Annual report of health and safety on Britain's railways 2023 to 2024

Our health and safety policy, strategy and statutory work

In the year to March 2024, we continued to develop, improve and promote the regulatory framework for railway health and safety and to improve our supporting processes. We also delivered a range of statutory work through health and safety permissions and approvals. We continued this year to invest heavily in the future by recruiting three cohorts of trainee inspectors and inspector assistants and strengthening our continuous professional development of qualified staff.

Improving legislation, guidance and processes for train driving licences

The Train Driving Licences and Certificates Regulations 2010 (TDLCR) transposed a European Directive that created an EU wide system of train driver licensing and certification based on common requirements.

The original objectives of TDLCR were to make it easier for cross-border rail services to operate; to create a more flexible job market for train drivers; to introduce consistent standards for train drivers across Europe; and to increase public confidence in the rail system through the requirement for certain groups of train drivers to hold a licence. There are currently around 23,000 licensed train drivers in Great Britain.

TDLCR are subject to a post implementation review (PIR) every 5 years to assess whether the regulations remain fit for purpose and are achieving their original objectives. Last year, we carried forward recommendations from the latest post implementation review of TDLCR which was reported in May 2023 and evidenced a case for change. Working closely with the Department for Transport, we have explored options for improving the efficiency of the licensing regime with a focus on reducing the prescription in legislation and increasing the flexibility to allow the continuous improvement and updating of requirements e.g. for medical fitness and driver training.

This has involved close working with stakeholders to explore the options for reform, with a view to utilising the opportunities to change the law afforded by the Retained EU Law (Revocation and Reform) Act 2023. The first output from this work is a consultation on lowering the minimum age for drivers (May 2024). Our work on options for further reform will feed into a second round of consultation later in 2024/25.

We also published revised guidance on making an appeal to ORR against a decision by an operator concerning a train driving certificate. We collaborated with DfT to ensure they published their revised guidance on appeals against decisions made by ORR concerning train driving licences at the same time. Both documents reflect lessons learned from ten years' experience of operating the train driving licensing regime.

Case study 7: New Train Driving Licences Portal

Through excellent collaboration with train operators and our external contractors, we moved closer to full roll out of our new, improved web-based portal to support the efficient processing of new train driving licences, renewals, and updates to licence details.

We listened to operators' views about improving functionality and reducing unnecessary administrative burdens when we designed the new portal and - whilst it has taken longer than expected to build, test and re-test - we have been able to roll it out to the vast majority of operators for them to start using.

Representatives from the train and freight operating companies engaged fully with helping us test the system and then during the training sessions we provided. After his session and receiving access to it, Richard Farish, Operations Standards Manager at LNER, commented:

“Suffice to say, my Christmases have come early.... regaining access to [a portal] in its new fresh, format makes life so much easier for us.”

Other policy developments and improvements

EU-derived law and regulation

At the start of the year, we devoted significant time and resource to working with DfT and the Health and Safety Executive (HSE) to understand and prepare to implement the requirements of the Retained EU Law (Revocation and Reform) Bill as it progressed through the parliamentary stages (it became an Act in June 2023). We worked hard to clarify potential impacts on rail health and safety legislation to ensure there were no unintended consequences to health and safety legislation. Whilst the original scope of reform was scaled back, we still looked to utilise the genuine opportunities afforded by the Act to work with stakeholders to see where improvements to legislation might be helpful, including revoking some redundant legislation.

We worked closely with DfT to make legislative change and update Guidance for Entities in Charge of Maintenance in Great Britain to reflect the fact that EU-issued certificates for entities in charge of maintenance (ECM) would no longer be recognised for domestic-use freight wagons from 30 June 2023. The updated guidance also clarified when a rail journey is treated as an international journey.

The Intergovernmental Commission (IGC) is the current National Safety Authority (NSA) for the UK half of the Channel Tunnel – the “Channel Fixed Link.” The IGC was previously the NSA for the whole of the Channel Fixed Link. However, since 1 January 2021, and following the UK’s withdrawal from the European Union (EU), L'Etablissement Public de Sécurité Ferroviaire (EPSF), the French safety regulator, has been the NSA for the French half of the Channel Fixed Link. We are supporting the Department for Transport (DfT) and their French Ministry counterparts to develop new bi-national legislation for the Channel Tunnel that will reflect the regulatory environment following the UK’s withdrawal from the EU. Once that new legislation comes into force (currently anticipated in 2025), the NSA responsibilities for the UK half of the Channel Fixed Link will transfer from the IGC to ORR.

Improving our guidance

We consulted on draft guidance which explained the application of The Railway Safety Regulations 1999 (RSR99) to train protection systems. The guidance aimed to provide clarity on the interpretation of RSR99 in relation to train protection systems, including how we expect duty holders to manage the migration towards automatic train protection systems, and how other legal requirements relevant to train protection systems apply. The intention was to support innovation and safety improvement by making the regulatory requirements more explicit and easier to understand. Engagement with stakeholders was positive, with helpful feedback provided, enabling us to publish the guidance in May 2024.

We also consulted on draft guidance which reviewed and updated our existing guidance on Managing Rail Staff Fatigue. The guidance aims to set out a management systems approach and to bring clarity to the legal requirements and expectations around managing the risks arising from fatigue. This guidance is scheduled to be published in summer 2024.

Asbestos-related exemption

We conducted a stakeholder survey to help determine whether we should issue a further exemption certificate to authorise the placing onto the market of railway vehicles, and components for use in railway vehicles, which contain asbestos and which were in service or installed before 1 January 2005. In December 2023, we issued our third general exemption certificate – with detailed conditions to meet - which allows the controlled sale, lease or loan of second-hand railway vehicles and components which contain asbestos. The exemption covers all railway systems for which we are normally the enforcing authority and, as with the previous exemptions issued in 2014 and 2019, we will continue to monitor compliance with it.

Reviewing our frameworks and processes

We carried out some work to research and review the relationship between health and safety requirements and our interoperability authorisations for railway infrastructure and vehicles. This looked at the legal framework for interoperability and the roles of ORR and other parties in various assurance processes, including the application of relevant standards. We are using this work to inform further thinking on whether there is scope for improvements. On standards related work we supported RSSB and DfT on the review of National Technical Specification Notices (NTSNs) and will continue to provide advice as this progresses. We also reviewed proposals for

updating RSSB's Railway Standards Code and gave our approval to the new code which was published in January 2024.

We improved our internal processes through the development of a new inspection report template, a new manual and suite of forms for ROGS assessment and a new approach to our Strategic Risk Chapters. RSD colleagues have also been heavily involved in the development and implementation of a new ORR wide case management system.

We have recently initiated a programme of work to review how the costs and benefits of safety interventions are assessed by Network Rail and train operators. We want to understand how and when cost estimates are compiled for safety initiatives, as part of robust project development and management arrangements, and whether reasonable practicability is systematically tested. Our intention is that by working closely with stakeholders we can establish learning points for the rail industry to deliver best practice in assessing the costs and benefits of safety related decision making.

Working with other regulators, safety authorities, and industry bodies to share best practice and aid continuous improvement

Our international engagement

At the beginning of the year, we revised our approach to international related engagement to reflect the post-Brexit and post-Covid environment as well as the related priorities of wider Government departments. This allows us to prioritise engagement and maximise the benefits for both ORR and the wider GB rail industry. Throughout the year we continued to receive requests for engagement from a wide range of international stakeholders, with an increasing amount of these coming via DfT and the Department for Business and Trade (DBT), both of whom have dedicated international rail teams. We provided input and support to several inward delegations hosted by DfT and DBT, where our role and knowledge sharing as the independent health and safety regulator was invaluable.

We rejoined the National Safety Authority (NSA) Network with observer status after being invited back by the European Union Agency for Railways (ERA) late last year. During the past year we

attended NSA Network related meetings and participated in various subgroups and forums, allowing us to stay informed about developments at the EU level. This is particularly important for how we regulate the Channel Tunnel and also represents important learning for domestic railway legislation, policies, and approaches.

We maintained strong relationships with other railway safety authorities and undertook bilateral engagement with several counterparts to share learning and best practices. We continued to work closely with our European counterparts via the International Liaison Group of Government Railway Inspectorates (ILGGRI), which we provide the secretariat for. The forum continues to be a valuable space for sharing knowledge, learning and best practice on a wide range of health and safety topics.

Our external health and safety committee

We chaired three meetings of the Railway Industry Health and Safety Advisory Committee (RIHSAC), which brings together representatives of employers, employees, passengers, and government bodies to offer advice and challenge to ORR's Board on health and safety matters. The range of topics discussed included the annual health and safety reports published by ORR, RSSB and RAIB; an update on ORR's work on safety by design; an overview of Rail Partners' work on depot safety and the depot conference; a review of the Rail Wellbeing Alliance (RWA) and ORR's health priorities; mental health risk management / including prevention (for both industry and passengers); RSSB's tools on health and mental health risk management; and tram safety – update on developments since the Sandilands incident.

Our engagement and collaboration with other regulators

We maintained a regular dialogue with HSE colleagues as co-regulators and reviewed and produced reports on how the inter-agency agreements between us (covering safety by design and road vehicle incursion related activity and enforcement) were working. We concludedthat both agreements remained appropriate as drafted and were working as intended to support our regulatory work.

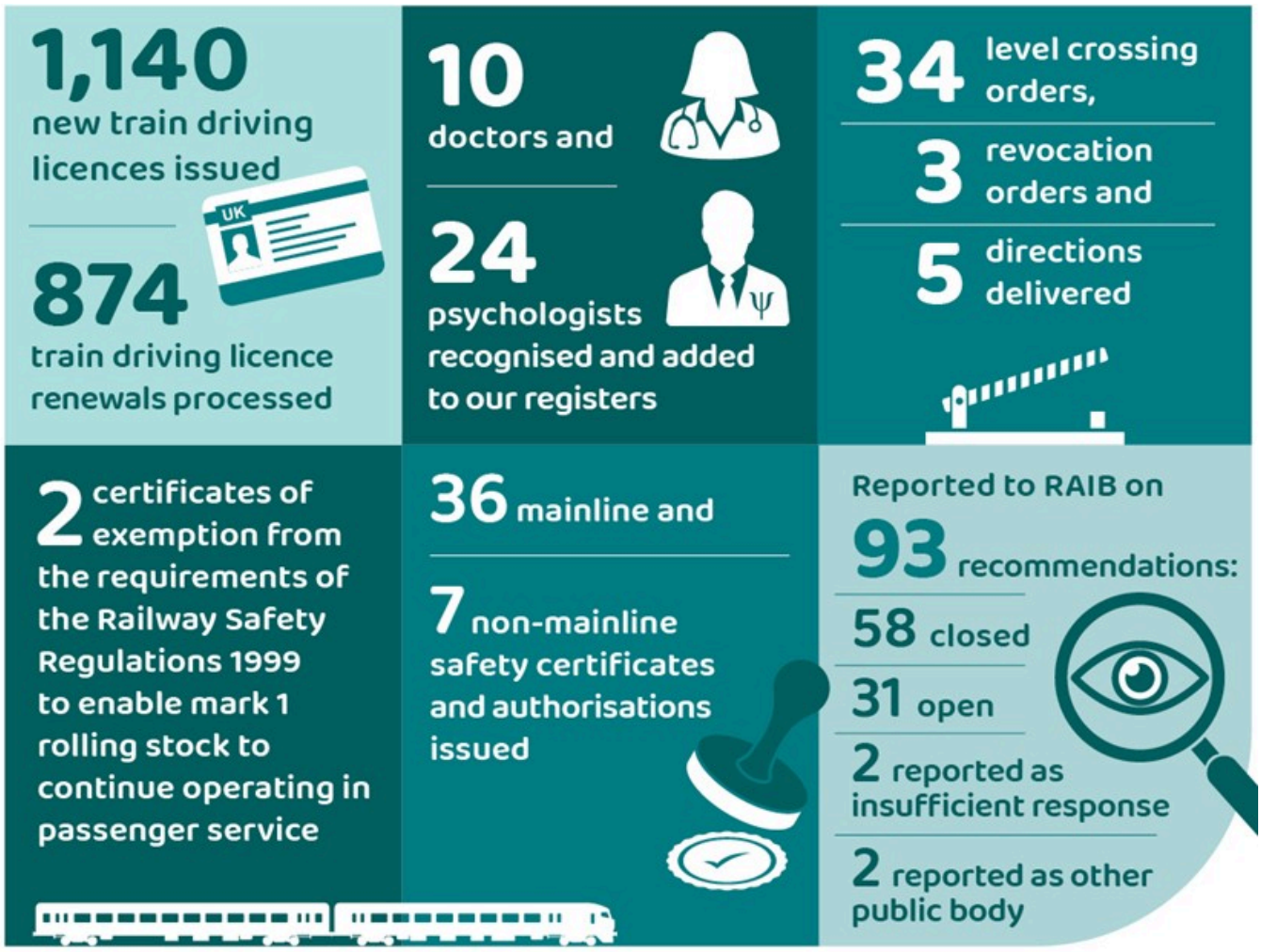
We remained an active participant in the UK Health and Safety Regulators' Network (UKHSRN) (a group of senior health, safety and environmental regulators that share information and best practice) and its Innovation Subgroup set up to support the government's growth and net zero strategic objectives. We chaired the UKHSRN Innovation Subgroup quarterly meetings with expert guest speakers and hosted two workshops on approaches to regulating innovation and regulating

artificial intelligence.

Delivering a range of statutory work

We grant a range of health and safety permissions and approvals, and in some cases, we have statutory deadlines to meet for processing requests and issuing our decisions. This work is important because it helps provide an effective framework for railway safety.

This infographic shows the range of work we undertook in 2023 to 2024.



- ← Previous Heritage and minor railways
- → Next Our enforcement activities