



**PAPER FOR THE INTERNATIONAL RAILWAY SAFETY CONFERENCE**  
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**Continuity and Change: Continuing Effective  
Regulation of the British Rail Industry**

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**Summary**

In 1994, the British Government started to privatise the mainline rail industry, previously a state monopoly. In preparation for this change of structure, a new legislative regime was put in place. The regulations that have governed health and safety for Britain's rail industry have largely (but not wholly) remained unchanged since.

Ten years experience of operating this legislative framework, together with practical lessons learned and a number of European initiatives have led the Health and Safety Commission (HSC) and Health and Safety Executive (HSE) to embark on a major programme of reform. A new legal framework is being developed and this paper will

outline the key elements of the new legislation; the drivers for change; and the practical experience of the last ten years of Britain's health and safety regulation of the rail sector, which has informed the thinking.

Coupled with the change to the law, the independent health and safety regulator for Britain's rail industry, Her Majesty's Railway Inspectorate in HSE, has embarked on a major programme of change to meet the challenges of regulating the Britain's rail industry in an effective and efficient way whilst ensuring that health and safety standards are maintained and, where necessary, improved. Underpinning the programme is the need to ensure management systems and organisation, which target the key risks and engage stakeholders proactively to manage health and safety.

The paper examines the need for change, what is taking place and some of the broader issues from which general lessons can be learned.

## **Background**

### *Legal framework*

1. The development of Britain's railway network started in the mid 19<sup>th</sup> century, towards the end of Britain's industrial revolution. Legislation to prescribe and control this new sector started to follow shortly. However, this law concentrated largely on access to land and issues concerning rights of way. As my paper to the IRSC conference in Paris in 2003<sup>i</sup> described, Regulations to control the industry developments were often driven by spectacular accidents and disasters, rather than any objective analysis of risk.

2. The framework of prescriptive regulations and standards remained largely unchanged from the time of its development at the turn of the 20<sup>th</sup> century until very recently<sup>ii</sup>. Even the fundamentally different approach to worker health and safety regulation brought about by the 1974 Health & Safety at Work etc. Act<sup>iii</sup> had far less of an effect on the railways than other industrial sectors: indeed some would argue that it had very little effect at all on the way in which the safety of train operations (as opposed to worker health and safety in the rail sector) was managed.

3. However, a radically new approach was necessary with the privatisation of Britain's rail industry in 1994. Previous papers to the international railway safety conference have described the background to the regulation of the industry at privatisation<sup>iv</sup>. The key elements of the legislative regime at privatisation may therefore be summarised as:

- the requirement<sup>v</sup> for train operating companies and infrastructure managers to prepare, submit and have accepted a safety case describing the control of risks to health and safety arising from their operations;
- a requirement<sup>vi</sup> to ensure the competence and training of certain specified safety critical staff; and
- a regime for requiring the prior approval and authorisation of plant and equipment before it is brought into use on the railways<sup>vii</sup>.

4. In the 10 years since the start of privatisation in 1994 there have been only minor changes to the legislative framework that was introduced at that time.

### ***Organisational framework***

5. Inevitably, the creation of an inspectorate to police the developing railway health and safety legislation took time. In 1840 Britain's railway inspectorate had been formed and inspectors appointed. The early work of the inspectorate inevitably concentrated on safety matters concerned with running the railway, rather than worker health and safety, together with learning lessons from the accidents and train crashes which occurred. The inspecting officers for railways reports into these rail crashes make fascinating reading.

6. However, the location of the railway inspectorate in the government department responsible for transport and for promoting railways, and providing funding for the rail network, was increasingly questioned by those who saw the need

to separate the sponsoring department, responsible for promoting the interest of the rail industry, from its regulation, particularly with regard to health and safety.

7. The Health and Safety Executive and the Health and Safety Commission (HSC) were formed in the mid seventies by the Health and Safety at Work etc. Act 1974<sup>viii</sup>. In December 1990, the railway inspectorate was removed from the sponsoring department and became Her Majesty's Railway Inspectorate as part of the HSE.

8. When the Inspectorate joined HSE in 1990, there were 45 staff engaged in regulating the safety of Britain's railways. However, with the move to privatisation in 1994 and the consequent changes to the legislative framework, it was evident that an enlarged inspectorate would be needed to continue to provide the public reassurance that the railway sector was being carefully regulated. Consequently, since 1994 the inspectorate has expanded. This expansion has continued until now, further driven at least in part by public concern at the serious fatal rail crashes and derailments at Clapham Junction<sup>ix</sup>, Southall<sup>x</sup>, Ladbroke Grove<sup>xi</sup> and Hatfield.<sup>xii</sup>

9. However, importantly coupled with the expansion of the inspectorate has been a move to broaden and strengthen the competencies of the inspectorate particularly with regard to the importance of safety management systems and human factors in contributing to the safe operation of railway systems.

10. Currently the railway inspectorate in the Health and Safety Executive has around 210 staff, of whom 130 are inspectors and about 80 are administrators. Additionally HSE's railway policy and legislative divisions employ around 30 staff. A total of around 240 staff are therefore employed in HSE on matters directly concerned with regulating the Health and Safety of the railway industry in Britain.

### ***Industry framework***

11. Earlier papers to the IRSC also described the development of the industry structure for the rail sector in Britain.

12. Perhaps the development of the industry over its history may best be described in three phases:

- the formative phase from early beginnings through to nationalisation in 1945 characterised by increasing numbers of private companies operating in separate geographical areas, and following separate company standards within a loose framework of national legislation;
- a period of consolidation, rationalisation, standardisation and contraction under state ownership from 1945-1994; and
- privatisation and fragmentation from 1994 onwards with the development of separate management cultures and control within the privatised companies and a strong emphasis on performance coupled with an unanticipated growth in demand.

13. At the time of privatisation, the former British Rail Network was broken up into:

- 25 train operating companies (TOCS);
- three main freight operating companies, (FOCS);
- six infrastructure maintenance and renewal companies, responsible for maintaining the mainline network (Infracos); and
- three rolling stock leasing companies (ROCOS).

14. In addition to the mainline network, the HSE and the Railway Inspectorate remain responsible for regulating the other elements of the Britain's rail industry:

- the metro systems (London Underground, Tyne & Wear Metro, Mersey Metro);
- the light rail systems (Croydon Tram Link, Sheffield Supertram etc)
- the surprisingly extensive heritage sector (over 100 heritage train operating companies in the UK); and

- the developing high-speed system associated with the Channel Tunnel (Channel Tunnel Rail Link).

15. In short, Britain's rail system at privatisation and today is fragmented and diverse, presenting a substantial challenge for those who make health and safety regulations and those who are required to subsequently police them; and managing the interfaces provides a substantial challenge for the those working in the industry.

### *Health and safety record*

16. Much has been written about the health and safety record of Britain's rail industries, particularly in recent years. Some of what has been written has also been based on the facts. The HSE each year publishes an annual report into health and safety on the railway, which contains both the key statistical indicators of health and safety, together with an analysis of some of the key trends, which have been identified over the previous year<sup>xiii</sup>. In addition, the Railway Safety and Standards Board (RSSB), the industry's own safety body, produce an annual report of progress in meeting health and safety targets for the mainline network<sup>xiv</sup>.

17. The picture that emerges of health and safety on Britain's railways, both before privatisation and post-privatisation, is one of:

- continual improvement in most indicators; most recently against a picture of increased growth in the use of the railways by passengers since 1997 – **Annex 1**;
- overall, a generally positive trend being punctuated periodically by serious rail crashes involving significant loss of life – **Annex 2**;
- a change in the matters of concern, which need to be addressed to prevent catastrophic accidents; despite improvements in the the overall number of incidents, 48% of train incidents on Britain's railway infrastructure were caused by trespass and vandalism; there were 17 crossing user deaths on level crossings in 2003/4, an increase of 38% on the previous year – **Annex 3**;

- increasing incidents of violence to members of staff of the railway companies; and concerns about health related issues, such as drugs and alcohol abuse and working hours – **Annex 4**.

18. These new issues are to a certain extent displacing those matters that have previously been the cause of serious incidents and accidents, such as technical failures of hardware. Whilst there remains an understandable concentration on the need to avoid collisions from conflicting train movements, the emphasis here, as the mainline network becomes more protected by automatic systems, is moving to the “softer” issues relating to human factors and the man-machine interface.

#### **Post-privatisation, 1994-2004: experience of health and safety regulation**

19. The years 1994 to 2004 have been characterised by:

- fragmentation of the British rail industry and the move from central control to control by individual companies driven by market forces and the pursuit of improved performance;
- a change to the legislative regime to respond to the newly privatised heavy rail network;
- an expansion of the railway inspectorate to operate the new legislative regime and to continue to provide public reassurance that health and safety standards will be maintained;
- the continuously improving record for health and safety as measured by most of the key accident pre-cursor indicators;
- occasional catastrophic incidents leading to loss of life and at least short-term loss of public confidence in the industry; and
- continuing political sensitivity in relation to rail transport matters.

20. In many ways, as we have seen, this period has been very successful in relation to the regulation of health and safety. However, careful consideration of the issues has led us to conclude that major changes are now needed to ensure continued effective and efficient regulation of railway safety.

### *Proposals for legislative change*

21. In October 2003, Bill Callaghan, Chair of the Health and Safety Commission, launched a substantial discussion document inviting comments on proposals for reshaping legislative framework<sup>xv</sup>. In introducing the document, the Chair, whilst emphasising that the Commission does not expect absolute safety, reflected that the railways like other industries need to meet good practice, and that the legislative regime needs to provide the framework for this to be achieved.

22. The main drivers for the review of regulations were:

- the recommendations made by Lord Cullen in the light of the tragic incident at Ladbroke Grove;
- the lessons learned from the experience of industry and HSE since the railway privatised in 1994; and
- developments in Europe.

### *Enquiry recommendations*

23. Within the UK, the main drivers for change have arisen from recommendations made by Lord Cullen and others in the light of tragic rail incidents. In particular the way in which the Inspectorate was operating and its relationship with industry was questioned. In addition, and more recently, the way in which health and safety principles have been adopted by industry has, it's alleged, given rise to substantial increased costs in the rail industry particularly compared with other transport sectors.

### *Lessons Learned*

24. However, a number of the reasons for change have also arisen from HMRI's and HSE's own considerations of the way in which the health and safety regime has been operating. Here in particular the changes are seeking to place greater emphasis on risk assessment and risk management and a greater focus of resources across industry on managing those key risks. In order to achieve this, improved systems of information intelligence gathering and planning systems to direct resource to the key risk are needed.

### *Developments in Europe*

25. Europe has also provided a substantial impetus for change. Probably the most important has been the overall desire by the European Commission to open up the market for rail transport – as in other sectors – which has in turn led to the need to consider how to improve competition between train-operating companies across Europe and in particular how to provide the necessary framework for ensuring compatibility of rolling stock to run on the infrastructure networks across Europe. These initiatives have been driven forward by two important directives – the High Speed and the Conventional Interoperability Directives.

26. In summary, the main aim of the Interoperability Directives in setting this framework has been to put in place a standard setting mechanism for those key elements/subsystems for which it is necessary to ensure harmonisation if rolling stock is to move freely across Europe. In effect therefore, we are moving in Europe to develop common European technical standards which in turn will replace the plethora of national standards which have developed in countries as the separate national rail systems have grown.

27. However, ensuring technical compatibility of key subsystems is clearly only part of the whole picture of ensuring safety of rail operations. The development of an overarching management framework to ensure operational compatibility is also needed. This framework is being put into effect by the European Railway Safety

Directive. This Directive requires, amongst other elements, the development by each train operating company (railway undertaking) and each infrastructure manager of a safety management system (SMS) to ensure that there is a coherent and comprehensive approach to the management of operations. In order to ensure compatibility of operations across Europe the directive envisages that there will be two parts to the system: a core element which any train operating company or infrastructure controller would need to have in place to ensure safety of operations and a second element (part b in terms of the Railway Safety Directive certificate of authorisation) which describes how the train operating company will manage its affairs in relation to the specific countries in which it operates.

28. Coupled with the development of a common approach to safety management systems across Europe (and annex III of the directive together with article nine provides details as to what it is envisaged a safety management system will cover), the directive also requires the development of common safety methods, common safety indicators and common safety targets across Europe. In other words, the development of an agreed set of objectives as to the standard of safety to be achieved by train operating companies and infrastructure manager controllers – the output of the safety management systems.

29. At present, work on implementing the European Railway Safety Directive is commencing in the member states throughout Europe and to try and ensure a common approach to the implementation, the International Liaison Group of Government Railway Inspectors (an informal group of the safety authorities for rail industry across Europe)<sup>xvi</sup> has started discussions on issues of common concern. In particular the group is considering how to develop common procedures and criteria for accepting safety management systems so as to ensure that the safety authorities across Europe approach the issue in the same way and set the same standards for the train operating companies and infrastructure manager controllers.

30. With regard to the Interoperability Directives a mechanism is now in place within Europe for agreeing and setting the common standards for interoperability (technical standards for interoperability/TSIs) which are needed to ensure the compatibility of the technical subsystems. Much work is now being undertaken in the

UK therefore to revise the whole of the national framework of standards in the light of these European standards which of course are binding on member states.

### *New legislation*

31. The discussion document outlined the aim to revise three sets of regulations:

- the Railways (Safety Case) Regulations 2000;
- the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994; and
- the Railways (Safety Critical Work) Regulations 1994.

32. The discussion document also explored ways of meeting Lord Cullen's recommendations on the supply of safety critical goods and services. It set out ideas for building on existing supply and management schemes, including the greater use of independent third party assessment of supplies of management systems. In short, the document outlined a wide range of proposals for taking forward and improving the legislative regime. Subsequently, over the period of October 2003 to January 2004, the Health and Safety Executive undertook an extensive exercise to engage stakeholders and seek their views as to the way forward.

33. As a result, and with the explicit agreement of the Secretary of State for Transport, the Health and Safety Commission published a consultation document<sup>xvii</sup> on new regulations on 6 September 2004.

34. The main aims of the proposals are to:

- in overall terms, to simplify the legislative regime;
- to ensure that the burden of regulation is properly directed and proportionate to the risks which have to be controlled;

- to ensure that we meet our European obligations;
  - to produce a regime which is both effective in controlling risks and efficiently applied to the rail sector.
35. In practice these aims are being taken forward by:
- reducing and simplifying the requirements of the safety case regime that was previously applied to train operating companies and infrastructure controllers with a concentration on the key element of the requirement to have an effective safety management system;
  - removing direct state authorisation and acceptance of new plant and equipment for use on the railways;
  - extending the principles of interoperability to the mainline network as appropriate<sup>xviii</sup>;
  - driving forward best practice in the management of safety critical workers and their competence by non-legislative means; and
  - similarly, driving forward improvements in the supply chain to ensure an effective whole life cycle approach to managing safety on the railways.

### *Legislative considerations*

36. In bringing forward proposals for a new approach to legislative framework, a number of issues have had to be faced and the policy resolved.

### *Initial integrity regime*

37. First, in Britain as in many countries, there has been a long history of direct government involvement in ensuring initial integrity of plant and equipment. With the advent of the European directives on interoperability for both the high speed<sup>xix</sup> and the conventional heavy rail network<sup>xx</sup> our policy here has had to change, as it has in a number of other industrial sectors. HSC's policy – and applied across all industry

sectors - is that HSE's specialist resource should not be taken up in the direct approval of products or services. Any additional requirements for safety integrity should put the onus on duty holders to make arrangements to have their proposals verified by others with the necessary independence and expertise; and underpinned by basic principles of risk assessment and management.

38. The old approval regime in Great Britain is not compatible with the single market requirements of the interoperability directives. (see comments under para. 26) Under the old regime, Railway Inspectors gave approval based on individual judgements on potential risks to safety. Under the interoperability regime, conformity with agreed prescriptive European specifications for specific types of plant or equipment (rolling stock, infrastructure etc.) is assessed using defined assessment modules by third party 'Notified Bodies', appointed by the Government. The role of the inspectorate, (which in Britain is the 'Safety Authority', as defined by the interoperability directives), is to authorise that this plant and equipment can be brought into service, based on technical information supplied by the Notified Body and the duty holder.

39. Coupled with the move to third party assessment has been the need to give careful consideration to the scope of the assessment and its coverage.

40. On the first issue – the scope of the assessment – there is significant difference between the old approvals regime and the regime set up by the interoperability directives. The approval process considered both operational issues associated with new plant and equipment, as well as the safety by design of the individual components. Interoperability deals with only with assessing the safety of individual subsystems and their initial use. Interoperability is unable to deal with continued safe use and maintenance, nor with issues of the competence of those operating the sub-system. Recognition of these issues, together with other matters, is one of the drivers that have led to the need for the European Railway Safety Directive, to ensure that arrangements are in place for the overall safe management of the system. (the EU safety Directive is not well known here hence my earlier comments at para. 26 for an earlier scene setting section)

41. The second key issue has been to consider which parts of Britain's rail network should be covered by the new regime - the interoperability directives do not apply to substantial parts of the network, for example low-speed branch lines. We have taken the view that rather than run two different regimes, we will apply the principles of interoperability – third party assessment and the removal of direct state involvement in the detail of the process – to the whole British rail network. Accordingly for the non-interoperable railways, tramway and other guided transport systems, transitional arrangements will provide for approval under the existing ROTS approval regime for a limited time, (probably for two years), to allow existing projects 'already in the system' to be approved or withdrawn. This will of course mean a substantial culture change, therefore all in Britain's rail industry – and safety will need careful monitoring during the transition.

42. In addition, in moving from one regime for ensuring initial integrity to another we have been concerned to address the complex structure/architecture of industry standards in Britain (Railway Group Standards) and agreed European Technical Specifications for Interoperability (TSIs), as I outlined in my paper to last year's conference. Some RGS are goal-based (and use risk assessment techniques) and can be tailored to individual circumstances, whereas TSIs are prescriptive. Existing RGS are a mixture of process and technical information but TSIs are purely technical. A large number of RGS are Notified National Standards will be used for assessment when provisions of TSIs do not apply.

43. This has posed a problem for Contracting Entities (i.e. those seeking to bring plant and equipment into service) and Notified Bodies in Britain when assessing with reference to notified national standards, as they are asked to use individual judgement to assess conformity of sub-systems with broad Essential Requirements of Directives, rather than prescriptive approach of TSIs. This has the potential for adding confusion and costs to process. There is therefore a need to review architecture of RGS to make them fit for use in the interoperability regime and safety regime (technical rules and safety rules). Britain wants one process for authorisation when TSIs do not exist. An industry review to address this issue is now underway.

### *The safety case regime*

44. The second key area of legislative change is the safety case regime. It is now 10 years since the original Safety Case Regulations 1994 came into force and HSE is keen to implement the lessons learnt over the last decade and move to a more modern streamline form of regulation.

45. I believe that the existing safety case regime has been successful in ensuring improving standards for health and safety on Britain's railways. However, changes are needed – both to meet European obligations to implement the Railway Safety Directive - and to incorporate the lessons learned over the last 10 years. Accordingly, the new proposals:

- transfer interoperability rail duty holders from the existing system of railway safety cases to the new European system of safety certification and authorisation (outline what this is and what it means) within two years of the new requirements coming into force, using an orderly transition;
- reduce the number of railway operators that have to seek formal permission from the safety regulator to work on the railways (these will be mainly infrastructure maintenance contractors working outside the running rail system); and
- produce a set of minimum requirements for a safety management system as the basic safety certification that is more streamlined, better targeted, less bureaucratic, and quicker for the duty holder (which should reduce costs for them given that they are charged by HSE for assessments). This will reduce the amount of inspector resource presently devoted to assessment of safety cases, and redirect it towards checking by inspection 'on the ground' that operators are properly controlling the risks arising from their operations.

46. The proposed changes to the safety case regime, with a lightening of the bureaucracy involved and a concentration on the key element of the safety

management system, will also need to gain the support of stakeholders both within and without the rail industry. Throughout the development of the new legislative framework over the past 2½ years, HSE has engaged with infrastructure management companies, the train operating companies and those who provide specialist advice, and with other stakeholders: the Trade Unions; representatives of those injured or bereaved in previous rail accidents; passenger group representatives etc.

47. The process progressed through an iterative dialogue with these stakeholders using a combination of ‘one to one’ meetings, workshops, working groups, open meetings, as well as the HSC Discussion Document ‘Railway Safety – Shaping the Future’ published in October 2003. These have been supplemented by two independent evaluation studies of key aspects of the present regulatory requirements. We believe all parties now understand the need for change, and are confident that safety will be maintained or improved under the new arrangements.

#### ***Structural change within the regulatory authority***

48. Coupled with this, and probably at least as important as the legislative change, are the changes being made to the regulatory body, the Railway Inspectorate and the railway Policy Divisions within HSE. There have been a number of drivers that have caused us to embark on this ambitious programme:

- criticisms of the work of the inspectorate made by public inquiries into the serious train crashes which occurred at Southall and Ladbroke Grove;
- our own internal questioning of the way in which initial integrity work has been carried out and in particular the inconsistency in applying a risk-based approach to this work;
- internally with the inspectorate, a recognition that we needed to have mechanisms which were far better at linking work on initial integrity with that of the work on the safety case regime and the practical results of inspections on the ground; and

- a recognition, following on from an external stakeholder survey, that as an organisation we were presenting far too many faces to the duty holders that we were regulating.

49. Accordingly, coupled with the extensive programme of legislative change, the HSE's rail inspectorate and policy teams are completing a very substantial programme of organisational and structural change within, which is designed to:

- provide a single point of contact, bringing together all of the railway inspectorate's interests with regard to any particular duty holder;
- instil a far greater focus on controlling key, prioritised risks (accident precursors);
- develop planning and intelligence systems to ensure the appropriate allocation of resources to these key risks;
- develop a range of co-ordinated strategies to influence all stakeholders and regulate our duty holders with regard to these prioritised risks;
- ensure transparency of arrangements to ensure the proper gathering and use of information and intelligence.

50. It is anticipated that these changes will be complete by the spring of 2005. However, as with the legislative changes, a number of issues have arisen as this work has been taken forward:

- the recognition of the need for re-training of staff and development of new competencies as jobs within the inspectorate change;
- the need for substantial investment of resources during this period of change (and at a time of government economies) to plan for, prepare and implement the new arrangements proposed;

- the difficult task of continuing day-to-day work during a period of substantial change; and
- softer issues surrounding the management of people during a period of significant change.

### *The British Government's Review of Railways*

51. A further challenge to the completion of these two packages of work: the revision to the British health and safety regulations for the railways and the structural and organisational changes to the Railway Inspectorate – has been the British Government's Review of Railways announced by Alistair Darling, the Secretary of State for Transport, on 19 January 2004<sup>xxi</sup>

52. For six months from January 2004 to July, all state elements of the railway industry in Britain have been under scrutiny as the government considered, against the evidence it received, whether or not the organisations for regulating and managing Britain's rail industry were most effectively and efficiently structured. The aims of the review as set out in the statement were to consider:

- The structural and organisational changes needed to improve rail performance for its customers;
- the progress being made by increased investment and the means by which costs can be better controlled; and
- the regulation of safety.

53. The outcome of the review<sup>xxii</sup> was accepted by government and published in the Department for Transport's 'Future of the Railways' White Paper<sup>xxiii</sup> on 15 July 2004. Amongst a wide range of recommendations made, the government announced its intention to:

- abolish the Strategic Rail Authority, the body responsible in Britain for agreeing train operating franchises and for setting the strategic direction of the rail industry;
- greatly increase the responsibilities and powers of main line railway infrastructure controller – Network Rail;
- merge the functions of the Office of Rail Regulation and its responsibility for economic regulation of the mainline network with those of safety regulation – the work of the Railway Inspectorate.

49. In his announcement about the White Paper, Alistair Darling said:

*"Britain's railways are currently enjoying unprecedented levels of investment. This is beginning to bear fruit, over a billion passengers used the railways last year, new rolling stock is coming into service and the West Coast Mainline is being upgraded. Safety and reliability is improving. But there remains a further and serious difficulty facing the industry. The way the industry was privatised has led to fragmentation that has compounded the problems caused by decades of financial neglect.*

*"There are too many organisations, some with overlapping responsibilities. This has got in the way of effective decision-making and frequently leads to dispute. Passengers and taxpayers will only suffer further if this fragmentation is not addressed. So we now need to build on the investment we've made and on the structural changes already put in place. Not only to put the railway on a sound financial footing, but at the same time to provide it with the right structure and organisation to take it through the next decade and beyond. The railway must act in the public interest and the Government will continue to work in partnership with the private sector. Independent economic regulation will remain.*

*" The objective is clear. To streamline the structure and make it as simple and effective as possible. Our commitment is long term. Our aim is to make Britain's railway fit for the future".*

54. Consequently as a result of the conclusions announced, the Railway Inspectorate will be moving from the HSE to merge with the recently renamed Office of Rail Regulation, probably around the end of 2005; it is likely that HSE's railway policy officials will be joining the inspectorate. The issues which are already emerging in relation to combining economic health and safety regulation are extensive and might usefully be addressed in a further paper.

### **Conclusions – lessons learned in regulating Britain's Rail Industry 1994 – 2004**

55. Now is a good time to reflect on the lessons that we have learned in regulating Britain's rail industry over the 10 years or so of private railway ownership, including Network Rail<sup>xxiv</sup>.

56. The overall picture that emerges is one of improving health and safety over the period, against a background of increased growth of railway traffic. But the cost of some elements of the health and safety regime is increasingly questioned as the industry strives to compete with other transport modes. Criticisms arising from high profile public inquiries following major rail crashes, together with experience of operating the existing legislative regime and proposals for change arising from Europe, have led the HSE to make proposals for a new legislative structure.

57. The need for efficient and effective regulation of the industry; for targeting of resources at risk; and the better use of information and intelligence about which risks warrant regulation have led the Railway Inspectorate within the HSE to embark on a radical change programme in partnership with the Railway Policy divisions, to reshape and restructure the inspectorate to be fully effective in implementing the new legislative regime and provide an efficient and effective regulatory body to interface with duty holders and stakeholders.

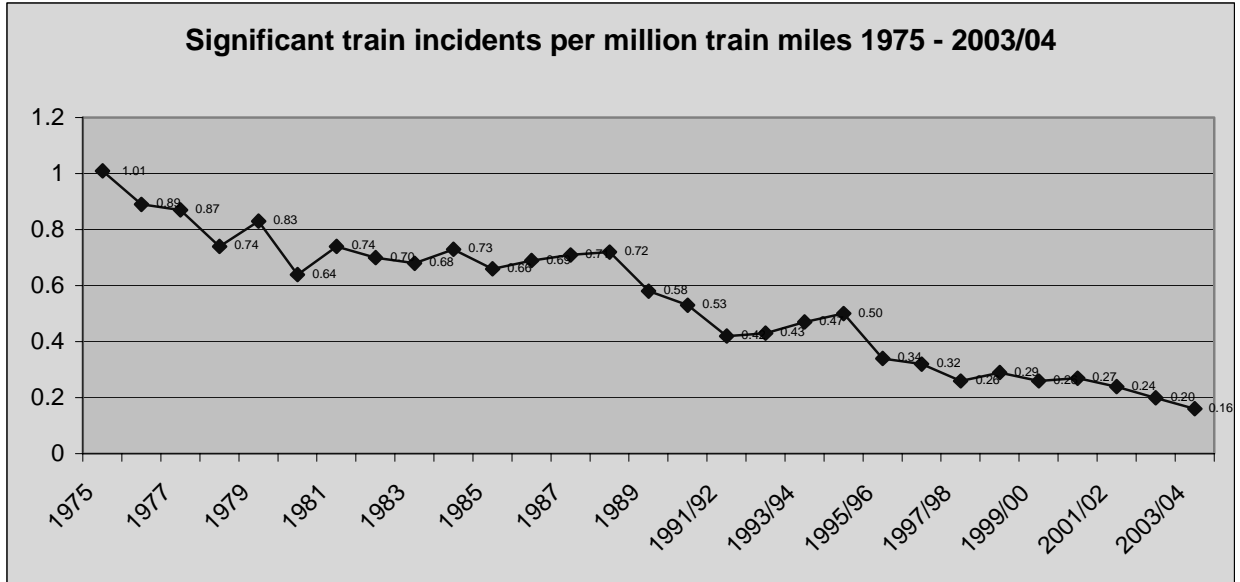
58. The outcome of this work will not be evident for a number of years and its practical effect may be at least partially obscured by the bringing together of economic and health and safety regulation in a new body. In the meantime, the support of all key stakeholders will be essential in ensuring the health and safety

standards in Britain's rail industry remain at the high level they are today and continue to improve.

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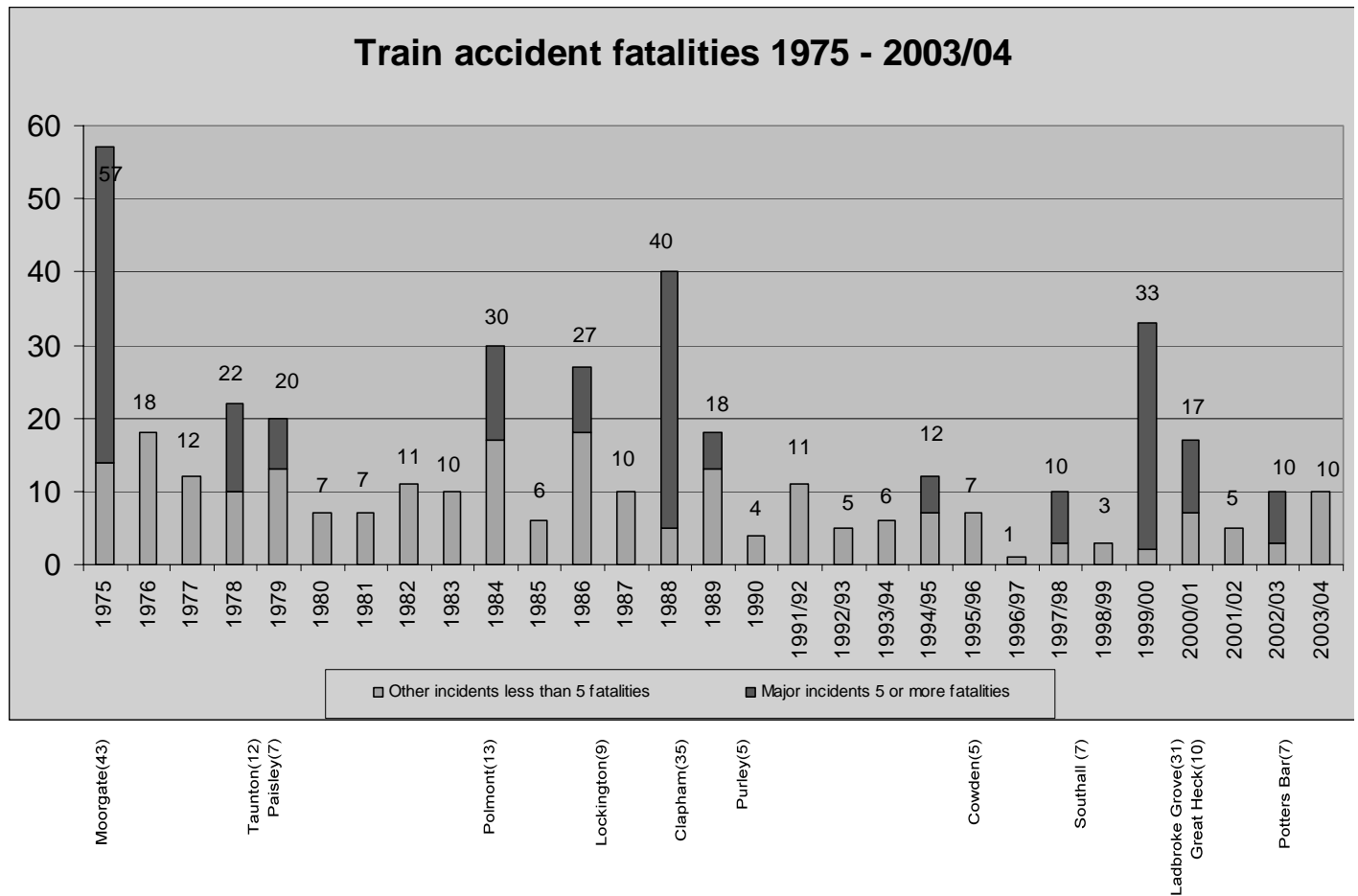
# Annex 1

## Significant train accidents per million train miles, 1975 – 2003/4



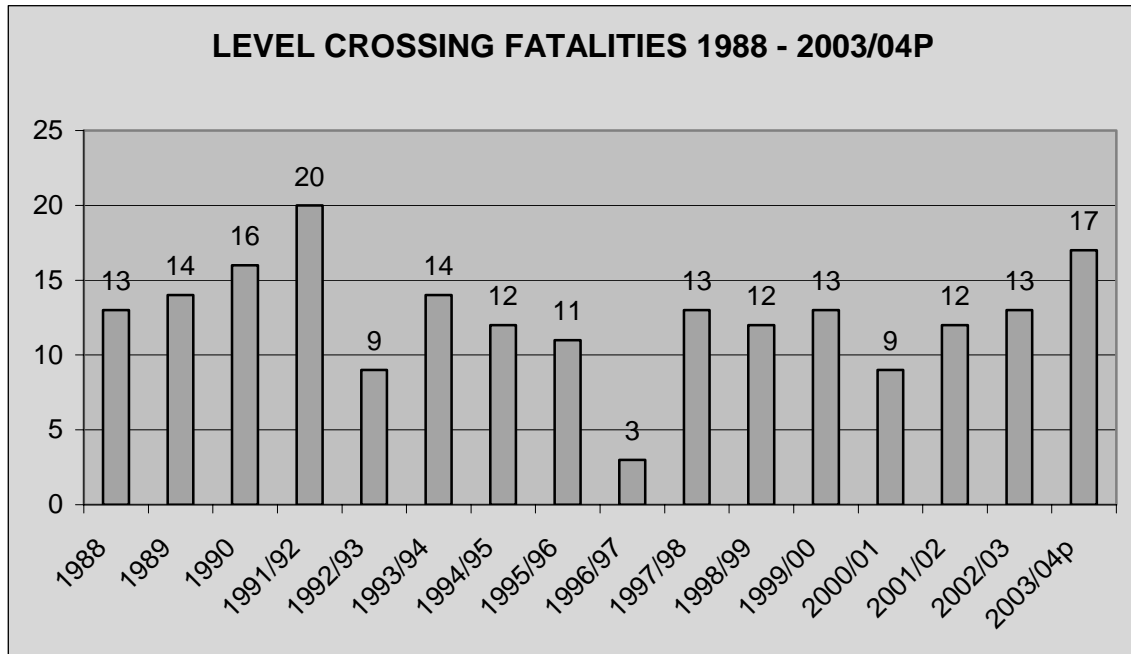
## Annex 2

### Deaths caused by train incident on Britain's railway infrastructure, 1975 – 2003/4



### Annex 3

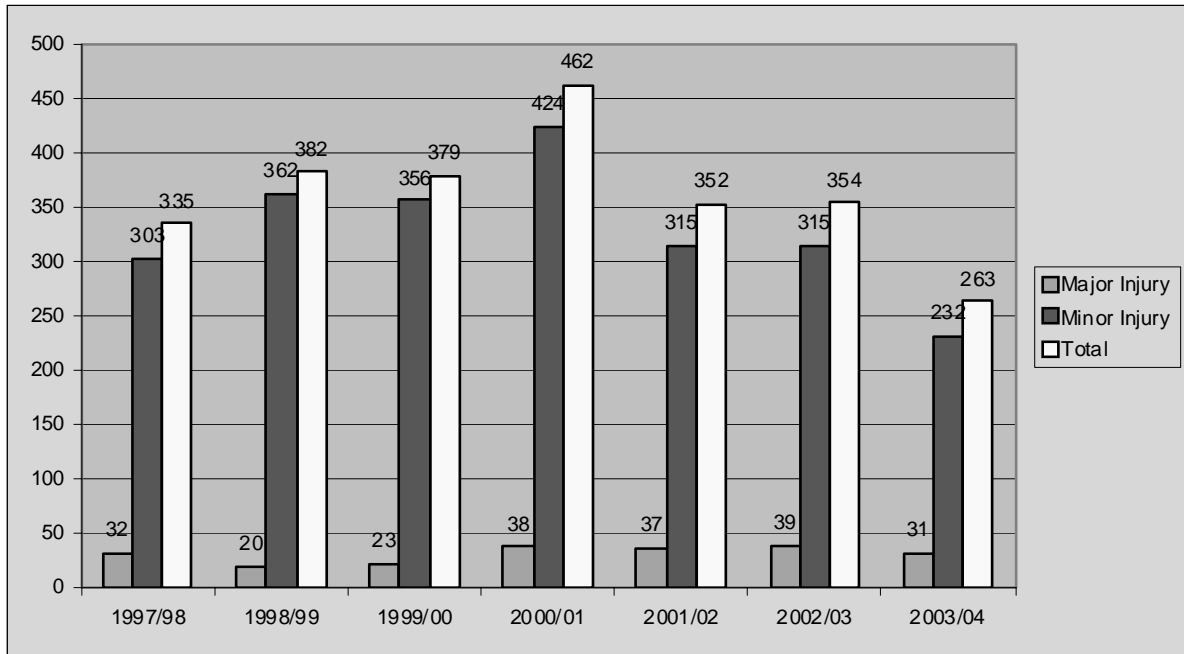
#### Deaths on Britain's level crossings, 1998 – 2003/4\*



\* P – provisional figures only.

## Annex 4

### Assaults on employees by members of the public



on Britain's railways, 1997/98 - 2003/04

## Endnotes:

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- <sup>i</sup> 'Using quality standard to secure safety – a regulator's perspective', November 2003.
- <sup>ii</sup> The Railways Act, 1871 was finally revoked by the Railway Safety (Miscellaneous Provisions) Regulations 1997.
- <sup>iii</sup> The Health and Safety at Work etc Act, 1974 (as amended) HMSO, ISBN 0105437743.
- <sup>iv</sup> "Standards in the service of safety" presented by Vic Coleman in 1998.
- <sup>v</sup> Railways (Safety Case) Regulations 1994, modified by the Railways (Safety Case Regulations) 2000, HMSO ISBN: 0011099975-4.
- <sup>vi</sup> The Railways (Safety Critical Work) Regulations, 1994.
- <sup>vii</sup> The Railways and Other Transport Systems (Approved Works, Plant and Equipment) Regulations, 1994.
- <sup>viii</sup> The Health and Safety at Work etc Act, 1974 (as amended) HMSO, ISBN 0105437743.
- <sup>ix</sup> Clapham Junction, 12 December 1988.
- <sup>x</sup> Southall, 19 September 1997.
- <sup>xi</sup> Ladbroke Grove, 5 October 1999.
- <sup>xii</sup> Hatfield, 17 October 2000.
- <sup>xiii</sup> HSE's Annual Report on Railway Safety 2003/4 was published on 21 September and is available from: <http://www.hse.gov.uk/railways/statistics.htm>
- <sup>xiv</sup> RSSB's Annual Safety Performance Report for 2003 is available from: <http://www.rssb.co.uk/pdf/reports/Annual%20Safety%20Performance%20Report%202003.pdf>
- <sup>xv</sup> HSC's Discussion Document 'Railway Safety – Shaping the Future' published in October 2003.
- <sup>xvi</sup> Information on the international liaison group can be found on HSE's website, <http://www.hse.gov.uk/>
- <sup>xviii</sup> HSC's Consultative Document 'Proposals for new safety regulations for railways and other guided transport systems, available from: <http://www.hse.gov.uk/railways/liveissues/cd199.htm>
- <sup>xviii</sup> Directive 2004/40/EC - Railway Safety Directive.
- <sup>xix</sup> Directive 96/48/EC on the interoperability of the trans-European high-speed rail system.
- <sup>xx</sup> Directive 2001/16/EC on the interoperability of the trans-European conventional rail system.
- <sup>xxi</sup> The Department for Transport's Press Release is available from: [http://www.dft.gov.uk/pns/DisplayPN.cgi?pn\\_id=2004\\_0006](http://www.dft.gov.uk/pns/DisplayPN.cgi?pn_id=2004_0006)
- <sup>xxi</sup> DfT's Press Release is available from: [http://www.dft.gov.uk/pns/DisplayPN.cgi?pn\\_id=2004\\_0082](http://www.dft.gov.uk/pns/DisplayPN.cgi?pn_id=2004_0082)
- <sup>xxii</sup> DfT's Future of the Railways' White Paper is available from: <http://www.dft.gov.uk/railways/whitepaper/>
- <sup>xxiv</sup> Network Rail is a company limited by guarantee. It has no shareholders, and is accountable to its members, who do not receive dividends or share capital. All of Network Rail's profits are reinvested into the rail infrastructure.