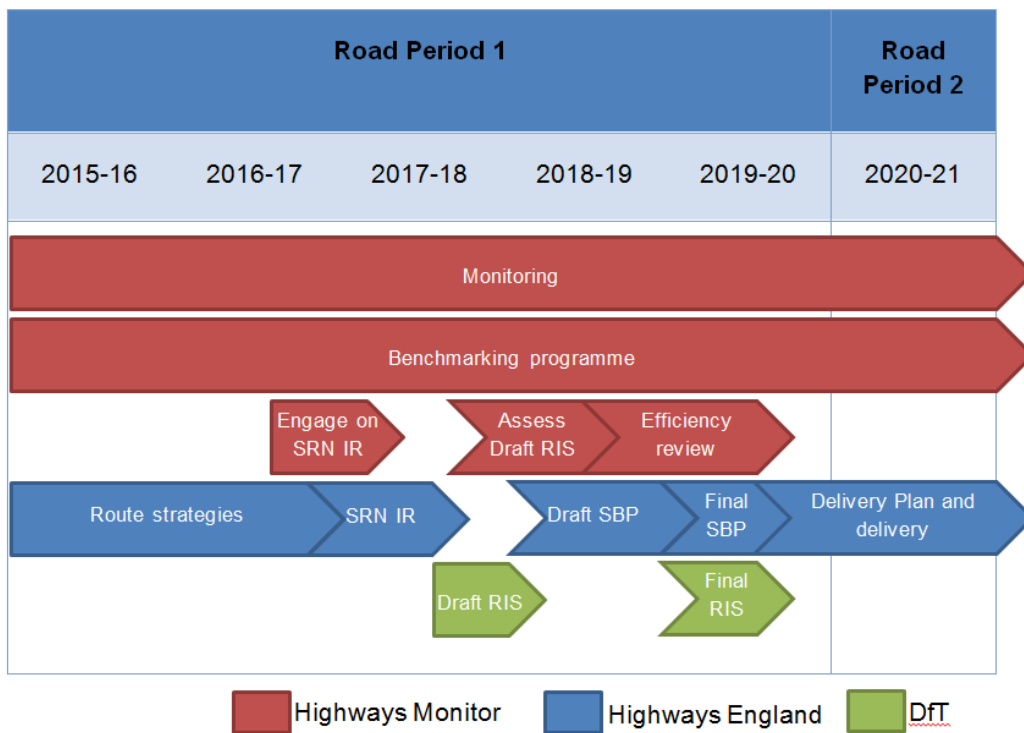
- units within Highways England which adopt different management approaches, which may include different geographical locations;
- specific functions within Highways England (e.g. its information technology function) with comparators from other industries;
- Highways England with other UK road infrastructure managers (such as local authorities, Transport Scotland, NI Transport, the Welsh Assembly); and
- Highways England with international road infrastructure managers.

7.13 We will investigate the use of both top-down and bottom-up approaches to benchmarking and will engage Highways England and other stakeholders in developing our approach.

## Future RIS timetable

7.14 Our monitoring and benchmarking work in RP1 must be programmed to fit with the timetable for developing RIS2. The timetable for the development of RIS2 is to be confirmed, but an indicative timeline is set out below.

**Figure 7.1 – Timetable for RIS2**



## 8. Next Steps

### Summary

This chapter sets out our initial work plan. We are consulting on the following question:

Question 6: Is there specific information relating to Highways England which is not currently in the public domain which you think should be prioritised for publication?

---

### Our initial work plan

8.1 During the first year of RP1 we will continue to progress work to improve our understanding of the roads industry, Highways England and its management reporting. We will draw on this work in our on-going development of the monitoring and enforcement framework and our policies. We will need to prioritise our work carefully because it will take time to develop our understanding and capability to fulfil our new role. We identify some of the areas of focus for our initial work plan below.

### Stakeholder engagement

8.2 As we develop our role as the Highways Monitor we want to continue to engage stakeholders - to learn from them and to help shape our role. Following the conclusion of this consultation on 19 June 2015 we will take account of responses in setting out our plans and refining our future workstreams.

### Developing our highways monitoring capability

8.3 During the first year of RP1 we will focus on further developing our highways monitoring team. In particular, we will be recruiting to expand our highways engineering team. We are adopting a staged approach to recruitment to ensure that we resource to an appropriate level as we learn more about the role during the first year. We expect to be fully staffed by the end of the financial year.

### Developing our highways monitoring role

8.4 In our initial monitoring work we will focus on the basics – making sure that Highways England is reporting appropriate information for us to carry out our role, and conducting analysis of operational and financial performance. We will carry out our first assessment of Highways England's performance later this year and report on the company's initial progress.

- 8.5 We propose that our initial work plan focuses on the key challenges identified earlier in the document:
- developing clear baselines for enhancement schemes;
  - developing Highways England's business management reporting;
  - developing Highways England's asset management capability; and
  - developing an agreed approach to financial performance assessment.
- 8.6 A key aspect of our role will be to understand the quality of information that is reported. During the first year of RP1 we will engage Highways England to understand the quality of its management information and, if necessary, develop any further steps required to ensure sufficient data quality.
- 8.7 In order to ensure that the improvement in the quality of information will be delivered, we will agree a data improvement plan with Highways England. We are working on the scope of this improvement plan with Highways England and expect it to be produced in Summer 2015. We will report on progress against this improvement plan in our first assessment.
- 8.8 Based on responses to this consultation and our initial findings in the early stages of RP1 we will formulate our plan for increasing the transparency of the network's performance and efficiency.

## **Developing our intervention and enforcement policy**

- 8.9 We are currently developing our intervention and enforcement policy and will take guidance from the Secretary of State and HM Treasury into account. It is important that we set out our policy early in RP1 and we will consult on it in Summer 2015.

## **Developing our benchmarking programme**

- 8.10 We plan to develop our approach to benchmarking during the first year. We do not yet have a clear plan for the approach that we will adopt and expect to carry out some initial research on the data that is available and its potential for use in benchmarking. We will publish our plans to develop our benchmarking programme by March 2016 and the programme will be planned to deliver results in time to inform our advice to the Secretary of State on the next RIS.



## Responses

8.11 We are keen to hear the views of all of our stakeholders through this consultation. We have an engagement programme associated with this consultation and welcome opportunities to meet with stakeholders through individual meetings and / or presentation and discussion sessions during the consultation period.

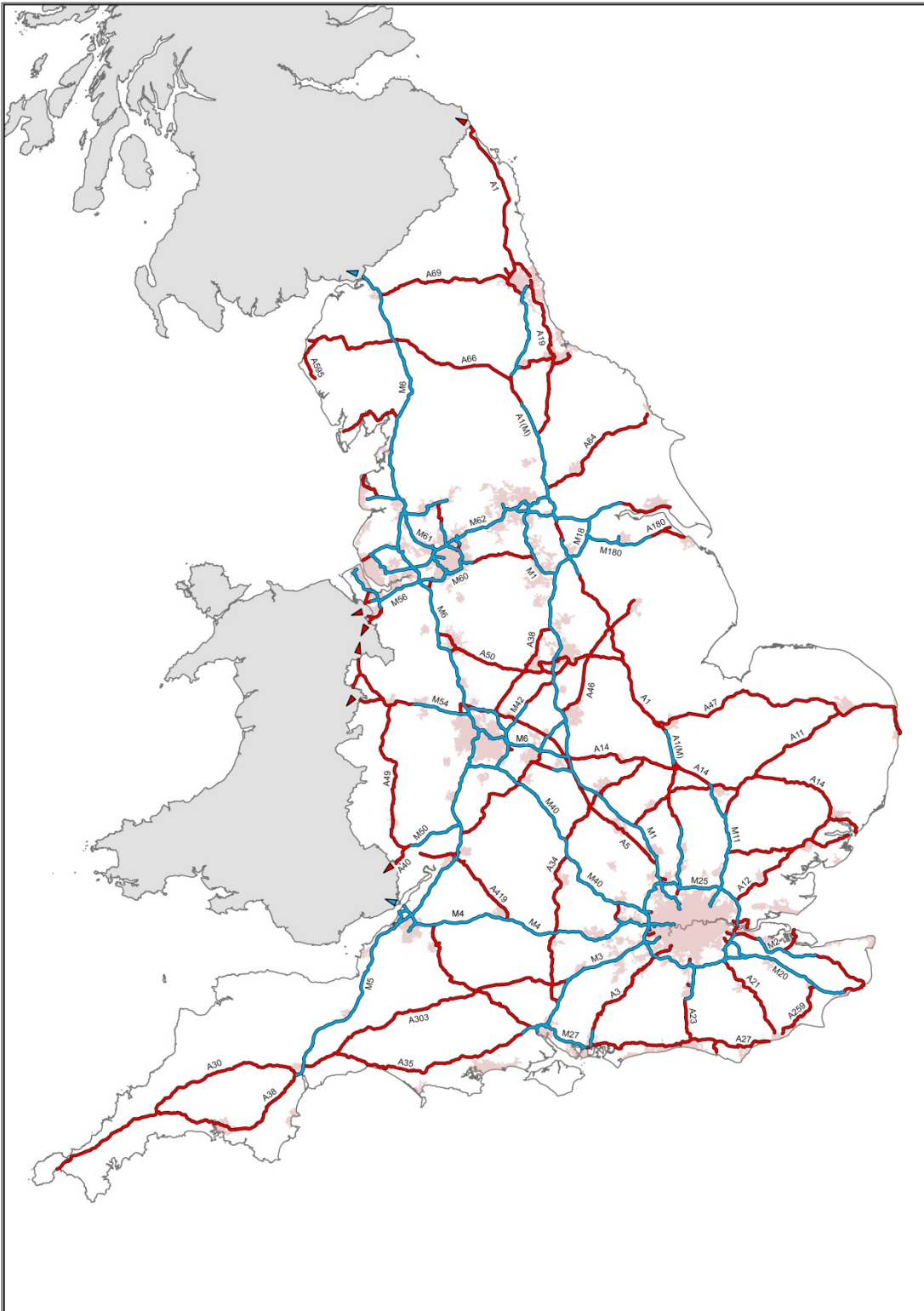
### Stakeholder Workshop

8.12 We will be holding a stakeholder workshop event during the consultation period to discuss this consultation. If you would like further information or would like to attend this workshop please contact the team at: [highwaysmonitor@orr.gsi.gov.uk](mailto:highwaysmonitor@orr.gsi.gov.uk), or telephone: 020 7282 2166.

8.13 This consultation commences on Thursday 26 March 2015 and the final date for responses is 16:00 on Friday 19 June 2015.

8.14 Following the conclusion of the consultation period we will analyse responses and review our proposals for monitoring in light of them. We intend to publish our conclusions later this year.

# Annex A – The Strategic Road Network



# Annex B – List of road reform documentation

## DfT

- Infrastructure Act 2015: <http://services.parliament.uk/bills/2014-15/infrastructure.html>
- Road Investment Strategy: <https://www.gov.uk/government/collections/road-investment-strategy>
  - Overview: <https://www.gov.uk/government/publications/road-investment-strategy-overview>
  - Vision : <https://www.gov.uk/government/publications/road-investment-strategy-strategic-vision>
  - Performance specification: <https://www.gov.uk/government/publications/road-investment-strategy-performance-specification>
  - Investment Plan: <https://www.gov.uk/government/publications/road-investment-strategy-investment-plan>
- Licence: <https://www.gov.uk/government/publications/strategic-highways-company-licence>
- Framework document between DfT and Highways England
- Memorandum of Understanding between the Highways Monitor and the Department for Transport: <https://www.gov.uk/government/publications/roads-reform-monitor-statutory-guidance>
- Statutory guidance to the Highways Monitor and Office of Rail Regulation: <https://www.gov.uk/government/publications/roads-reform-monitor-statutory-guidance>

## Highways England

- Strategic Business Plan - <https://www.gov.uk/government/publications/highways-england-strategic-business-plan-2015-to-2020>
- Delivery Plan
- Operations Metrics Manual – to be published

## Highways Monitor

- Monitoring Reporting Guidelines – to be published
- Monitoring Reporting Templates – to be published

- Intervention and Enforcement Policy – to be published

# Annex C – Summary of Highways England’s licence and of the ORR / DfT Memorandum of Understanding

## Highways England’s licence

1. The Secretary of State for Transport has set out statutory directions and guidance to Highways England in the form of a licence. The licence requires Highways England to act in a manner which it considers best calculated to:
  - a) ensure the effective operation of the network;
  - b) ensure the maintenance, resilience, renewal, and replacement of the network;
  - c) ensure the improvement, enhancement and long-term development of the network;
  - d) ensure efficiency and value for money;
  - e) protect and improve the safety of the network;
  - f) cooperate with other persons or organisations for the purposes of coordinating day-to-day operations and long-term planning;
  - g) minimise the environmental impacts of operating, maintaining and improving its network and seek to enhance the quality of the surrounding environment;
  - h) conform to the principles of sustainable development.
2. The licence also sets out conditions with respect to the RIS, provision of data, enforcement and revocation.

## Highways Monitor’s role as further defined in the Memorandum of Understanding

3. ORR and DfT have developed and signed a Memorandum of Understanding (MoU), which sets out further agreement on the nature of the relationship and the ways in which the parties will interact. The monitoring activities that Highways Monitor is required to carry out have been clarified in the MoU using nine categories:
  1. Monitoring performance and efficiency of the Company against the objectives and targets set in the different parts of the RIS;

2. Providing advice to support the setting of the RIS, including advice to confirm that the developing proposition remains deliverable and challenging;
3. Monitoring the Company's compliance with its statutory directions and regard to guidance;
4. Benchmarking the Company's performance and efficiency against comparable organisations in other countries or other sectors;
5. Assessing the Company's continued compliance with the assurance arrangements in sections 7.2 to 7.8 of the framework document and delegations letter, and advising whether outstanding requirements have been met;
6. Undertaking enforcement action;
7. Providing advice to the Secretary of State on the activities listed above, and on any other topics where he requests advice that are linked to the Monitor's duties;
8. Carrying out further investigations that the Monitor believes to be justified; and
9. Assuring its own work to ensure its advice and decisions are of high quality.

# Annex D: The Infrastructure Act – sections relating to the scope of the Highways Monitor role

## 10 Monitor

1. The Office of Rail Regulation must carry out activities to monitor how a strategic highways company exercises its functions.
2. Those activities may include investigating, publishing reports or giving advice to the Secretary of State on —
  - a) whether, how and at what cost a strategic highways company has achieved its objectives under a Road Investment Strategy,
  - b) objectives for a future Road Investment Strategy, and
  - c) the effect of directions and guidance given by the Secretary of State to a strategic highways company under this Part.
3. The Office may direct a strategic highways company to provide such information as the Office considers necessary for the purpose of carrying out activities under subsection (1).
4. A direction under subsection (3) may specify the form and manner in which the information is to be provided.
5. A direction under subsection (3) may not require —
  - a) production of a document which the strategic highways company could not be compelled to produce in civil proceedings, or
  - b) provision of information which the company could not be compelled to give in evidence in such proceedings.
6. The strategic highways company must comply with a direction under subsection (3).
7. The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Office under this section.
8. The Secretary of State must lay a report published by the Office under this section before Parliament.
9. In Part 2 (Office of Rail Regulation) of the Railways and Transport Safety Act 2003, after section 15 insert —

“15A Change of name

(1) The Secretary of State may by regulations make provision for the body established by section 15 to be known by a different name.

(2) Regulations under this section may amend this Act or any other enactment, whenever passed or made.

(3) Regulations under this section are to be made by statutory instrument.

(4) A statutory instrument which contains regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

## **11 Monitor: compliance and fines**

1. If the Office of Rail Regulation is satisfied that a strategic highways company has contravened or is contravening —

- a) section 3(6) (compliance with the Road Investment Strategy), or
- b) section 6(3) (compliance with directions and regard to guidance),

the Office may take one or more of the steps mentioned in subsection (2).

2. The Office may —

- a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;
- b) require the company to pay a fine to the Secretary of State.

## **12 Monitor: general duties**

1. The Office of Rail Regulation must exercise its functions under sections 10 and 11 in the way that it considers most likely to promote —

- a) the performance, and
- b) the efficiency,

of the strategic highways company.

2. The Office must also, in exercising those functions, have regard to —

- a) the interests of users of highways,
- b) the safety of users of highways,
- c) the economic impact of the way in which the strategic highways company achieves its objectives,



- d) the environmental impact of the way in which the strategic highways company achieves its objectives,
- e) the long-term maintenance and management of highways, and
- f) the principles in subsection (3).

3. The principles are that —

- a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and
- b) regulatory activities should be targeted only at cases in which action is needed.

### **13 Monitor: guidance**

1. The Secretary of State may from time to time give the Office of Rail Regulation guidance as to the manner in which it is to carry out its activities under section 10.
2. The Secretary of State and the Treasury, acting jointly, must give the Office guidance as to the circumstances in which the payment of a fine under section 11 should be required.
3. The Office must have regard to guidance given to it under this section.
4. Guidance under this section must be published by the Secretary of State in such manner as he or she considers appropriate.



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](http://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [orr.gov.uk](http://orr.gov.uk)

Any enquiries regarding this publication should be sent to us at [orr.gov.uk](http://orr.gov.uk)