Annual Report and Accounts 2023 to 2024

Strategic objective 1: A safer railway

ORR is the health and safety regulator for all of Britain's rail industry. Our strategic objective is to enforce the law and ensure that the industry delivers continuous improvement in the health and safety of passengers, the workforce and public, by achieving excellence in health and safety culture, management and risk control.

In July 2023 we published our annual health and safety report, assessing progress across all the sectors that ORR regulates, with a positive response. The report acknowledged the considerable challenges faced by the industry but recognised Great Britain's railways consistently perform as one of the safest in Europe. The inclusion of more case studies was particularly well-received; this and our decision to launch the report at our 'A Year in Rail' event helped us get our messages across in a more accessible way to a wider range of stakeholders beyond health and safety professionals, meaning greater understanding of how health and safety reads across to other areas of operation.

Network Rail and mainline operators

During the year we scrutinised Network Rail's strategic business plan, as part of the 2023 periodic review, to ensure it contained clear health and safety aims and objectives and provided detail on how risks would be managed and legal compliance ensured. We agreed a programme in Network Rail's delivery plan to run a safe railway for the next five years, and we will be monitoring progress and compliance.

The occupational health, safety and welfare of the railway workforce remained a priority, with a focus on a number of areas. Significant activity looked at the arrangements in place to manage and control rail workers' exposure to welding fumes. We brought in a new legionella inspection

project, to secure compliance with relevant legislation and provide training opportunities for our new inspectors. In preparation for the expiry in late 2023 of the exemption to the regulation that prohibits asbestos supply and use (REACH), we conducted a stakeholder survey and subsequently agreed to a five-year extension to the exemption, which authorises placing onto the market railway vehicles (and their components) that contain asbestos but were in service or installed before 1 January 2005. ORR will monitor compliance with the exemption and its conditions.

We also monitored track worker safety and the roll-out of protection and warning technology, following the previous enforcement notices, and were pleased to see continued embedding of improvements, although with challenges remaining around the integrity of line blockages. On rail employees' welfare, we continued to engage with the Rail Wellbeing Alliance (RWA) and, along with other organisations, sponsored its annual Wellbeing Live event, which was very well-attended, including by frontline workers.

During the year we supported the Department for Transport (DfT) and the Health and Safety Executive (HSE) in their process to review EU-derived health and safety legislation, as part of the Retained EU Law (Revocation and Reform) Bill (REUL). While original reform proposals were scaled back, this provided a good opportunity to identify potential improvements to railway health and safety legislation. Following publication of the report on our post-implementation review of the Train Driving Licences and Certificates Regulation 2010, we worked with DfT and other stakeholders to take forward the review's recommendations. This focused on a proposal to change the minimum age of train drivers from 20 to 18 and we are supporting the government's consultation process, with the ambition to make more substantial changes in a second iteration of the legislation, using REUL powers.

As part of our important role of overseeing health and safety during periods of change on the railways, we engaged with the government on its proposals for rail reform and the planned creation of Great British Railways (GBR). We seconded people onto the GBR transition team and led the safety working group of the rail transformation programme. This has enabled us to provide support on safety assurance matters as the programme developed and to anticipate what comes next. Looking at other significant organisational change programmes in the industry, we completed our first phase of examining Network Rail's new modernising maintenance arrangements, which showed that these could secure the necessary maintenance outputs over time. We will continue to monitor embedding of the arrangements, particularly performance against KPIs and learning from post-implementation reviews.

With extreme weather events increasing in frequency and severity, we have continued to focus on impacts on earthworks and drainage management on the railway. We monitored the work of Network Rail's weather risk task force, in particular its delivery of action plans arising from the Mair and Slingo expert reviews, to ensure that progress is made. This has included scrutiny of actions taken in each region and, specifically, a review of the application of risk mitigation arrangements across the network, such as development of drainage inventory and inspection programmes for earthworks. We have also tracked implementation of the recommendations from the Rail Accident Investigation Branch (RAIB) report on the 2020 derailment of a passenger train at Carmont, when it hit a landslip. We reported that six out of the 20 RAIB recommendations have so far been closed and we will continue to monitor progress.

Network Rail is currently developing a new tool to support decision making in advance of extreme weather events. Over the past year we have worked to understand how the tool works and impacts on operational decision making. In 2024-25 we plan to carry out detailed work on extreme weather mitigation through a structured series of interventions to help the industry better understand, control and ultimately drive down the risks from operating during extreme weather.

During the past 12 months we have developed targeted and balanced strategies to drive improvement by train and freight operating companies in areas of key risk. We shared intelligence through industry risk groups and challenged the sector to improve, for example by proposing and participating in a review of its platform-train interface strategy. This has focused on the use of tactile paving, where we pressed Network Rail to expand its monitoring and assurance arrangements and secured a commitment to review their whole approach to managing falls from platforms, learning from the tactile paving programme.

In the final year of our three-year plan to review the capability of those who manage drivers in all train and freight operating companies, we concluded our work looking at their competence, the ratio of drivers to managers and how their fatigue is managed. We identified areas for improvement with individual operators, particularly around competently investigating incidents of signals passed at danger. Throughout the three-year plan we have seen significant interest in our good practice guidelines on fatigue factors.

We carried out inspections of freight companies that have an entities in charge of maintenance (ECM) role, to address RAIB's recommendations following its investigation into the derailment at Llangennech in 2020. We found all ECMs inspected were reviewing their activities to identify weaknesses in engineering maintenance arrangements and were looking to increase competence.

We continued to support and influence major new rail schemes, including HS2, the TransPennine route upgrade and East-West Rail. Engaging across the HS2 project, DfT and rail reform teams, our impact has been to ensure stronger understanding of key design and assurance activities that are critical to embedding the principles of 'safety by design'.

Non-mainline operators

Our focus with London Underground Limited (LUL) has been examining asset management, management of change and software integrity concerns associated with the implementation of the four-lines modernisation (4LM) signalling project, and operational delivery in the context of workforce change. We carried out a targeted intervention and are now working with LUL and the relevant manufacturer to take forward recommendations that will support further implementation.

In the heritage sector we continued to drive improvements in individual operators' safety management capability through better intervention design, dedicated guidance and supporting the understanding and use of our risk management maturity model, a tool for assessing the maturity of a safety management system. In August, we published new guidance specific to the heritage sector on the requirements for a safety management system and promoted it to the sector at six face-to-face workshops across the country, in collaboration with the Heritage Railway Association (HRA) and attended by representatives from 82 different heritage railways and tramways. We have facilitated discussions between the HRA and other stakeholders to continue to encourage greater standardisation in the sector.

We undertook inspections at all seven modern tramways, comprising document review, face-to-face interviews and site visits, to benchmark levels of staff competence and the effectiveness of arrangements to ensure track worker safety on or near the tramway. We found varying standards with some formal written enforcement required.

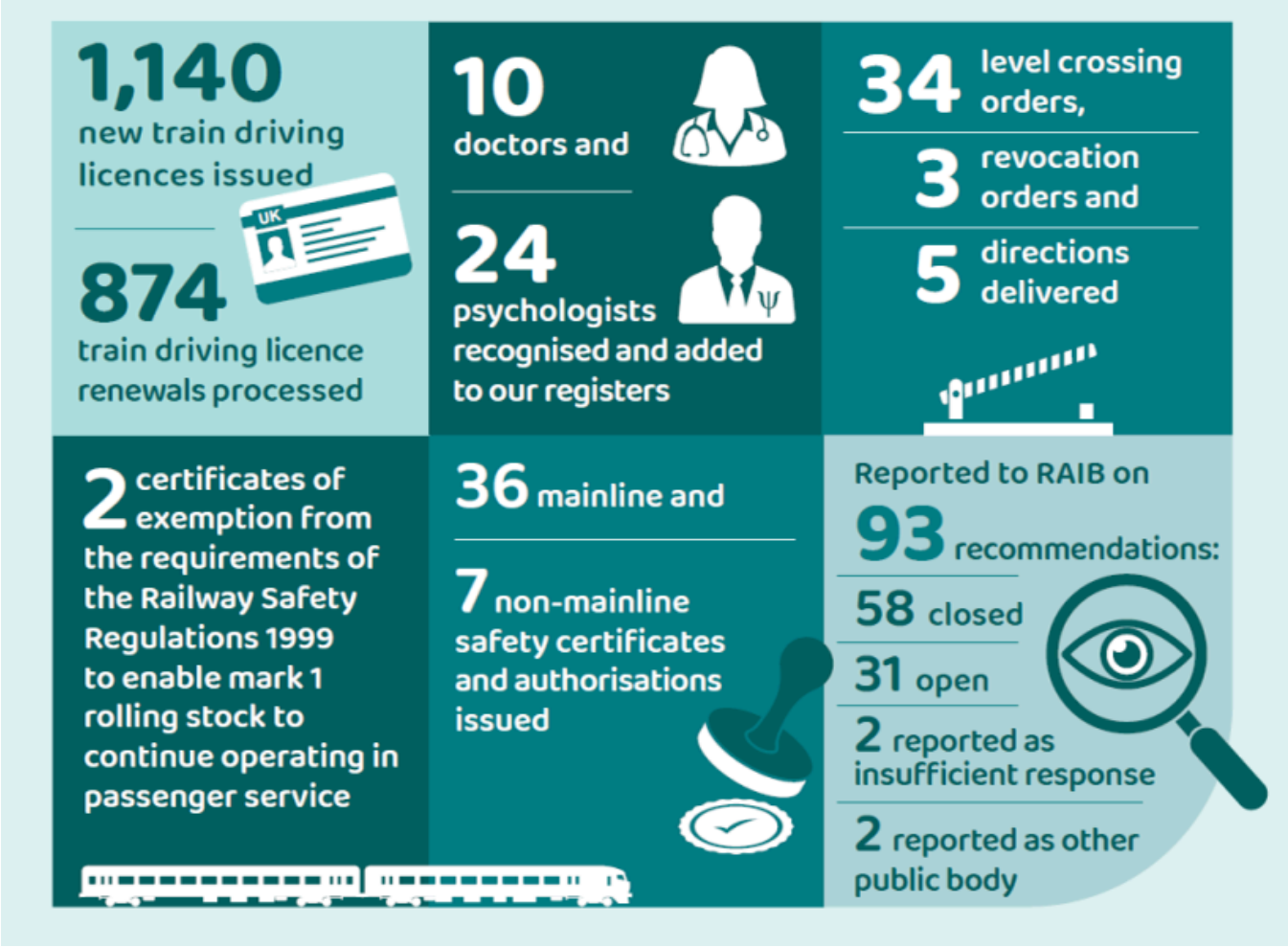
Channel Tunnel

The timescales for implementation of new Channel Tunnel bi-national regulatory arrangements remain subject to UK parliamentary processes and therefore National Safety Authority (NSA) responsibilities for the UK half of the tunnel have not yet been transferred to ORR. However, discussions between the UK and France are at an advanced stage and we expect this to be

delivered in the next year. In the meantime, we have continued to strengthen relationships with our colleagues at the French railway national safety authority, Établissement Public de Sécurité Ferroviaire.

Regulation and certification

ORR grants a range of health and safety permissions and approvals and, in some cases, we have statutory deadlines to meet. This work helps provide an effective framework for railway safety and, in the case of train drivers, establishes a common regime for licensing. The vast majority of all deadlines were met; train driving licence processing was not met every month due to issues with the new portal.



Investigation and enforcement

Prohibition notices stop activities that pose a risk of serious personal injury and improvement

notices identify serious breaches of the law that require changes to be made. During the year we issued one prohibition notice against West Coast Railway Company Limited, related to the health and safety of their passengers and crew, as they had not implemented the controls identified in their risk assessment for rolling stock fitted with secondary door locking systems.

We served 7 improvement notices, a key one being to Network Rail Infrastructure following overcrowding issues at London Euston. To address the terms of the notice, Network Rail conducted a risk assessment to identify and implement control measures, enabling them to work with the train operating companies to ensure they manage passenger flows sufficiently.

Where appropriate we prosecuted duty holders in the courts to ensure compliance with the law. We successfully concluded a number of prosecutions under the Health and Safety at Work etc. Act 1974.

In April 2023, Amey Rail Limited (ARL) was fined £533,000 following an electrical shock injury to a overhead line worker as they carried out works to overhead lines outside Paddington Station.

In May, Linbrooke Services Ltd were found guilty after an electrician installing public address system equipment at Bearsden station, West Dunbartonshire, fell from a stepladder onto a section of improvised work equipment sustaining a fatal injury in June 2018. Linbrooke was found guilty of three offences under the Management of Health and Safety Regulations 1999 and the Work at Height Regulations 2005 at Dumbarton Sheriff Court. The court handed out a penalty of £600,000, comprising a fine of £400,000 and a compensation order of £200,000.

In July, Transport for London (TfL) and Tram Operations Limited (TOL) were sentenced at the Old Bailey after pleading guilty of health and safety failings that caused the 2016 Croydon tram crash, when seven passengers died and 51 were injured. TfL was fined £10 million and TOL £4 million.

In August, Edinburgh Trams Limited was fined £240,000 after pleading guilty to one offence under the Health and Safety at Work etc Act 1974, after a pedestrian was struck and killed by a tram in September 2018 at Saughton Mains footpath crossing on the Edinburgh tramway.

In September, Network Rail Infrastructure was fined £6.7 million for health and safety failings that led to the train derailment at Carmont in Scotland in 2020, when three people died and a further six were injured. This followed an ORR, Police Scotland and British Transport Police joint investigation under the direction of the Crown Office and Procurator Fiscal Service.

In September, the heritage-train operator Gwili Railway Company Ltd was fined £18,000 after

pleading guilty to one offence under the Work at Height Regulations 2005, after a volunteer was injured in a fall in 2022 at the company's Llwyfan Cerrig Yard.

We continued to drive improvements in our own internal processes and performance. We are now at operator testing stage for our new train driving licence portal, which will enable train operators to make applications for new and renewed licences in a more efficient way. Whilst we had planned to implement this during 2023-24, we have been working with ORR colleagues to respond to some technical challenges, to ensure its successful implementation in 2024-25.

Our performance against 2023-24 business plan deliverables

2023-24 Commitment	Status
Work with DfT, HSE and on wider stakeholder engagement to influence the Retained EU Law (Revocation and Reform) Bill	Met
Take forward recommendations from the post implementation review of the Train Driving Licences and Certificates Regulations 2010	Met
Secure transfer to ORR of National Safety Authority (NSA) responsibilities for the UK half of the Channel Tunnel	Not met
Monitor the Network Rail weather risk task force's implementation of action plans arising from the Mair and Slingo reports and the recommendations of the RAIB Carmont report	Met
Examine asset management, management of change and software integrity	Met

2023-24 Commitment	Status
concerns associated with the implementation of London Underground's four-lines modernisation (4LM) signalling project	
Develop and deliver face-to-face workshops to drive improvements in SMS capability across the heritage sector	Met
Challenge industry to review its platform-train interface strategy and participate in review	Met
Conclude three-year plan reviewing driver management capabilities in all train and freight operating companies	Met
Inspect freight companies that have an entities in charge of maintenance (ECM) role	Met
Undertake legionella inspection project for trainee inspectors	Met
Undertake inspection programme to look at rail workers' welding fumes exposure	Met
Prepare for expiry of REACH asbestos exemption	Met
Support Rail Wellbeing Alliance and sponsor annual event	Met

2023-24 Commitment	Status
Implement and embed ORR's new train driving licence portal	Met
Publish our annual safety report	Met

NSA responsibilities were not transferred to ORR as new legislation is still being drafted and likely to come into force at the end of 2024 or beginning of 2025.

Implementation of a new train driver licence portal was originally a 2022-23 business plan commitment which was delayed due to technical issues.

Future plans

In our deliverables for 2024-25, we have committed to the following priorities: the rail industry's resilience capability; Network Rail's approach to maintaining the safety of assets; legislative changes following the PIR of the Train Driving Licences and Certificates Regulations 2010; the adequacy of industry's risk management arrangements for operating during extreme weather; the transfer to ORR of NSA responsibilities for the UK half of the Channel tunnel; the industry's new platform-train interface strategy; rail workers' welding fumes exposure and improvements in health and safety risk management across the heritage sector.

- ← Previous Performance report: Performance analysis
- → Next Strategic objective 2: Better rail customer service