



OFFICE OF RAIL REGULATION

Annual report and resource accounts

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and section 6 of chapter 20 of the
Government Resources and
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Formal report to the Secretary of State and Scottish Ministers

To the Secretary of State for Transport and the Scottish Ministers
I enclose the report of the Office of Rail Regulation (ORR) for year
ending 31 March 2009 as required by section 74(1) of the Railways Act
1993 and the Scotland Act 1998 (Transfer of Functions to the Scottish
Ministers etc) Order 1999.

I confirm that during the period ORR

- a) made no references to the Competition Commission; and
- b) received no general directions under section 69(2) of the Railways
Act 1993.



Chris Bolt
chairman, Office of Rail Regulation
June 2009

Chairman's foreword

This is my fifth, and final, annual report as the first chairman of the Office of Rail Regulation. The new Board structure was introduced in July 2004, only days before the publication of the results of the Government's Rail Review.

This is my fifth, and final, annual report as the first chairman of the Office of Rail Regulation. The new Board structure was introduced in July 2004, only days before the publication of the results of the Government's Rail Review. That review, and the subsequent Railways Act 2005, confirmed Government's view that the rail industry should continue to operate as a public and private sector partnership, with delivery in the hands of private sector companies. It also reinforced and extended the role of ORR as the independent sector regulator by transferring to us responsibility for safety regulation.

The focus of our first two years, reflected in our 2005 strategy, was to embed these changes in structures and responsibilities. We modified Network Rail's licence, for example to reflect its new role in undertaking Route Utilisation Strategies and in promoting

whole industry performance, and engaged with both the Health and Safety Executive and the industry to ensure that the transfer of safety regulation responsibilities was achieved without any adverse impacts.

But we were always clear that what mattered was delivery on the ground, in terms of safety, service to users and value for money. So we looked at the framework of industry incentives and industry processes to ensure that they were better focused on delivering continuing improvements in performance. A particular example of this was our early action to ensure better timetabling information to passengers. We also took some difficult decisions on new access rights which reflected our view – based on our statutory duties – that rail users can benefit from new services and more effective competition between operators.

To demonstrate better the impact on rail users, we introduced new publications such as the Network Rail Monitor and National Rail Review, as well as developing National Rail Trends, to report on what was being achieved in terms both of regulatory targets and customer expectations.

The last three years have been dominated by the periodic review of the mainline railway and in particular of Network Rail's outputs and funding. This was the first review to be informed by formal statements of output requirements and funding from Governments in Westminster and Holyrood – a change which seems to have brought greater clarity and certainty. Network Rail now has firm funding and regulatory targets for the next five years. But recent changes in passenger and freight demands and the renewed focus on electrification and high speed lines not reflected in the 2007 specification highlight the need for a flexible and responsive approach both from Network Rail and ORR as its regulator.

On almost all measures, it has been a successful five years for the industry, and I am proud of what ORR has done to facilitate that success.

But like all organisations, ORR must evolve and must learn – both from what has gone well and what has gone less well. So although the industry's safety record over the last five years has continued to improve, the fatal accidents at Ufton Nervet and at Grayrigg highlighted the need for continued efforts both to reduce level crossing risks - now the biggest risk of train incidents – and to improve Network Rail's management of its assets. In the same way, the engineering overruns in January 2008, following earlier problems with re-signalling schemes, highlighted the need for Network Rail to review its whole approach to the planning and execution of renewal and upgrade projects. Given the scale of its investment programme in the next five years, this will be critical to narrowing the efficiency gap with its peers and to minimising impacts on rail users.

Although there was criticism at the time, and subsequently, of the merger of economic and safety regulation, we are clear that it has brought a better focus to both. We remain convinced that well managed companies can deliver improved safety performance at the same time as improving customer service and delivering improved value for money.

This view is reflected in our strategy for the next five years, published in December, which summarises our role as 'promoting safety and value in Britain's railways'. It underpins our own restructuring, which is designed to bring a clearer focus to our inspection and regulatory activities and to improve the value we give to the industry.

The vision we set out in our new strategy was intended to establish high aspirations for the industry and for ORR as its regulator. Unless we all strive for world class performance, we will be short-changing both rail users and taxpayers. I believe that there is a much greater recognition now than five years ago of the need for effective partnership between all industry players both in delivering rail services consistently day by day and in planning and delivering the enhancements which are needed to support the future demands and expectations of rail users. But there is still much to do to achieve the world class performance we all seek and expect.

Effective independent regulation is an essential catalyst for this continuous improvement. So that is the task for ORR – working with the industry and with Government to promote safety and value in Britain's railways. I am confident that ORR and the industry will rise to the challenge, and that the railway network will continue to flourish. I extend my best wishes to my successor, Anna Walker, to all my Board colleagues over the past five years, to everyone working in ORR and indeed to everyone working in the railway industry.



Chris Bolt,
chairman
Office of Rail Regulation
June 2009



The role of ORR

The Office of Rail Regulation (ORR) is a non-ministerial government department with 325 staff and an annual budget of around £32 million.

We are the independent safety and economic regulator of Britain's railways. The mainline railway in Britain relies on private sector companies to deliver rail services for passengers and freight users, and to supply equipment and expertise. Network Rail, a private sector not for dividend company, is owner and operator of the national rail infrastructure. Other parts of the railway, outside the mainline sector, are structured in a different way, but all face commercial pressures and incentives, and rely on effective partnership between different companies and organizations to secure delivery. Governments and other public sector transport funders also have an important role, because of the importance of the railways to the economy and society and the significant subsidy paid to them.

Regulation plays a key role in making this structure work. As national safety authority we regulate health and safety for all railways in Britain (including the London Underground, light rail, trams and the heritage sector as well as the mainline railway). We are a competition authority for all railways and related supply markets and also have powers to enforce some consumer law for railways. We have a wide range of economic regulation functions for the mainline railway, in particular in setting Network Rail's funding and outputs as the monopoly operator of the network, and enforcing delivery and ensuring fair access to that network.



We do not, however, set or enforce the terms of franchises under which governments buy passenger services from the private sector.

In essence we:

- provide **assurance** to stakeholders – taxpayers, users of the railways, governments and funders, rail industry companies and employees; and
- facilitate **improvement** in the working of the structures and processes of the industry so the railways better meet the needs of those stakeholders.

We do this by:

- monitoring and where necessary enforcing delivery by the whole industry of its regulatory obligations – safety, performance, efficiency and investment – and encouraging further improvement to meet the needs of customers and improve value;
- carrying out periodic reviews of the mainline railway to set Network Rail's outputs and funding; and
- using our powers concerning access to railway facilities (track, stations and depots), industry codes and cooperation arrangements, licences and competition law, and keeping under review the framework for relationships within which the different parts of the industry work together.



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Chief executive's review

This report covers the 2008-09 reporting year and describes our achievements in delivering the objectives we set out in our strategy for 2006-09 and in our business plan for the year.

Both our strategy and business plan subdivided our work into five broad areas from improving the health and safety performance of Britain's railways both for users and those employed in the sector through to improving our own ability to be an effective and efficient regulator of Britain's railways. In this report we explain what we set out to achieve in each area, what were the outcomes and how we account for the monies we raised from the industry to do our job.

Overall as an office, we have delivered on all we set to do in our plan, managing the risks along the way and out-performed the budget set for us by our Board (which did include a significant efficiency improvement challenge).

The highlights are:

- **Improving railway safety** – we applied continuing pressure on Network Rail to secure the necessary improvements in switch and crossing maintenance on it's infrastructure, that had been highlighted in the industry's, our and the Rail Accident Investigation Branch investigations into the Grayrigg incident.
- **Improving railway performance, efficiency and delivery of major enhancements** – we continued our active watch over the mainline railway as its performance continued to improve to record levels (for example performance on the

western route has improved markedly following the coordinated action taken by the Department for Transport and us on the train operator and Network Rail respectively). We scrutinised closely Network Rail's progress in rectifying the serious systemic problems that lead us to take strong enforcement action in March 2008 as well as how it was securing delivery on time of the west coast route modernisation project.

- **Securing robust plans for 2009 and beyond** – with our determination in late October 2008 we brought to a conclusion, on time, the major programme of work on the periodic review of the mainline railway that sets out what the industry (and Network Rail in particular) need to deliver during the next control period – 2009-14. Our determination, and Network Rail's acceptance of it in February 2009, secures the requirements of both Government's high level output specifications, which includes the largest ever railway enhancement programme, all within the public funding commitments they have set aside for these outputs. We have supplemented these outputs with requirements for a substantial reduction in the disruption to passengers, an improved licence under which Network Rail must operate and strengthened the incentives for Network Rail and train operators to work together to improve efficiency further than the challenging requirements we have set down.
- **Regulating Britain's railways for 2009 and beyond** – following extensive internal and external discussions and a wider consultation we established our regulatory strategy for 2009-14 (December 2008) and our plan for 2009-10 (March 2009). We are clear on our role in promoting safety and value in Britain's railways, and our goals helping to secure continuing success for Britain's railways all set within a very challenging vision of this success.

This success will require continued work to improve and align both the relationships and incentives in the industry and we have identified seven complementary themes that drive our future work, these being:

- A clear focus on passenger and freight customer needs
- Seeking excellence in health and safety culture and risk control
- Seeking excellence in asset management
- Improved industry planning and timely and efficient delivery of major projects
- Efficient use of capacity on the mainline network
- Development by the industry of the capabilities of its people, and
- High quality data and information for key decisions.

Our new strategy is challenging for us, requiring us to do things in different ways and be able to exert greater influence across the sector all aimed at improving the prospects of industry success. We have reorganised and are re-skilling ourselves to be the credible confident and unified regulator that is necessary if we are to play our full part in promoting safety and value in Britain's railways.

My senior team and I are proud of we and our colleagues here have achieved together in 2008-09. We are looking forward with confidence to rising to challenges that our Board has set us for the coming years.



Bill Emery
Chief Executive
Office of Rail Regulation
June 2009

1. Improving health and safety performance

What we set out to achieve?

Our aims were:

(Requires text from Railway safety directorate)

What was the outcome?

Our new Corporate Strategy sets out a clear vision for health and safety on Britain's railways: "Zero workforce and industry-caused passenger fatalities, with ever decreasing overall safety risk".

To enable us to deliver the strategy, we restructured HMRI to achieve closer integration of health and safety with ORR's other activities and a clearer focus on individual duty-holders and their health and safety performance, as well as maintaining an over-view of overall system safety.

We expect the industry to ensure that their organisations' cultures help deliver excellence in health and safety risk control. Towards the end of 2008-09 we saw significant progress as some duty-holders recognised the need

to assess their organisational cultures, and started taking steps to do this. We are developing further our capacity to audit organisations' safety management systems and have begun developing a safety management maturity model, which we hope to use to drive forward these cultural issues.

We secured improvements in switch and crossing maintenance on Network Rail's infrastructure, building on the findings from investigations into the Grayrigg incident. We also looked drove improvements in Network Rail's regime of basic track inspections.

We have worked to address the risks resulting from level crossing use, and mis-use – still the greatest contributor to

the risk of catastrophic train accidents on Britain's railways. We looked closely at safety at user-worked level crossings, and welcomed Network Rail's plan to improve the management of risk at these crossings. We also welcomed the once in a generation opportunity to work with the Law Commissions on their reviews of the laws dealing with level crossings.



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Inspection

Our work led to Network Rail making safety improvements in key risk areas. For example, planned inspection of the Lookout Operated Warning System (LOWS) meant that an inspector was present when the system failed in use. The inspector served a Notice prohibiting further use of the equipment until the causes were identified and corrected. Our evaluation of the risk of road-rail vehicle (RRV) runaway during on- or off-tracking led to Network Rail developing a programme of improvements to a fleet of around 100 RRVs.

Inspection of a major re-signalling project showed weaknesses in Network Rail's process for safety verification. Although we identified no risk arising on this occasion, Network Rail accepted the need to sustain independent oversight of safety-critical work carried out under heavy time pressures.

We secured improvements to measures Network Rail had put in place after the Grayrigg accident to ensure safety at switches and crossovers (S&C) and obliged them to improve the quality of track patrolling. In 2007-08 we had found evidence of some weaknesses in relation to the investigation of safety critical faults, and the management of S&C which cannot be set up to the standard tolerances. Discussions during 2008-09 led to improvements to Network Rail's guidance. We also confirmed that Network Rail had met the requirements of an Improvement Notice requiring changes to the track patrolling process.



We assured ourselves about Network Rail's ability to maintain the infrastructure safely on the west coast main line under the enhanced timetable, by testing the effectiveness of their change management process and the safety management systems for maintenance. The new west coast timetable gives Network Rail significantly less access to the infrastructure for maintenance. Their efficient engineering access project aimed to improve maintenance processes, increase resources and make the best use of access opportunities. Our inspections tested capability through detailed examination of new processes, oversight of Network Rail's management of the project, and thorough examination of staffing resources, planned access, maintenance workloads, and current performance. This gave us confidence that Network Rail was capable of maintaining the railway safely under the new pressures.

We discussed inspection findings on user-worked crossings (UWCs) with Network Rail. We had identified a pattern of incidents where signallers had made errors because they did not know the location of a train in relation to a UWC and also a lack of understanding of the nature and scale of use of individual UWCs, and therefore the risks. Network Rail produced an action plan responding to our findings, which included a project to examine their relationship with UWC authorised users, and improvements to help signallers make good decisions when trains are in long signal sections. We are continuing to monitor the issue.



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We persuaded the train operating companies to review their current suite of safety performance indicators. The rail industry, like many others, has traditionally used reactive (lagging) safety performance indicators to monitor safety. As safety performance improves, the use of reactive indicators becomes less effective, particularly in respect of low frequency, high consequence incidents. We believe that world class organisations use a combination of leading and lagging indicators to monitor their safety performance effectively and are pleased that the railway industry is now exploring this approach. We are participating in this work and are also working in parallel, with the Association of Train Operating Companies, to develop their benchmarking capability.

We highlighted the need for all mainline railway companies to learn transferable lessons from major incidents in other industries (the Texas City and Buncefield explosions in particular) and have been reassured that the rail industry has reviewed and improved their systems accordingly.

We inspected London Underground Limited's (LUL's) safety critical communications, their management of incidents and staff training and competence issues. We also considered the management of contractors carrying out maintenance and upgrade works on LUL's network, and we looked at the maintenance of safety critical assets such as rolling stock and signals. We also carried out a number of inspections looking at the management of safety on the Docklands Light Railway.

Following a complaint we conducted an unannounced inspection of one company's train driver competence assessment records. This showed a number of instances where the procedures in the company's safety management system had not been followed. In many cases the company was unable to provide documented assurance of competence. Once the Managing Director was made aware of the possibility of ORR taking enforcement action, he rapidly put in place a range of measures to review existing records, and also to consider other evidence to judge whether any staff should be withdrawn from current driving duties. In addition to arranging for procedures to be brought into compliance, several senior staff who had responsibilities in this area were redeployed. We continue to keep the matter under review.

We have approved over 100 heritage and tramway schemes under the Railways and Other Transport Systems (Approval of Works and Plant Equipment) Regulations 1994 (ROTS) and we have been working with the heritage and tramways sectors to produce guidance on compliance with the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS). A key element of our work has been to provide guidance to these two sectors and inform the industry groups, including the Heritage Railway Association (HRA) and UK Tram.

Details of the numbers of enforcement notices issued, prosecutions heard and complaints received are given in Appendix 1. Overall the number of notices issued has risen from 22 to 33. This can partly be attributed to an increasing focus by us on areas of significant risk. The numbers of complaints received remains similar to last year.

Incident and complaint investigation

Over the course of the year, the Rail Accident Investigation Branch (RAIB) formally investigated 21 incidents and published 23 reports with 168 recommendations, including the report into the Grayrigg accident. RAIB is required to address its recommendations either to ORR, as the national safety authority, or to other public bodies or authorities. We consider recommendations addressed to us and, where appropriate, ensure they are acted upon. In addition, we report back to RAIB on the measures taken to implement recommendations. We closed 105 recommendations dealing with issues such as derailments due to landslips, sleep disorder screening for train drivers and work to understand the causes of rule violation by track workers.

We have also investigated a number of safety incidents over the year, some of which are detailed in this report.

A fatal accident occurred at Wraysholme automatic open level crossing on 3 November 2008. There had been a previous incident at the level crossing in February 2008 when the driver of the car in collision with the train had been prosecuted by the police. As a result of this previous incident the crossing had been renewed. Our investigation into the November fatality resulted in us serving an Improvement Notice requiring Network Rail to improve the alignment of the lamp heads and their brightness and to increase the contrast between the lamps and their mounting boards.

A power failure on the Jubilee Line in April 2008, resulted in around 4,500 people being held underground for up to 3 hours. Our investigation looked at the technical causes of the failure as well as weaknesses in London Underground Limited's (LUL's) operational response. The investigation highlighted issues of risk assessment, training and incident management for further inspection.

We served an improvement notice on Tramtrack Croydon Limited requiring them to assess risks to users of pedestrian and cycle crossings on the Croydon Tramlink network. This followed our investigation of a fatal accident to a cyclist in Morden in September 2008. The risk assessment has highlighted a number of areas for improvement that are being addressed.

As part of our investigation into a major incident at Barrow upon Soar, we issued two Improvement Notices in August 2008. These required Network Rail to improve their risk assessment and planning arrangements for delivering bulk materials to worksites and to improve the competency arrangements for staff undertaking banksman duties.

[In [month] we received an anonymous complaint that a train with a defective braking system had been returned to passenger service without adequate checks having been made. Our investigation showed that a procedure had been short circuited allowing a potentially dangerous vehicle onto the main line network. Management had failed to identify poor depot practices and were relying on workers with no checks being made. After the company had been advised that legal proceedings were a possibility, we received details of revised control



procedures, along with an undertaking from the managing director that these would be rigidly enforced in future.

Two pedestrians died in incidents at level crossings in Scotland. In January 2009, a youth was struck and killed at Gatehead automatic half-barrier crossing in East Ayrshire and in February 2009 an elderly man was struck and killed when using the footpath at Moulinearn private crossing in Perthshire. Our investigations are continuing but in both incidents the crossings appear to have operated as designed.

Grayrigg

On 23 October 2008 RAIB published the report of its investigation into the Grayrigg derailment on 23 February 2007, in which one person died and 22 were seriously injured. The British Transport Police (BTP) announced in February 2009 that it would not bring charges against individuals for breaches of serious criminal law.

We are considering possible breaches of health and safety legislation. A number of issues have emerged during the investigation and we have taken action to ensure Network Rail deals with these issues (see the section on Inspection). Network Rail has also done some initial work to look at the design of the joint, in particular the fastenings, between the fixed stretcher bar bracket and switch rail.

Potters Bar

After the derailment at Grayrigg, the inquest into the deaths of those who died at Potters Bar on 10 May 2002 remained adjourned, pending the Secretary of State for Transport's decision as to whether an inquest was the appropriate way forward. Following closure of the remaining recommendations of the Potters Bar Investigation Board, this body was disbanded in June 2008.

Public inquiry report recommendations

The Health and Safety Commission's recommendation process charted progress on the implementation of the 295 recommendations made in the inquiries into Southall and Ladbrooke Grove and the Joint Inquiry into Train Protection Systems. Of the original 295, three recommendations remain which continue to be monitored by ORR.

Topic strategies

Risk-based topic strategies, drawn up to support our business planning, have continued to influence our inspection and investigation activities during the year. We worked to address the priority topic areas, including track, command, control and signalling, level crossings and worker safety. We have revised and updated the strategies using the latest industry safety risk and accident data, industry research and intelligence from ORR interventions. The full suite of strategies can be found on our website.

There has not been a year when a member of staff has not been killed on Britain's rail infrastructure. Three people died in 2008-09. This figure represents an improvement on previous decades but it is of course a matter of great regret that there are any deaths at all. There was a slight

increase in reported major injuries, but the rates for these remain steady overall. We believe that it is entirely feasible for the industry to prevent all worker fatalities and to reduce injury rates and we will continue to work with stakeholders to achieve this.

Network Rail has drawn up plans to address those factors identified as root causes of incidents and near-hits. These plans will supplement existing programmes to develop the behavioural factors that create a positive safety culture.

Reviewing our track topic strategy has reinforced our focus on managing catastrophic risks deriving from S&C, track inspection and maintenance activities. During the year we challenged Network Rail's understanding of the mechanical forces experienced by S&C and the adequacy of component fastenings in current designs incorporating fixed stretcher bars. We are working with Network Rail to review their findings and expect continued improvement in management of risks.

Signalling and telecommunications systems are critical to the safe operation of the railway. The design, installation, commissioning, operation and maintenance of the systems has been subject to inspection both in the completion of schemes under the old approvals regime, and under the new regulations. Particular emphasis on the mainline railway has been on:

- the Cambrian European Rail Traffic Management System (ERTMS) deployment where we are seeking to ensure that Network Rail is delivering both interoperable and safety verification procedures that are robust and workable for the future;
- the maintenance and integrity of existing systems to confirm that the assets were correctly identified and properly maintained;
- the competence of signalling and telecommunication maintenance staff; and
- the roll-out of GSM-R (the European radio system for railways).

Level crossings - the interface between the railway and the road - create a 'pinch point' that requires all duty holders and stakeholders to play their part in preventing incidents. The year saw a rise in level crossing fatalities to 19. However, this remains below the rolling average of casualties seen since 2000. All the fatalities at level crossings were members of the public struck by trains. No trains were derailed in the 12 collisions with road vehicles that occurred at level crossings.

We continue to focus effort to ensure that railway duty holders design, install and maintain appropriate level crossings. A key task was concluding our review of Network Rail's risk management model for level crossings. Although not a risk assessment in its own right, this review established that the model is capable of fulfilling the role given to it by Network Rail and represents a step improvement in the level crossing safety management. We will continue to work with Network Rail to refine the model further and engage with all stakeholders who can bring improvements to safety at level crossings.

Statutory obligations

Details of the numbers of ROGS certificates considered, ROTS approvals, interoperability authorisations and level crossing orders are in Appendix 1.

Policy Developments

Our three year monitoring and evaluation of the performance and impact of ROGS continued. Noble Denton Bomel Limited, who carried out the baseline survey in 2007, carried out a second survey in 2008¹. The report indicates that the objective of ROGS is being met: we are maintaining national standards of rail safety in line with EU requirements and are promoting continuous improvement. In the next phase of work, the research team will issue a third survey and repeat the qualitative exercise undertaken at baseline. The report on this next phase will be available in 2010.

The Law Commission and Scottish Law Commission have started work on a joint project to review the law on level crossings in Britain. The Commissions plan to consult on options later in 2009. To help we organised a joint ORR/Law Commission seminar on 30 January 2009. It was attended by over seventy delegates from a diverse range of stakeholder groups. In addition to railway industry bodies, these included the Ramblers Association, the National Farmers Union and the Road Haulage Association. The feedback from delegates was extremely positive². We also helped the Scottish Law Commission by exploring issues with Commissioners during a series of visits to level crossings in central Scotland.

We worked with the sectors to produce guides to safety verification which are available on our website. For the heritage sector, we are working closely with the Heritage Railway Association (HRA) to organise and run a competency framework course to help members of the heritage railway movement act as an independent competent person (ICP) under ROGS. Once developed, the course will be managed by HRA.

Jim O'Sullivan, one of our non-executive directors, chaired three meetings of the railway industry advisory committee (RIAC) during the year. RIAC is one of the principal means by which we maintain dialogue with representatives from across the railway industry on health and safety issues. It provides advice to our Board, in particular providing comments on proposed new guidance and regulations. The May 2008 meeting of the committee marked the 30th anniversary of its establishment by the Health and Safety Commission, and included a presentation looking at the health and safety challenges facing the railway over the next 30 years. That presentation, along with our new corporate strategy, is helping to shape the future work of the committee. Occupational health issues featured regularly in 2008-09 and we expect this to continue to be an important focus for the committee.

1. Their report is available at <http://www.rail-reg.gov.uk/server/show/ConWebDoc.9380>

2. A report of the seminar is available at <http://www.rail-reg.gov.uk/server/show/nav.1566>

During 2008, we reviewed the main standards regimes (Railway Group Standards, Network Rail company standards and European Technical Specifications for Interoperability) that affect the mainline rail network. The review was prompted by the challenges posed to the industry by the DfT's and Transport Scotland's 'high-level output specifications' (HLOSs), the growing influence of Technical Specifications for Interoperability and the continuing view that current standards may prevent advances in efficiency. The purpose of the review was to understand if there was agreement about the purpose of standards, whether the regimes were fit for purpose and how our role in relation to standards was viewed. We published the report of our review in January 2009.

Having revised our internal guidance for our inspectors on the use of cost benefit analysis in 2007-08, we carried out a review of our internal guidance for assessing whether health and safety risks have been reduced so far as is reasonably practicable.

The memoranda of understanding (MoUs) between ORR, RAIB, BTP, Association of Chief Police Officers (ACPO) and ACPO (Scotland) formalise the working arrangements between these agencies when investigating incidents and handling recommendations that stem from them. We carried out a review of the MoUs in 2008 to ensure that these documents, originally signed in March 2006 (Scotland) and April 2006 (England and Wales), remain fit for purpose and enable all agencies to work together efficiently. We believe that no major changes are required, and are developing complementary working level documents to add further detail and build on the experience of working together.

Channel Tunnel Safety Authority

The Channel Tunnel Safety Authority (CTSA) is an independent bi-national body whose responsibilities are set out in the Treaty of Canterbury between the UK and France and which reports through the Channel Tunnel Intergovernmental Commission to both the UK and French Governments. It does not report to ORR, but we provide two members to the UK delegation and the staff of the UK secretariat.

A major preoccupation for the CTSA during the second half of the year was the fire which occurred in the Channel Tunnel on 11 September 2008. This incident which occurred on the French side of the tunnel is currently being investigated jointly by BEA-TT (the French independent accident investigation body) and RAIB.



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2. Securing improved efficiency and performance

What we set out to achieve?

Our aims were:

- to hold Network Rail to account in meeting its obligations under the network licence and the 2003 Access Charges Review
- to monitor and comment on whole-industry performance and to publish reliable industry statistics

What was the outcome?

Early in the year we took enforcement action under Network Rail's licence on:

- the need for a revised, robust plan for completion of West Coast Route Modernisation (WCRM) works to enable introduction of upgraded services, and
- the need for the company to tackle systemic weaknesses in its management of engineering projects requiring possessions.

Although Network Rail's revised WCRM plan called for more possessions and planned service reductions during 2008, we concluded that this was preferable to delaying completion. Network Rail delivered the works on time and upgraded services were introduced in two stages, in December 2008 and February 2009.

The company has taken a positive approach to its review of engineering projects and possessions. We are encouraged by the plans it has put in place and by indications that disruption due to overrunning possessions is reducing.

We completed a major review of Network Rail's network licence. The revised licence which came into effect on 1 April 2009 sets out Network Rail's obligations more clearly and logically, relating them consistently to the purposes they are intended to serve. Where the licence was now considered to be over-prescriptive this has been corrected; elsewhere more detail has been included to strengthen and clarify the scope of the obligations. This provides both the company and its stakeholders with greater certainty about its accountabilities.

We have begun producing National Rail Trends (NRT) data on a rolling basis so that new data is available more quickly, and we have set up a project to ensure that in future NRT and other publications comply with the National Statistics Code of Practice.





Delivering the West Coast mainline project

In light of the engineering overrun at Rugby in January 2008, and the impact this had on the remaining West Coast route modernisation (WCRM) work, we concluded that Network Rail did not have a robust plan to deliver the WCRM outputs. These included faster journey times and increased train capacity. We required Network Rail to submit a revised plan. It did this in March 2008, supplementing the programme with additional possessions, intended to increase the certainty of its delivery by December 2008.

We reviewed the plan with the independent reporter, and considered the views of operators, service user representatives and funders. We concluded that delivery in December 2008 was achievable and, despite the increased disruption that this would cause during 2008, was preferable to deferring completion of the work and delivery of the associated benefits. During the remainder of 2008 we closely monitored delivery of the work against the revised programme, until all of the critical commissionings were completed to schedule.

The planning and execution of engineering work requiring track possessions

We issued a final order to Network Rail on 22 April 2008 in relation to its management of engineering projects, after consultation on a proposed order following the engineering overruns in January 2008. We



required it to implement a plan by 31 December 2008 to address the weaknesses identified in our investigation into the engineering overruns at Rugby, Shields Junction and Liverpool Street.

At the end of June 2008 Network Rail submitted its plan to review its project delivery. The plan focused on four key areas: risk management, site management, supplier management and communications. We accepted the plan and engaged the independent reporter Halcrow to monitor Network Rail's implementation.

An early indication of an improvement in Network Rail's planning was the relatively smooth running and completion of the 2008-09 Christmas and New Year engineering works. However, we want to be completely satisfied that Network Rail has implemented its plan successfully, so we have asked Halcrow to audit the company's approach. Halcrow will report back to us in April 2009. We expect that improvements over the long-term will be measured and tracked through the use of existing key performance indicators, and we are discussing this with Network Rail.

Network Rail's network licence

We completed our review of Network Rail's network licence to assess whether it remained fit for purpose. In June and July 2008 we consulted on changes designed to clarify the company's obligations and strengthen its accountability. We proposed:

- to retain the current network stewardship obligation at the heart of the licence, and to extend the purposive approach;
- to strengthen the stewardship obligation to emphasise Network Rail's planning, capacity allocation and asset management roles, and to clarify Network Rail's role in running an efficient and effective industry timetabling process; and
- to restructure the licence to make it clearer and more coherent while ensuring that the output obligations we established as part of the periodic review (PR08) would be enforceable through the licence.

Network Rail agreed to make the changes and the new licence took effect on 1 April 2009.

Western route performance

We monitored results on the Western route closely throughout the year, to ensure that Network Rail sustained early improvements to the consistently poor performance it had provided over the previous two years. Performance improved very substantially through the year as Network Rail and First Great Western worked together effectively to meet and exceed the improvement targets included in their joint performance improvement plan.

Penalties statement

In October 2008 we consulted on changes to improve the penalties statement which supports our published economic enforcement policy. The new statement clarified our approach in the context of Professor Richard McCrory's report 'Regulatory Justice: Making Sanctions More Effective'. In particular, it confirmed that our main purpose in imposing a penalty is to change future behaviour and incentivise compliance and it emphasised how we use the concept of seriousness in assessing any penalty. We published a revised statement in April 2009.

Land disposal

From 1 April 2008 Network Rail took responsibility for ensuring that stakeholders are properly consulted about proposed land disposals, and for resolving the issues raised before we get involved in the decision making process.

The downturn in the property market has led to a declining number of land disposals in 2008-09 and it was December 2008 before we received Network Rail's first submission made under the new regulatory arrangements. We will therefore not review how the first stage of the new arrangements has worked in practice until December 2009 at the earliest³.

3. A full description of how we regulate land disposals can be found in our document Land disposal by Network Rail: the regulatory arrangements, available on our website.

Notices, consents and approvals under the network licence

We issued notices to Network Rail requiring the preparation of a new-style delivery plan for the whole of the next control period, and an annual return. We consented to 12 proposed land disposals. We imposed conditions on two of these to ensure that Network Rail dealt with outstanding issues before disposal. In one case we directed Network Rail not to proceed with its proposal.

We consented to Network Rail establishing a joint venture for the development of several stations in south east England. This will allow Network Rail to benefit from its partner's skills, allowing it to maximise the value of its land and bring forward station enhancements.

We also issued two consents to allow Network Rail to engage in a trial of ERTMS on the Cambrian line in Wales, and to facilitate Network Rail's hiring of a surplus track maintenance train for trials in France.

Monitoring and reporting

We continued to build on the improvements made over the last two years. The quarterly *National rail review* continued as our principal monitoring output for the industry, supported by National rail trends, which provides statistical data on the industry, the *Network Rail monitor*, which comments on a quarterly scorecard of key performance indicators (KPIs) and the *Annual assessment of Network Rail*.

Annual assessment of Network Rail

We published the fifth *Annual assessment* of Network Rail's performance on 17 September 2008. This highlighted the company's progress towards achieving targets from the access charges review 2003, its own business plan for 2007-08 and compliance with the requirements of the network licence.

Network Rail monitor

We published four quarterly editions of the *Network Rail monitor*. The monitor tracks progress against key performance indicators in the areas of safety, performance, asset management, financial efficiency and the delivery of major projects. The quarter four monitor was enhanced to provide an early assessment of Network Rail's performance for the year as a whole. It contained more disaggregated data and a greater depth of commentary and analysis.

National rail review

We published four editions of the *National rail review*, examining issues across the industry. Subjects covered included key market trends in the rail passenger and freight markets, the significance of punctuality in driving overall passenger satisfaction, the need to minimise planned and unplanned disruption and Network Rail's delivery plan.

Monitoring in the next control period

We began a review of the monitoring framework to meet the requirements of the next control period. The revised framework takes into account the change in emphasis from "fixing the basics" in control



period three (CP3) to sustaining improvement and providing the extra capacity required by a healthy, growing rail industry in control period four (CP4). The principles underlying the revised framework were published in our final determinations in October 2008.

National rail trends

We met the target date (31 July 2008) for web publication of the *National rail trends* (NRT) statistical yearbook 2007-08. Paper copies were published in September 2008. We successfully moved to producing NRT on a rolling basis from Q2 2008-09 and tables are now published in a more timely manner. A publication timetable is available on the ORR website. We improved the notes and methodology sections in the 2007-08 yearbook and an NRT Improvement plan was drawn up and agreed at the industry's rail statistics management group (RSMG). All recommendations have been completed on time, where applicable. Additionally an NRT project has been set up under RSMG to further improve and develop NRT to ensure that stakeholder expectations are met that it becomes the principal source of rail statistics in the industry.

Commitments to Eurostat and management of the data supply chain

We fell short of some of our commitments to Eurostat during the year as the industry is currently unable to provide data disaggregated at the NUTS2 level required by Eurostat (i.e. by county). We have plans in place to ensure that our commitments to Eurostat are fulfilled by agreed dates. This issue has been escalated within Network Rail and DfT and a pragmatic solution is being sought.

Throughout the year we made a number of improvements to the management of our data supply chain. Contracts were re-negotiated and we worked with data suppliers to establish improved systems of work, processes and improved data quality.

Complying with the National Statistics Code of Practice

We set up a project team to ensure that all internal (ORR) processes and outputs meet the standard outlined in the national statistics code of practice. A compliance statement (as required under the code) has been drawn up and will be available on the ORR website. A publication timetable for NRT publication and a list of those who have pre-release access are available on the ORR website.

Licensing

During the year we completed 47 licensing cases and dealt with over 60 licensing enquiries. No new licences were granted. Details of licence exemptions granted and revocations made during the year are in Appendix 2. There were two change of control applications and 11 notifications of changes to licensing schedules.

Cases included granting new style flexible licence exemptions to rail terminal operators and heritage railways. We issued a flexible licence exemption for Docklands Light Railway to replace four existing licence exemptions and to provide for the new Woolwich extension. We expect notifications to be an increasing area of work in place of new applications as we issue more flexible licence exemptions.

We also granted several licence exemptions for Network Rail contractors using maintenance trains in possessions. We no longer routinely impose a third party liability insurance condition in new licence exemptions for these operators where they are covered by Network Rail's insurance programme.

Asset management

The development of asset management capability within the railway industry is a key theme in our corporate strategy. Our major focus to date has been on monitoring and assessing how Network Rail is developing its asset management maturity, especially in respect of the quality, application and availability of asset information. In April 2008 we confirmed that Network Rail had achieved compliance with the requirements of the asset register condition (condition 24) of its network licence.

However, Network Rail still faces considerable challenges in fully embedding this progress into the culture and operation of the company so that it becomes a natural part of its business. This is highlighted by the extensive programme of information audits and reviews that continue to be carried out by the independent reporter (AMCL). Their conclusions show that there is more to be done to improve the data management and quality assurance processes by which consistently good asset information will (a) be sustained, and (b) made available to relevant third parties that rely upon Network Rail for its provision. We received significant evidence from a number of key stakeholders during the year that further highlighted such issues, especially relating to the supply of infrastructure data (such as structure gauging data) needed by the manufacturers of new trains.

During the year we commissioned the reporter to carry out two further studies in these areas. The first of these, finalised in February 2009, audited eleven elements of the asset information strategy to provide broad coverage and to address areas where previous recommendations had been made. Subjects covered included: systems for managing rail defects and asset failures, asset data management and assurance processes, electrification equipment condition data, the civil engineering assets database, access to engineering documentation and the processes for providing information to external stakeholders.

Connected with this, a separate study examined in detail how Network Rail manages and provides gauging information to third parties. This report was completed in March 2009, and we are now briefing key stakeholders on the findings.

Both of these reports make important recommendations on ways in which Network Rail can continue to develop and improve its asset information strategy. We are continuing to monitor its response in implementing these recommendations, and we are also continuing to engage with industry stakeholders and funders to ensure that their reasonable information requirements are being properly addressed and met by Network Rail. This includes the management of information that is needed to comply with European interoperability directives as they become transposed into British law.

In addition to these detailed audits, we also commissioned AMCL to further develop its 2006 evaluation of Network Rail's whole asset management regime using its proprietary asset management excellence model. This update is to measure how Network Rail is progressing towards the achievement of asset management maturity targets that have been set for June 2011 and October 2012 - key dates in the next periodic review. The evaluation will also mean that it will be possible to compare Network Rail's asset management regime and processes with the good practice guidance set out in the internationally recognised standard for asset management PAS 55⁶

We expect to publish the results of the updated evaluation in mid 2009.

Route utilisation strategies

Route utilisation strategies (RUSs) establish plans for the efficient use and development of the railway. They are important in ensuring robust plans are in place for the future. It is Network Rail's responsibility to lead on the development of RUSs.

We want to make sure everyone is aware of the RUS work and that stakeholders can plan their contributions to it. We therefore require Network Rail to publish a RUS programme. We approved its revised programme in January 2009 and this is available on Network Rail's website⁵. There are 17 geographical RUSs plus freight and network RUSs in the programme. Network Rail develops each RUS, steered by the relevant stakeholder management group (SMG) at each of the development stages: scoping, baseline, options and recommendations. We are an observer at SMG meetings and we provide advice and assistance. Network Rail submits each RUS to us and we assess it. We have 60 days to decide whether to issue a notice of objection to the RUS, and we take account of stakeholder responses.

In 2008-09, Network Rail developed and established four RUSs: for the East Coast Main Line, South London, Lancashire & Cumbria and Wales. Work has begun on all the remaining RUSs in the first 'generation'. In 2008-09, we did not object to any RUSs, reflecting our belief that they were of good quality and met the industry's requirements as defined in Network Rail's licence. We reviewed some aspects of the overall RUS process as part of the network licence review, and prepared some new guidelines which came into force with the new licence.

Sustainable development

Fulfilling one of the commitments of our April 2007 sustainable development policy, in our July 2008 NRT yearbook we published the initial set of industry environmental key performance indicators. These focused on traction energy consumption and associated carbon dioxide (CO₂) emissions for passenger and freight operators for 2005-06 and 2006-07. The 2007-08 figures were published online in NRT in February 2009.

4. PAS55-1: 2008 Part 1: Specification for the optimized management of physical assets

5. <http://www.networkrail.co.uk/aspx/4449.asp>

The industry continues to work toward developing a number of other indicators (relating to traction energy efficiency and carbon intensity, air emissions, noise pollution, non-traction energy and CO2 emissions, waste generation and water consumption). We will publish these as soon as the data capture process and methodology have been agreed.

Another of our commitments for 2008-09 was to reassess our own performance on sustainable development matters against other government regulators and relevant bodies. The purpose of this was to evaluate the level of improvement made in comparison with the initial benchmarking exercise undertaken by Enviros Consulting Limited in August 2006. Enviros were once again employed to carry out this work, and the final report (February 2009, published on our website⁶) confirmed that improvements have been achieved across all the key areas considered.

During the year we continued to work with the industry to encourage continuous improvement through our participation in such forums as the sustainable development steering group, the rail sustainable development group, the noise policy group and the carbon reduction working group.



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6. <http://www.rail-reg.gov.uk/server/show/ConWebDoc.8651>

3. Securing robust plans for 2009 and beyond

What we set out to achieve?

Our main aims were to:

- complete our assessment of Network Rail's plans for control period 4 (CP4);
- complete our work on international benchmarking of Network Rail's efficiency;
- complete our work to establish the financial and incentive frameworks for CP4;
- complete and publish our determination of Network Rail's outputs and funding following consultation on our draft determination;
- complete the legal implementation of our determination;
- ensure that Network Rail completed and published its delivery plan for CP4; and
- commence the independent evaluation of the periodic review.

What was the outcome?

We achieved our principal periodic review objective which was to: "ensure an outcome to the review which secures value for money for users and taxpayers, by determining the level of Network Rail's access charges and outputs in a way that balances the interests of all parties."

We completed our detailed and thorough assessments of Network Rail's plans for CP4;

We completed the detailed international benchmarking work we had undertaken, which highlighted significant scope for Network Rail to improve its efficiency;

We completed our work to establish a robust financial framework for CP4, taking into account the challenging circumstances in the financial markets. The new framework allows for the introduction of corporate debt without a government guarantee by Network Rail during CP4; and

We completed and published all our key periodic review documents in line with our published timetable, setting out and explaining our analysis and decisions.



Higher resolution pic required



2008 periodic review

The 2008 periodic review (PR08) is the process through which we determined the outputs that Network Rail must deliver, and the levels of access charges to be paid by train operators for use of Network Rail's infrastructure, during the five years of control period 4 (CP4). CP4 runs from 1 April 2009 to 31 March 2014. The access charges we determined in PR08 are the track access charges payable by franchised passenger and open access passenger and freight train operating companies, and the station long term charge payable by users of stations. We also established the level of network grant that the governments in England and Wales and in Scotland will pay to Network Rail in lieu of access charges over the course of CP4.

PR08 was a major piece of work lasting more than three years. We have conducted the review transparently and engaged closely with Network Rail, the industry and other stakeholders. We consulted extensively on all the important issues. We undertook detailed and thorough reviews of, and challenged, Network Rail's plans and carried out further extensive work ourselves to inform our determination for CP4. All our documentation relating to PR08 is available on our PR08 webpage .

PR08 is the first periodic review to have taken place after the procedure for conducting an access charges review, set out in Schedule 4A to the Railways Act 1993, was amended following the Railways Act 2005. The key part of the new process is that the Secretary of State for Transport



and Scottish Ministers each had to provide us with information about what they want to be achieved by railway activities during the control period and the public financial resources that are, or are likely to be, available for the achievement of those activities. They did this by producing, in July 2007, 'high-level output specifications' (HLOSs), setting out what they want to be achieved, and 'statements on the public financial resources available' (SoFAs).

In completing our work on PR08 we have taken account of the HLOSs and SoFAs. We have also taken account of the reasonable requirements of all of Network Rail's customers and other funders, including open access passenger and freight train operators, to the extent these are not covered by the government specifications.

Strategic business plan update

Network Rail published its strategic business plan (SBP) update in April 2008. This was an update of certain parts of the SBP, which was Network Rail's principal submission to us in PR08, published in October 2007. Network Rail's SBP update followed our initial review of the SBP and response to the company.

The principal components of the SBP and the update are Network Rail's proposals for operating, maintaining, renewing and enhancing the infrastructure in CP4 and its estimates of the costs of doing this work and the revenue it requires from access charges and other sources. The plan

contains the assumptions about the respective contributions of Network Rail and franchised train operators to delivering the requirements of the HLOSs, as well as other outputs. The SBP update also contained parts of the company's plan for CP4 that were not included in its original SBP submission.

Our assessment of the SBP update

The SBP and the update provided the basis for our review and challenge of Network Rail's plans to underpin our determination for CP4.

Our assessment of the SBP update ran through to June 2008. During this period we:

- (a) continued our detailed and thorough review of all the material proposals and assumptions made by Network Rail;
- (b) held numerous meetings with Network Rail and its advisors to clarify and challenge its proposals for its activity, expenditure, income and financing;
- (c) took advice from consultants and the independent rail reporters reviewed key parts of the plan
- (d) had meetings with key industry stakeholders to seek their views on the SBP update; and
- (e) completed our assessment for the scope for Network Rail to improve its efficiency during CP4, which included extensive benchmarking of Network Rail against rail infrastructure managers in other countries..

Our draft determinations

We published, for consultation, our draft determinations on 5 June 2008. This set out the outputs that Network Rail must achieve in CP4 and the track and station access charges payable by train operators and other users of stations and its income from other sources of funding. Our consultation lasted until 4 September 2008 and we received more than 100 responses.

Our draft determinations were developed as part of a balanced 'package' of decisions that we established carefully, based on strong evidence, to ensure that Network Rail would be able to finance its activities in CP4. The package includes: the outputs that Network Rail must to achieve; our decisions on access charges and other sources of funding; the licence obligations; the monitoring and enforcement of the outputs, the financial framework and the various protections we have established for Network Rail to manage risk and uncertainty; and the contractual and incentive arrangements. The draft determinations contained our proposals on the scope for Network Rail to improve its efficiency in CP4, where we believe that Network Rail will be able to achieve significantly greater efficiency improvements than it proposed.

We did not include our proposals for the new passenger and freight disruption indices in our draft determinations but published our consultation on these in July 2008. Similarly, the final proposals for the industry led review of the regime to compensate train operators for engineering possessions were consulted on separately from the draft determinations, with the consultation being published in 2008.

We held an industry workshop on 9 July 2008 to explain the proposals in our draft determinations and discuss with the industry its initial views.

Our determination

On 30 October 2008 we published our determination of Network Rail's outputs and its funding from access charges and other sources for CP4. In finalising our determination we considered carefully all the responses we received to our draft determinations. We also reviewed and took account of the most up-to-date information on Network Rail's financial performance and the expected outturn of CP3.

We made a number of changes to our draft determinations based on this information. In addition we made provision for certain additional activity, expenditure and income compared to our draft determinations and agreed that Network Rail's plans for introducing unsupported debt (without the financial indemnity provided by the Secretary of State should be phased in over the course of CP4). The changes we made increased our determination of the company's gross revenue requirement (the income from all sources, in 2006-07 prices) from £26.5bn to £26.7bn. This compared to £29.1bn asked for by Network Rail in its SBP update.

Implementation of the periodic review

Following publication of our determination, we worked with Network Rail to finalise the levels of individual access charges and associated price lists, consistent with our determination. On 18 December 2008 we published the price lists and the review notices. The review notices specified the changes to the track and station access agreements between train operators and users of stations that are required to implement the periodic review determination.

We subsequently issued notices of agreement on 11 February 2009, following Network Rail's decision to accept our determination (which would otherwise have led to us making a reference to the Competition Commission). The third and final step in the implementation process took place on 19 March 2008 when we published the review implementation notices confirming that our determination would be implemented on 1 April 2009.

Delivery plan

Network Rail published its delivery plan for CP4 on 31 March 2009, setting out the detailed activities and initiatives to achieve the outputs required by our determination. We reviewed initial draft elements of the delivery plan to ensure that it is consistent with our determination. We will need to review the full plan in early 2009-10.

Independent evaluation of PR08

Our determination for CP4 will have a significant impact on the railway and ultimately passengers, freight customers and taxpayers. We considered it essential that we conduct a thorough independent evaluation of the review process, through comprehensive engagement with stakeholders, in order to learn lessons and inform the design and conduct of the next periodic review. John Nelson (formerly a senior executive of British Rail) agreed to lead the evaluation, which started in February 2008 and is planned to report in July 2009.



4. Improving and aligning relationships and incentives in the industry

What we set out to achieve?

Our main aims were to:

- To continue to streamline the processes and reduce the regulatory burden associated with the approval of access applications.
- To develop our approach to competition investigation and enforcement within the framework of focused and effective regulation and to ensure that case work is progressed efficiently.
- To use our knowledge and expertise in competition policy to inform government's approach to the railways and to keep under review the supply of services relating to railways and where necessary to utilise powers or influence to facilitate better outcomes for users.
- To support and where necessary work in partnership with consumer bodies and other railway stakeholders to ensure that passengers achieve value for money.

What was the outcome?

Access

New criteria and procedures for handling track access applications have reduced the regulatory burden on the industry, and enabled efficiencies within ORR, whilst maintaining the important protection for train operators that ORR scrutiny provides. Routine and non-contentious applications are processed faster, while we focus our attention on more complex cases and those where there is disagreement between the applicants or there are objections from third parties.

Investments

Updated guidance on changes to station charges to reflect the cost of station enhancements, making the process of investing at stations clearer and more straightforward.

Improved terms for those investing in the network (including enhanced remedies when things go wrong), providing a more appropriate balance of risks between Network Rail and investors and further encouraging investment.

Network Rail has embarked on wide-ranging initiatives to address obstacles to investments around process/timescales, and structure and culture, which we will monitor.

Competition and the consumer

The publication of updated guidance has meant that we have an approach to competition law which is clearly understood by consumers and business and has led to more informative and speedier responses for complainants. We are confident in our ability to identify and deal with issues where our intervention is likely to achieve most benefit. Through our programme of market studies we have increased our corporate knowledge of how railway markets are working and this has contributed to our risk-based approach to regulation. Our review of passenger protection in the railway has supported the development of our 2009-2014 corporate strategy, giving us confidence that our intervention can make a positive difference to the passenger experience. DfT's and the industry's approach to ticketing, industry wide agreements and fares has benefitted from our knowledge of consumer law generally





Track access

Access applications

Under the Railways Act 1993 (the Act), we are responsible for the fair and efficient allocation of capacity through our determination of the terms of the contracts under which train operators gain access to the rail network, stations and light maintenance depots. The Act provides for applications to be made on an agreed basis between an applicant and Network Rail (or any other facility owner) under section 18. When the applicant has not reached agreement with the facility owner, it can apply under section 17, which gives ORR the power to determine the form of the access contract and direct the facility owner to enter into it. The Act contains similar provisions covering the approval of amendments to existing contracts (details of directions and approvals are set out in the table in Appendix 2).

Passenger track access contracts

During the year we approved and directed a new track access contract under section 18 between Network Rail and Virgin West Coast. This new agreement replaced Virgin's previous contract and contractualised the additional and faster services which Virgin has introduced following the upgrade of the West Coast Main Line. We directed a new contract between Network Rail and Eurostar for the use of Network Rail's network between HS1 and Ashford International. We also approved extensions of the track access contracts between Network Rail and Chiltern, ScotRail, Northern, Arriva Trains Wales and the North Yorkshire Moors Railway.



Over the course of the year, we received a number of competing applications for capacity on the East Coast Main Line. At our request, Network Rail provided us with two capacity and performance assessments, and we employed consultants to assist us with an economic evaluation of the various applications. Following a lengthy and exhaustive assessment we reached our decision in February 2009. We approved the extension of existing rights sought by National Express East Coast (NEXC) and Hull Trains, together with rights to run new/additional services by NEXC, Grand Central and Grand Northern between London and (respectively) Leeds, Lincoln, Sunderland and Bradford. We refused applications by Hull Trains to run services between Harrogate and London, and by Platinum Trains to run services between Aberdeen and London.

In December 2008, we approved, under section 22, an application by East Midlands Trains for rights to run a revised timetable, including the introduction of a new service to Corby. In the same month we approved an application by Northern Rail under section 22A for rights to run services between Leeds, Sheffield and Nottingham. In January 2009, after determining that it was not prohibited by Virgin's moderation of competition protection, we approved an amendment to Southern's contract under section 22A for rights to run services between Clapham Junction and Milton Keynes.



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Freight track access contracts

During the year we considered and approved a number of supplemental agreements amending Network Rail's track access contracts with EWS (now DB Schenker Rail (UK) Limited), Freightliner, Freightliner Heavy Haul, First GB Railfreight and Direct Rail Services. We also approved a five-year access contract between Network Rail and a new freight operator, Serco Limited. In March 2009 Network Rail and SNCF terminated their track access contract. Eleven active commercial freight operators now have access to Network Rail's network.

Throughout the year we held a number of meetings with prospective freight operators as well as non train operators, such as port and terminal owners, who had also expressed an interest in holding track access contracts. These would enable a non-operator to secure paths in the timetable and designate operators to run services from its facilities as required. Meetings over the year provided an opportunity to discuss with all potential market entrants the options available and the process and procedures for obtaining access rights.

Applications for exemption from the access provisions of the Act

In August 2008, Associated British Ports (ABP) applied to ORR under section 20(3) of the Act for exemption from the access provisions of the Act for ten of its rail connected sites (nine ports and one rail freight terminal). The main justification given by the applicant was that the granting of an exemption would allow it to regularise contractual arrangements at its locations. Subsequently, we received two access exemption applications, from Freightliner and Freightliner Railport, relating to terminals they operate. These raised the same policy issues as the applications made by ABP.

Whilst we recognise the potential benefits that an exemption would bring in this market, particularly in view of our commitment to more focused and effective regulation, we concluded that we were not yet in a position to grant exemptions to ABP, Freightliner and Freightliner Railport until we had a better understanding of the issues raised, particularly around the benefit of regulation to this market and how to ensure consistency. In consultation and discussion with industry, we will be developing our policy in 2009-10. Meanwhile, to help to regularise contractual relationships for access to terminals and ports, we intend to issue general approvals which are designed to eliminate the need for specific submission and approval.

Criteria and procedures for the approval of passenger and freight track access contracts

In June 2008, following consultation with the industry, we issued new general approvals for passenger and freight contracts increasing the categories of amendments that can be made to access contracts without the need for our specific approval. This has reduced the number of applications industry parties have to make to us and enabled them to make changes to their contracts more quickly. We are considering extending the scope of these and introducing a new general approval covering connection agreements.

In November 2008, we issued a new criteria and procedures document covering both freight and passenger track access⁷. This document contains the *Industry code of practice for track access application consultations* and other documentation produced as part of the review of our criteria and procedures. It also features improved guidance on how to complete our freight and passenger model track access contracts.

Alongside this we published a document called '*Starting main line rail operations: a guide to the regulatory framework*'⁸ to assist potential operators in developing their understanding of the access, licensing and health and safety regimes. This document was given a 'crystal mark' by the Plain English Campaign.

In February and March 2009 we developed, with Network Rail, a model track access contract for charter train operators, along with a general approval permitting Network Rail and train operators to enter into such contracts without the need for our specific approval. These will be published in June 2009 once consultation is complete [current position at publication?].

Rail freight – capacity choices

To support assessment of potentially conflicting applications for access from passenger and freight operators, we have started a review of the values that freight operators and their customers place on time savings. This will provide a foundation for further work in 2009-10.

Appeals

During the year we considered four appeals against decisions made by Access Disputes Committee Panels:

- (a) TTP 210 – Network Rail appealed against the Panel's determination that certain Restrictions of Use relating to the upgrade of the West Coast Main Line should not proceed. Following the withdrawal of the objections of the train operators who had been opposing the Restrictions of Use, on 26 June 2008 we determined that Network Rail should be entitled to take the Restrictions of Use and agreed to Network Rail's request that the hearing of the appeal should be adjourned until a date after 11 May 2009, which is the week following the last of the planned Restrictions of Use.
- (b) ADP 31 - Network Rail appealed against the Panel's finding that First Greater Western was not required to pay the costs of lubricator installation and increased inspection necessary because of a change in rolling stock on certain routes made pursuant to Part F (Vehicle Change) of the network code. On 29 September 2008 we issued our determination which upheld the Panel's decision.



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7. Our criteria and procedures for approval of track access contracts can be found on our website at <http://www.rail-reg.gov.uk/upload/pdf/386.pdf>.

8. This document can be found on our website at http://www.rail-reg.gov.uk/upload/pdf/387_cm.pdf.

- (c) TTP 242 - First ScotRail appealed the Timetable Panel's finding that Network Rail had not breached Part D of the network code when preparing the first working timetable for December 2008 in relation to the allocation of priorities for bids for train slots as between First ScotRail and West Coast Trains. On 11 December 2008 we decided under the procedures set out in the network code not to hear the appeal on the grounds that the appeal did not have any real prospect of success.
- (d) TTP 244 – Wrexham, Shropshire & Marylebone Railway appealed the Panel's finding that Network Rail had not breached Part D of the network code when preparing the first working timetable for December 2008. We decided to deal with the appeal in two parts and on 23 February 2009 we issued our first determination, setting out our legal interpretation of the Part D process. At the end of the year we were still considering the second part of the appeal relating to liability and compensation.

Appeals under the Railways Infrastructure (Access and Management) Regulations 2005 (the Regulations)

In March 2008, we received for determination our first appeal under the Regulations. EWS appealed because it was “aggrieved with the continuing lack of a proper charging scheme and robust level of infrastructure fees pertaining to the High Speed 1 Railway (HS1)”. The basis of EWS’ argument was that without a proper charging scheme and robust level of fees in place for the HS1 network, it was unable to continue to plan its business with a reasonable degree of assurance.

Such appeals are dealt with using the same process as applications made under sections 17 or 22A of the Act. After careful consideration of all the issues, including representations received from the applicant, HS1’s infrastructure managers (HS1 Ltd and CTRL(UK) Ltd) and interested persons, on 22 September 2008, we determined the appeal as follows:

- the infrastructure managers had not discharged their obligations (under the Regulations) to ensure that the Network Statement was up to date and contained sufficient information on charging to enable a prospective operator to calculate the costs of operating services on the HS1 network. We therefore directed the infrastructure managers of HS1 to publish, by 17 November 2008, an up to date Network Statement, to include sufficient information to enable an operator to calculate the cost of operating on HS1⁹; and
- the Charging Body for the HS1 Network (CTRL (UK) Ltd) must provide the infrastructure managers with such information, and in such timescales, as is necessary to enable the infrastructure managers to fulfil their obligations, as directed by ORR above.

9. The HS1Network Statement can be found at <http://www.highspeed1.co.uk/information/?page=1&id=55&category=&pagecategory=>

Track access options

In March 2008 we received a section 18 application from Transport for London and Network Rail for approval of a 30 year track access option (TAO) in respect of the North London Railway Infrastructure Project. Following our review of the application we advised that we would approve a TAO of 15 years duration. TfL subsequently informed us that it was de-scoping the project and revised its application to reduce the envelope of rights sought. We reassessed the application and on 13 January 2009 we confirmed that we were still prepared to approve a 15 year TAO. Subject to finalisation of the TAO contract, we expect to issue directions on this application early in 2009-10.

Stations and depots

Access applications

The stations and depots team is responsible for approving both new agreements and amendments to existing agreements for access to stations and light maintenance depots. This year we have not received any applications asking us to direct a facility owner to enter into an access agreement following the inability of the parties to agree. However, where necessary, we continued to provide advice to industry colleagues through meetings and in correspondence, to help them better understand the stations and depots access regime.

Stations Code

We continued working with Network Rail and the industry towards the implementation of the Stations Code. However, the industry indicated that it considered that the Stations Code was no longer the appropriate solution to providing it with a more streamlined, efficient and effective contractual framework for station access. Network Rail and ATOC have written to us explaining this change of position and outlining some possible ways forward to achieve the changes to the stations access regime that it considers are necessary. We will work with the industry to help it take forward its proposals and will consult with stakeholders on any proposed changes.

Modification of the Independent Station Access Conditions

In April 2008 Network Rail asked us to consider modifying the Independent Station Access Conditions (ISACs) so that the level of qualifying expenditure (QX) at those stations it managed directly would be set for a period of five years, running in tandem with a control period.

QX is made up of the costs associated with the day to day running of a station; this operational expenditure is passed through from the station facility owner to the other train operators who use the station in direct proportion to each operator's number of departing vehicles. QX is not regulated or approved by ORR.

We consulted with industry stakeholders in May 2008 and, following careful consideration of responses, decided in August 2008 to modify the ISACs as requested by Network Rail. The modifications became effective in February 2009.



We believe that the overriding benefit to the industry is that negotiations over QX, which are currently undertaken annually, need only happen once every five years for the Network Rail managed stations. This will save industry resources and be more efficient.

Consultation on a more focused approach to station and depot access

During this year we carried out a fundamental review of the way we approve contracts for access to stations and depots. Our aim was to find ways to lighten the regulatory burden on the industry and to create an environment in which it could take greater responsibility for managing its station and depot access contracts. In turn this would help us to focus our resources on those matters where we believe we add most value.

In October 2008 we issued our consultation, '*A more focused approach to stations and depots access*'. The main thrust of our proposals was to widen the use of general approvals so that, subject to certain criteria, nearly all agreed contracts for access to stations and depots would be generally approved. The same would apply to amendments to agreements. In addition we would make our general approvals simpler to understand.

Our consultation closed in January 2009 and since then we have been considering the detailed responses that we received and preparing our conclusions for publication. We are improving our guidance and template documents and we plan to produce a document describing the criteria we will apply when considering station and depots access contracts, and the procedures we would require parties to follow when dealing with us.

Network Code

During 2008-09 we approved a number of proposals to:

- (a) improve, correct and clarify the network code; and
- (b) amend the industry Delay Attribution Guide to develop the delay attribution process managed under Part B of the network code, details of which can be found on our website. In particular, on 18 August 2008, we took the unusual step of issuing a notice under condition C8 of the network code to implement modifications to Part G to reflect our final conclusions on the industry's proposed changes to the compensation regimes for passenger and freight operators. These changes ensured that Part G aligned with the new track access contract Schedule 4 documents that came into effect on 1 April 2009 as part of the periodic review.

During the year we also participated, as part of an industry working group, to review and propose amendments to the ADRR process. This work included the publication of an industry consultation document in December 2008 proposing reform of the current process and the hosting of an industry seminar on 9 January 2009 at which the working group's proposals were discussed. Responses to the consultation are currently being reviewed, with further industry consultation on draft amendments to the rules (and other contractual documents if necessary) expected to be issued during 2009-10.

Investment

Policy and analysis

During the year we continued our work and published conclusions in two important areas of our investment framework.

We consulted on and then finalised updated guidance on station charges. Most third party investment is in or around stations, and this guidance updates and clarifies how the costs associated with station enhancements should be reflected in charges for access to the station. We expect this guidance to simplify the process of investment and reduce the number of instances where our published guidance requires explanation or interpretation for a specific investment.

We also published conclusions on the changes Network Rail must make to its template agreements for third party investments. These changes are intended to make sure that the allocation of risk between Network Rail and investors properly reflects our policy framework for investments. They should ensure that risks and liabilities are borne by those best able to manage and mitigate them.

We expect the improvements detailed in these two sets of conclusions to allow investors to make decisions with greater confidence in their outcome, and so to reduce the risks involved in investing in rail.

Besides these two pieces of policy work we have provided advice and approvals for RAB funded investments, with significant programmes of enhancements being promoted by train operators to improve facilities at their stations. We also undertook an annual review of Network Rail's involvement in investments (published in our annual assessment of Network Rail). We plan to continue to monitor the level of third party investment.

Our work on assessing obstacles to investments is set out under the 'market studies' heading below.

Competition and consumer casework

During the year we dealt with over 260 complaints, meeting our target of 95% of responses being sent within 20 working days of receipt by ORR.

Many of the complaints we receive relate to pricing. A key objective for our responses has to seek to increase understanding of ticket pricing, and in particular to explain to passengers what train operators can or cannot do in relation to ticket prices and the government's role in the regulation of some fares. This follows on from our plain English guide on how competition law relates to rail fares and car park charges¹⁰, which we published last year.

A number of the complaints received related to the impact on individual journeys of changes to the terms and conditions of certain ticket types. Passengers wrote to complain of increases in the price of tickets where what was happening in practice was that the train operator was exercising its discretion to alter the validity of the ticket for travel at certain times of day.



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10. Complaints about rail fares and car-park charges: the role of competition law, available at: http://www.rail-reg.gov.uk/upload/pdf/comp-cmplnts_rlfrs_cpk_chrgs.pdf updated November 2008

Clearly this will result in disappointment to some passengers when they discover that a cheaper ticket is no longer available at their accustomed time of travel. It is not, however, a practice which is prohibited by law or (in general) by regulation. We would expect at a minimum, however, that the terms and conditions of travel are made clear to the passenger at purchase.

Throughout the year we have actively engaged with the industry, with the Department for Transport and with passenger bodies such as London TravelWatch and Passenger Focus and sought every opportunity to work with those bodies to continue to improve the clarity and quality of the information available to the consumer.

Market studies

2008-09 saw the continuation of our programme of market studies which aims to review the workings of all the significant markets associated with the railway sector.

We looked at current demand and supply for rolling stock for use in UK rail freight haulage, and considered whether any features of these markets might. On the basis of evidence obtained in this preliminary desk study, we concluded that the market for the provision of both freight locomotives and wagons appears to be working well. Rolling stock has been seen to be available in both small quantities and with sufficiently short lead times to encourage small scale market entry as well as in sufficiently large quantities to allow smaller freight operating companies to diversify and expand their client portfolios. It is our intention to use the findings of this study to inform future licensing reviews.

In last year's annual report we said that we were seeking feedback from promoters and funders of third party investments on how the investment process is operating and whether there remain barriers to efficient investment and suggestions as to how these barriers can be overcome. The issues which were brought to our attention during the course of the consultation which ended in July 2008, have already informed our exchanges with Network Rail including our conclusions on template contracts. We have also explored with Network Rail how the work it already has in hand will address stakeholder concerns. We published our conclusions on 31 March 2009.

11. Review of obstacles to third party investment, available at http://www.rail-reg.gov.uk/upload/pdf/020508_tpi_letter.pdf

Competition commission investigation into Roscos

We continued to engage with the Competition Commission (CC) during the course of this year during its continuing investigation into the leasing of rolling stock for franchised passenger services, which followed our reference to the CC in April 2007. We welcomed the publication of the CC's provisional findings and notice of possible remedies in August 2008 and our Chairman attended a formal hearing at the CC in September 2008 following our written response. We also responded in December to the CC's provisional decision on remedies and to its February note on greater transparency. The final report was published on 7 April 2009 and we will continue to engage with the CC on any future monitoring role that ORR might have.



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12. A reference made under section 131 of the Enterprise Act 2002.

5. ORR as an effective combined safety and economic regulator

What we set out to achieve?

Our main aims were to:

- develop, consult, and agree ORR's strategy for the following five years;
- design an organisation that could deliver such a strategy;
- complete our work on a single set of employment terms as a combined regulator; and
- start our rationalisation of our regional offices – reducing from 21 to 5.

What was the outcome?

We published our corporate strategy for 2009-14 in December 2008. We consulted and engaged widely with our stakeholders – internally and externally – to develop a strategy which supports the industry in improving further over the medium to long term. As we work in partnership over the next five years, we will be able to monitor the effectiveness of this strategy.

During the second half of the year, we started a significant change programme so that we would start the first year of our strategy with an organisational structure best able to deliver on that strategy. That structure is in place, and now we start the process of making it effective.

Following agreement with staff on a new unified set of terms and conditions, we are now a single, combined, employer - all our staff have equal access to the same benefits, policies and procedures regardless of whether they transferred from HSE or from the former ORR.

We have a three-year programme for rationalising our office accommodation. In 2008-09 we closed two offices, and the pace of the programme is now accelerating. As it progresses we will see financial benefits, but more importantly all our inspection staff will be placed in the key regional railway industry centres, and therefore best placed to help the industry achieve one of our strategic themes “excellence in health and safety culture and risk control”.



Property of Pipeline Design



Our Strategy

During the year we developed and published our regulatory strategy for 2009-14, entitled 'Promoting safety and value in Britain's railways'. This involved extensive engagement with stakeholders and our own staff, with active involvement of the Board and senior team. The strategy outlines the challenges the railway industry faces in the period and sets out a vision for the railways for safety, customer satisfaction and efficiency. It then highlights seven strategic themes for the industry by which we will set our priorities:

- focus on the needs of passenger and freight customers;
- excellence in health and safety culture and risk control;
- excellence in asset management;
- improved industry planning and timely and efficient delivery of major projects;
- efficient use of capacity on the mainline network;
- development by the industry of the capabilities of its people; and
- high quality data and information for key decisions.



Parliament

We gave evidence to the following Select Committees:

- the Public Accounts Committee inquiry on management of train delays on 4 June 2008;
- the House of Lords European Union Select Committee B on the first railway package on 23 March 2009; and
- the Scottish Parliament Transport, Infrastructure and Climate Change Inquiry on high speed lines on 25 November 2008.

The chairman and chief executive twice met the All Party Parliamentary Rail Group. Meetings were also held between senior staff and a number of MPs and peers on specific issues of concern.

Scotland

Scottish Ministers, through their agency, Transport Scotland, are responsible for specifying and funding rail services in Scotland. We continued to work closely with Transport Scotland; particularly on the periodic review and monitoring Network Rail delivery and on our corporate strategy.



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Other devolved, regional and local funders

Transport for London plays an important role in planning, funding, specifying services in London, and we worked with them to help secure delivery of their objectives, and balance their interests against wider use of the network (for instance in our decision on the East London Line access option).

Transport for Wales and the Passenger Transport Executives in England also fund and specify some services, and we continue to consult them on relevant policy initiatives and seek their advice as appropriate.

Department for Transport (DfT)

Effective communication between ORR as the independent regulator and DfT as the primary public sector funder of the railways is essential. Our chairman and chief executive held regular meetings with the Secretary of State and Rail Ministers, and the permanent secretary, alongside regular and ad-hoc meetings with DfT officials. In addition the Board met the Rail Minister in January 2009. As mentioned in chapter three above, PR08 was a key focus of these discussions.

Other government departments

We worked with other government departments, particularly with the Department of Business, Enterprise and Regulatory Reform on the implications of the Regulatory Enforcement and Sanctions Act 2008.

Better Regulation

Under the Regulatory Enforcement and Sanctions Act 2008, we are required to keep our functions under review and secure that in exercising them we do not impose or maintain any unnecessary burdens. In support of this we are required to publish an annual statement on what we have done and what we propose to do with regard to this duty and why we have maintained any burdens we consider to be unnecessary. Our plan for 2009-10 set out what we propose to do, this reports set out what we have done

We do not consider we currently impose any unnecessary burdens. During 2008-9 the key areas where we reviewed what burdens we impose were:

- during the finalisation of the periodic review determinations and the review of Network Rail's network licence, where we considered the ways in which outputs were defined, and changed the licence obligations to focus on what they were seeking to achieve;
- during the review of our criteria and procedures for the approval of track access agreements.

Other regulators

We have continued to work closely with other economic regulators to benchmark our work, and to engage effectively with initiatives from the government's better regulation programme. We discussed common issues at chief executive level through the Joint Regulators' group, and also at meetings between the chairmen of regulatory bodies. We have also co-ordinated other less formal meetings to share information and experiences.

HSE

We continue to have a close and co-operative relationship with HSE, with regular liaison meetings at all levels of the two organisations, and formal and informal day-to-day liaison on emerging issues of mutual interest. ORR and HSE collaborated closely on the amendment of the Health and Safety (Enforcing Authority For Railways and Other Guided Transport Systems) Regulations 2006 (EARR), with contributions from across HSE on the relevant areas of enforcement contributing to the enactment of the amendments which came into effect on 1 October 2008.

Communications

We provided briefing and information to journalists and opinion-formers to further improve our external profile. Major and complex issues communicated included: the delivery of high frequency services on the west coast main line; the publication and communication of the draft and final determinations of our Periodic Review process and ORR's review of access applications on the east coast main line. In addition, we held quarterly press briefings to coincide with the publication of the Network Rail monitor and national rail review. These gave transport and industry correspondents an opportunity to question ORR directors about issues affecting the rail industry, and were very well received.

The chairman, chief executive and other senior members of staff conducted media interviews on numerous occasions, alongside meetings with a number of leading transport journalists, and addressing a number of high level industry conferences.

Website

In November 2008, our redesigned website and intranet were launched. The sites were given a more contemporary look and feel and now better reflect government guidelines on accessibility. The new sites provide faster performance, more intuitive navigation and sophisticated search functionality based on Google technology. The public website, www.rail-reg.gov.uk, now features a more logical structure, a raft of content improvements and a new A-Z navigation that helps users find what they are looking for more easily.

Customer correspondence

We have a dedicated Customer Correspondence Team (CCT) which handles all public correspondence. Issues raised during the year include punctuality and reliability of train services, maintenance of the national railway network and health and safety on the railway. The section also handles Parliamentary Questions (PQ's) and correspondence from Members of Parliament. We aim to respond to all enquiries including Freedom of Information requests within 20 working days of receipt. In the reporting year we received 2324 items of correspondence, an increase of 18% on 2007-08 levels. This increase is attributable to enquiries about the Periodic Review, and a number of campaigns by pressure groups such as the Peoples Rail campaign. For the same period 207 requests for information under the Freedom of Information Act 2000 (Fol) were made, up 18% on the previous year.

Railway industry

We held regular meetings at chief executive and director level with a full



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range of industry companies and organisations including Network Rail, passenger and freight train operators and industry bodies and associations. In addition, we continued to discuss with industry stakeholders major policy initiatives, such as PR08 and significant track access issues. We also engaged extensively with the industry on our corporate strategy.

Passenger and freight representatives

To regulate effectively we need to understand the passenger view of the railways, and our relationship with Passenger Focus and London Travelwatch is key to this. During the year we met regularly and commented on relevant findings from their research in our National rail review. We continued to explore possible industry solutions to passenger concerns highlighted by Passenger Focus, including reviewing existing passenger protections relating to the retail experience and evaluating how our broader powers under general consumer law could be used to protect passenger interests. We also discussed the implications of our new corporate strategy.

We continued to engage with the freight community, particularly through the Rail Freight Group. We made various decisions during the period that were of particular concern to freight service providers and required a high level of communication and consultation, including our decisions on CrossRail and PR08.

Olympic games

The London Olympic Games and Paralympic Games Act 2006 amended our duties to include an objective of facilitating the provision, management and control of facilities for transport in connection with the London Olympics, and requires us to consult with the Olympic Delivery Authority (ODA) about delivery of this duty. In 2008-9 we met regularly with the ODA (and also Network Rail and other industry parties) to ensure that necessary work associated with the London Olympics was being delivered as programmed and ascertain what else we could be doing to facilitate delivery of the Games.

Northern Ireland

A memorandum of understanding between ORR and HSE, Northern Ireland (HSENI) came into effect on 12 June 2008, providing a framework for HSENI to obtain specialist advice from ORR on railway matters.

European affairs – negotiation and implementation of EU legislation

European Union policies and requirements are having an increasing impact on railways in the UK. Both in our role as national safety authority and economic regulatory body we worked closely with the European Commission, the European Rail Agency (ERA), European industry associations as well as regulatory bodies and national safety authorities elsewhere in Europe, putting significant effort into influencing the development and implementation of European Union rail policy.

We work closely with DfT to influence the European rail agenda, balancing our various and respective roles as UK member state, primary rail funder, national safety authority and rail regulatory body. DfT has the policy lead on most, but not all, European workstreams.

Measures to harmonise safety regulation and technical interoperability are developed by the European Railway Agency and then endorsed by a committee of member state representatives, which DfT attends and votes at where necessary. On economic regulatory matters, ORR's contact is directly with the European Commission and other national regulatory bodies to exchange information about work and decision-making principles.

ORR as national safety authority

We were fully involved in the work of ERA, participating in most agency working groups developing harmonised safety processes, technical specifications for interoperability and rules for cross acceptance of rolling stock. We worked closely with DfT and the rail industry to develop coherent, influential and, where possible, unified UK viewpoints on proposals arising from ERA's work programme. During the reporting period, the revised Safety and Interoperability Directives were published in the Official Journal of the European Union allowing member states two years to implement them into national legislation.

Some examples of our work include:

- we participated in a peer review of national safety authority approaches to awarding the core section of safety certificates. This exercise was a valuable opportunity to share experience of this relatively new approach to safety regulation and also to highlight our own best practice in this area.
- a regulation establishing a common safety method (CSM) for assessing risk when instigating a significant, safety-related change, was adopted following heavy negotiation and amendments by the Commission. ORR supported DfT in finding a suitable European compromise for both UK duty holders and the safety authority in order to arrive at a negotiated position before the final vote.

ORR runs the secretariat for the International Liaison Group of Government Railway Inspectorates (ILGGRI), which provides a forum for NSAs to meet and share information and experience on technical and regulatory issues, including ERA's proposals.

ORR as economic regulatory body

We continued to engage with the Department for Transport and the railway industry to influence the development of negotiating positions on emerging European legislation. We contributed regulatory expertise to the strategic group of experts set up by the European Commission to evaluate the proposal for the creation of a European freight oriented network.

We also worked with the Department for Transport's on the UK contribution to the proposed recast of the First Railway Package. We provided input to the Department's response to the infraction proceedings launched by the European Commission against twenty four Member States for failing to implement the first railway package properly.

We participated in workshops and assisted Government officials in progressing the implementation of the Third Railway Package that will open the rail market for international passenger services from 1 January 2010, strengthen the rights of rail passengers, and make it easier for train drivers to work in different Member States.



Throughout the reporting period, we continued to monitor other European developments which affected ORR and the UK rail industry, providing input to DfT and other Government departments as required. These included viewpoints and position papers on rail freight transport and the European Commission's Greening Transport Package to improve transport sustainability, containing proposals on noise abatement for existing freight rolling stock, road taxing (Eurovignette), and the internalisation of external costs.

Over the period we continued to liaise and cooperate with other European regulatory bodies, participating in meetings and workshops to share information and best practice on issues such as the role of regulatory bodies, performance regimes, cross-border issues, calculation of railway infrastructure charges, cooperation with RailNet Europe

We provided expert support to the Intergovernmental Commission (IGC) that regulates the Channel Tunnel via the UK delegation on regulatory issues, thus facilitating a consistency in approach to regulatory issues in Britain. We also managed the transfer from the DfT to ORR of the IGC UK secretariat duties and made recommendations for the appointment by the Secretary of State of two members to the UK delegation.

International affairs

During the year we hosted a number of visits from representatives of other countries who were interested in Britain's rail and regulatory experience. These included Romania, Poland, Germany, Hungary, Denmark, Russia, Mexico, Hong Kong, Taiwan, Japan and China. At the request of the European Commission, ORR also participated in a technical and assistance exchange programme with the Transport Ministry of Azerbaijan.

Dubai

ORR and Dubai's Roads and Transport Authority (RTA) met in early 2008. RTA is responsible for all surface transport in Dubai, and is building a metro system and private monorail. Following these initial discussions, it was agreed that ORR would provide advice and assistance to RTA in the development and implementation of rail-related health and safety regulation in Dubai, and a full memorandum of understanding between ORR and RTA was signed in December 2008. ORR is paid for doing this work and it helps us build our expertise on light rail and metros.

Change management

In developing our corporate strategy we consulted our stakeholders on what we as the regulator needed to do to help the industry rise to the challenges we had set. In summary the feedback amounted to:

- doing our core job even better;
- further integrating our economic and safety regulatory functions; and
- playing an increasingly influential role in long-term improvement in the industry.

We intend to be credible, confident and unified in promoting safety and value in Britain's railways and we recognised that to achieve this vision and to deliver the corporate strategy, we could not afford to stand still. We therefore undertook a significant change programme:

- bringing together our engineering expertise in a planning and performance directorate;
- also in that directorate, bringing together our information and intelligence and monitoring teams;
- moving our access work to be alongside our economics and competition work in a rail markets and economics directorate;
- restructuring our inspectorate in line with the main duty holder groups – Network Rail, train operators, metros, trams and heritage;
- dispersing the safety and economic policy directorate – with Europe and network code going to the railway markets and economics directorate; sustainable development to the new planning and performance directorate; safety strategy policy going to the railway safety directorate and external communications becoming part of a new external affairs unit; and
- creating a much more weighty focus on stakeholder management in the new external affairs unit.

These structural changes were implemented in early April 2009. We recognise however, that structural changes alone will not deliver the enhanced performance we require. We are therefore working hard to refocus our efforts so that our skills and resources can be brought to bear to achieve maximum value for the industry. That value we believe will be realised through regulation which is quicker, better and less costly.

Corporate governance and ORR Board

ORR was established on 5 July 2004 under the Railways and Transport Act 2003. We are an independent statutory body led by a Board consisting of six non-executive directors (including the Chairman) and five executive directors. The Board held 11 meetings in 2008-09 and two awaydays.

The Board has three standing committees; audit, remuneration and safety regulation. It also has a periodic review committee that oversees the work programme of PR08. The Board, its meeting and committee meetings are governed by the Board's rules of procedure. The Board and standing committees also review their performance annually. The review in 2008-09 confirmed the existing arrangements were appropriate to ensure that we continue to exercise efficient and robust decision making, aware that a substantial review would be held in 2009-10 following the adoption of a new corporate strategy.

The Board's rules of procedure include strict guidelines on conflicts of interest. A register of Board members' interests is published on our website and members declare interests on agenda items at the start of every Board and committee meeting. On the rare occasions where there is a conflict of interest the relevant member withdraws from the meeting during discussion of the relevant item and this is recorded in the minutes. The Secretary of State for Transport makes appointments to the Board for a fixed term of up to five years but the Secretary of State can only remove individual members for incapacity or misbehaviour under section 1(3) of the Railways Act 1993.



The Board

Non-executive directors



Chris Bolt

Chairman
5 July 2004 to 4 July 2009



Jim O'Sullivan

Non-executive director
1 April 2005 to 31 March 2009



Peter Bucks

Non-executive Director
5 July 2004 and reappointed from
September 2007 to 4 July 2010



Jane May

Non-executive Director
5 July 2004 to 4 July 2009



Richard Goldson OBE

Non-executive Director
2 October 2006 to 31 March 2010



Dr Chris Elliot

Non-executive Director
1 July 2007 to 31 March 2011

Executive directors



Bill Emery

Chief Executive
19 September 2005 and
reappointed from 19 September
2008 to 18 September 2010



Michael Lee

Executive Director, Access,
Planning and Performance
15 January 2007 to 14 January 2012



Michael Beswick

Executive Director, Rail Policy
20 March 2006 to 19 March 2011



John Thomas

Executive Director,
Competition and Regulatory
Economics
15 January 2007 to 14 January 2012



Ian Prosser

Chief inspector of railways
26 September 2008 to
25 September 2013



Linda Williams

Served as Chief Inspector
of railways until
25 September 2008

Senior Team



Juliet Lazarus

Director, Legal Services



Lynda Rollason

Director, Corporate Services

Human resources

Activities

This has been a busy year as we continue to bring together our people within the organisation. In particular, we:

- This has been a busy year as we continue to bring together our people within the organisation. In particular, we:
- implemented a the major restructuring of ORR referred to above We worked closely and collaboratively with our staff representatives group to ensure that the process was fair, open and transparent, and implemented efficiently and effectively so that the new structure could take effect in April 2009;
- implemented a new electronic interactive HR system, enabling managers and staff to book leave, record sickness, book and approve learning and development activities and maintain accurate personal records;
- developed, consulted staff, and launched a new staff handbook, bringing all our employees under one set of employment terms and conditions;
- continued to deliver our learning and development programme, reflecting our commitment to ensuring our staff have the skills we need and helping them to realise their full potential; and
- held our first all-staff conference to launch our new corporate strategy.

People profile

We have a fully committed and competent workforce capable of delivering our business plan. The table below show the profile of ORR employees¹⁵ as at 31 March 2009.

Grade	Total	Male	Female	White	Ethnic minority	Disabled
SCS	15	11	4	15	0	0
Grade A	21	14	7	20	1	2
Grade B	37	28	9	37	0	1
Grade C/2C	91	79	12	85	6	5
Grade D	43	28	15	33	10	2
Grade E	31	15	16	26	5	2
Grade F	49	16	33	26	23	5
Grade G	38	21	17	23	15	2
TOTAL	325	212	113	265	60	19

Equal opportunities

We are committed to a policy of equal opportunities. Recruitment is We are committed to a policy of equal opportunities. Recruitment is carried out on the basis of fair and open competition and selection on merit in accordance



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15. excludes chairman and non executive directors

with the recruitment code laid down by the Civil Service Commissioners – and there have been no reportable exceptions. Our aim is to be fair to everyone and to ensure that no eligible job applicant or employee receives less favourable treatment on the grounds of gender, ethnicity, disability, sexual orientation, age, religious belief, or any other irrelevant factor. Our equality and diversity policy is available to all employees on our intranet.

Recruitment

Recruitment activity has reduced over the last few months - as a result in the restructuring exercise (as vacant posts were not immediately filled) and the current economic climate. 29 schemes (both internal and external) were initiated and successfully completed by 31 March 2009, compared to 53 schemes the previous year.

The table below shows the number of appointments¹⁶ made through external recruitment during the year.

Grade	Total	Male	Female	White	Ethnic minority	Disabled
SCS	1	1	0	1	0	0
Grade A	0	0	0	0	0	0
Grade B	1	0	1	1	0	0
Grade C/2C	3	1	2	2	1	0
Grade D	9	6	3	8	1	0
Grade E	3	3	0	3	0	1
Grade F	2	1	1	1	1	0
Grade G	3	1	2	3	0	0
TOTAL	22	13	9	19	3	1

Business planning and finance

ORR is a non-ministerial government department funded almost entirely through a licence fee and railway safety levy charged to railway service providers. The totals of expenditure and income have to be planned through the Treasury and accounted for to Parliament. The chief executive, Bill Emery is the Accounting Officer for these funds. The table below sets out our resource requirements and our annual resource accounts can be found at chapter 6.

The resource accounts for the financial year 2008-09 have been prepared on an accruals basis, which means that expenditure and income have been accounted for in the periods in which they occurred, irrespective of when any cash was received or paid.

As mentioned above, ORR is funded almost entirely by the rail industry – broadly the train operating companies, and Network Rail. We work within a defined budget, and invoice for the safety levy and licence fee to meet our costs. If we receive income which is in excess of what we have spent in the year, we carry this forward to a future year. The effect of this is that future charges for safety and licence fees can be reduced.

16. excludes chairman and non executive directors

In 2008-09 we spent £32.308m. We levied £31.035m for safety, licence fees, and miscellaneous services and made use of £0.377m income deferred from the previous year. This left a balance of £0.894m to carry forward as deferred income to next year.

Most of our costs were salaries – 64% in 2008-09, A further 7% was spent on consultancy fees, including the purchase of legal services. (In 2007-08 we spent 9% of our total budget on these.) The remainder of our expenditure (29%) was on other non-pay related costs, including non-cash costs, such as depreciation of our fixed assets and making provision for future years' expenditure.

In summary, our expenditure and income is shown below, together with the expenditure analysed by our objectives. Last year's expenditure is also shown for reference.

	2008-09 £000	2007-08 £000
Income		
Deferred income from prior year	377	3,335
Licence fees, safety levy and miscellaneous income received	31,035	27,537
Total income	31,412	30,872
Expenditure		
Staff costs	20,635	19,127
Other costs	11,673	10,054
(Less)Add		
Income deferred to future year	894	(377)
Net Operating Deficit (As voted by Parliament)	2	2

Reconciliation between Resource Outturn and Resource Budget Outturn

Net Resource Outturn	2	2
Net Operating Costs	2	2
Resource Budget Outturn	2	2

Expenditure against Departmental Aims and Objectives

	Budget £000	Actual £000	Variance £000
Improving Health and Safety performance	12,450	13,295	845
Securing improved efficiency and performance	2094	2196	102
Securing robust plans for 2009 and beyond	2,257	2,031	(226)
Improving and aligning relationships and incentives in the industry	3,291	3,506	215
ORR as an effective combined safety an economic regulator	11,137	11,280	143
Total Expenditure	31,200	32,308	1,079



OFFICE OF RAIL REGULATION

Capital expenditure

Expenditure on the purchase of fixed assets totalled £0.547m.

The balance sheet, which can be found in the resource accounts - chapter 6 - shows a negative Taxpayers Equity of £103k. This merely reflects the inclusion in the balance sheet of liabilities which fall due in future years, including the repayment of excess cash to the Treasury £296k, which we are obliged by law to repay. We therefore finance our future liabilities from future income and from grants of supply approved by Parliament. Parliament has already approved this for 2009-10, so we are able to adopt a going concern basis for the preparation of our accounts.

We are self-financing. Funding is raised through licence fee income and a safety levy received during the year from the network infrastructure provider and railway service providers, and as such we normally have no need for cash funding. However, due to timing differences between the receipt of licence fee and safety levy income and when we need to make expenditure, we borrow, short-term, from the Treasury's Contingencies Fund, and repay the amount in full within the year. None of these monies are invested, so we are not exposed to financial instruments, interest rate or liquidity risks, and this method of financing has no significant impact on the organisation's risk profile.

Monitoring and reporting against our planned activities

Our directors' group continued to receive monthly reports on the office's progress on delivering the activities set out in Annex A to our business plan 2008-09. Monthly progress reports were also presented to the Board. These reports helped us to focus our energy and resources to ensure delivery of these planned activities.

Performance indicators

We have met our efficiency target of reducing our organisational cost by 2% in real terms for 2008-09. We continue to monitor our economy and efficiency performance indicators and have further refined them for 2008-09. Examples are provided in the tables below. We also continued to meet with other regulators to compare data and share best practice in monitoring performance.

Economy measures (2009 Average Prices)	ORR			Variance	
	2007-08 Actual	2008-09 Actual	2008-10 Budget	2007-08 to 2008-09	2008-09 to 2009-10
Total Expenditure £m	31.4	32.3	31.3	2.9%	-3.0%
Staff numbers	345	332	325	-3.8%	-2.0%
Accommodation costs/person (£000s)	7.6	7.7	8.2	1.1%	6.8%
Accommodation costs/total costs (%)	8.3	7.8	8.5	-5.5%	8.0%

Economy measures (2009 Average Prices)	ORR			Variance	
	2007-08 Actual	2008-09 Actual	2008-10 Budget	2007-08 to 2008-09	2008-09 to 2009-10
	Support costs/total costs (%)	19.1	18.3	19.5	-4.0%
Support staff number/total staff number (%)	15.9	16.7	15.2	4.9%	-9.1%
Consultancy cost/total costs (%)	8.6	6.6	6.7	-22.5%	1.0%
Average Staff cost/head (£000s)	59	62	Average	5.0%	1.5%
Staff turnover (%)	6.3	10.8	-	71.3%	-
Sickness absence (%)	3.5	4.6	-	32.5%	-

Efficiency measures		
Performance Indicator	2007-08	2008-09
Complaints under Network Rail network licence; (a) initial response within 10 working days and (b) substantive resolution within two calendar months.	(a) 36 met (b) 34 met	(a) 3 met (b) 3 met
Land disposal cases; determined 100% of cases within 3 months of submission by Network Rail	15 (100%)	13 (100%)
Licence applications and licence exemption applications; decisions made within 3 months of all relevant information	29 (100%)	18 (100%)
Periodic Review Programme; 100% delivery of published timetable for programme of work.	4 targets 4 met	36 targets 36 met
(a) Parliamentary questions: respond within 24 hours of receipt	(a) 51 met (b) 176 met (85%)	(a) 26 met (b) 208 met (95%)
(b) freedom of information and (c) enquiries; 90% responded to within 21 working days	(c) 1867 met (95%)	(c) 2242 met (94%)

Project management

We have further refined our efficiency measures (which primarily assess delivery against timescales, volumes, and quality outputs) for a wide range of our activities. Examples are provided in the table below:

Risk management

At the beginning of the year we revised our approach to risk management adopting a more streamlined approach with directorate and programme or project risk registers supporting and feeding into a strategic risk register. In summer 2008 our internal auditors undertook a risk maturity review looking at ORR's approach to risk management and making recommendations to further improve our processes and embed risk management across the organisation.

Audit Committee

The audit committee's role is to advise the accounting officer and the Board on the adequacy of internal controls, corporate governance, risk management and audit arrangements. The committee assesses its effectiveness in the light of this role every year.

The committee is chaired by Peter Bucks a non-executive director and comprises Jane May, also a non-executive director and Jeremy Chittleburgh, an independent member. Meetings are held four times a year and are always attended by: ORR's chief executive as the accounting officer, the director of corporate services, the deputy director of corporate services, the head of finance and representatives from the National Audit Office, and ORR's internal audit provider. Other ORR managers attend at the request of the committee.

During the year the committee continued to scrutinise risk management arrangements at both strategic and directorate level encouraging a culture of continuous improvement. It also supported the executive in driving progress on a number of specific issues including information management, business continuity and project management arrangements.

Auditors

Our accounts are audited by the Comptroller and Auditor General. The audit opinion and report of the Comptroller and Auditor General is included with the statement of accounts in chapter 6. The notional cost of providing external services was £42,500. There was no auditor remuneration (actual or notional) for non-audit work.

Internal audit services were provided by RSM Bentley Jennison who delivered a programme of audit reports focused around the risks identified in the strategic and directorate risk registers. Positive audit opinions (either adequate or substantial assurance) were received in respect of all of the completed audit reports. All of the agreed management recommendations have been implemented or are in the course of implementation.

Resource management

During the year our directors' group reviewed the management accounts each month, receiving information on key areas of spend, budgets and

forecasts. A summary of the management accounts was presented each month to the Board. Meetings were also held between budget holders and the finance team on a regular basis where the results were discussed at a more detailed level.

Prompt payment initiative

We are committed to the prompt payment of our suppliers and seek to pay all valid invoices within 30 days of receipt. During 2008-09, 96.67% of invoices were paid within target timescales.

Accommodation strategy

We have developed and are implementing a new strategy aimed at rationalising our accommodation. This will lead to a reduction in the number of our offices from 22 to 6 (five regional plus our headquarters) over the next few years. The first of these offices closed in 2008-09 and we are planning for a further four to close in 2009-10

We also negotiated and managed a new leased accommodation in central Glasgow and took up occupation in August 2008.

Facilities management

Our facilities team manage and supply a multi-site operation with offices across Britain. We have established good relationships with our landlords, the Civil Aviation Authority in London and the Health and Safety Executive for our other regional offices.

Environmental policy

In response to a staff suggestion, we set up an environmental advisory group which looks further opportunities for us to develop ORR's corporate sustainability and reduce our environmental impact. To that end we commissioned an environmental audit established our position against which we can benchmark our future performance.

Health and safety

We have organisational arrangements in place to ensure compliance with our health and safety policy at different levels within ORR. The health and safety policy statement describes our responsibilities and objectives and is available to all employees.

Information systems

The Information Systems (IS) team continue to manage the operation of effective IS systems in support of ORR's business plan. During 2008-09 this has included supporting programmes of work to implement new intranet and web sites, a new human resource management system, deployment of new desktop computers to around 33% of the organisations staff and the incorporation of our offices in Glasgow onto the corporate IT network.

Systems resilience and data security remain high priority issues and further work has been undertaken work to enhance and test our business continuity and IS disaster recovery capabilities. In addition, ORR has rigorously tested its network and systems for points of vulnerability and is currently working on implementing recent recommendations from Cabinet Office on the protection of sensitive data including data encryption of all portable computer equipment.

Information management

ORR has agreed an information management strategy, setting out our vision of managing our information more efficiently and intelligently as a combined safety and economic regulator.

One aspect of this is ensuring that we manage information risk by following the requirements of the mandatory Cabinet Office 'data handling procedures in government' document and the Security Policy Framework. This included nominating the director of corporate services as our senior information risk owner (SIRO) and updating and revising our information security policy in line with these requirements. We have also reviewed compliance with this policy to allow us to target training and communication for ORR staff. This is to ensure that the importance of information security is embedded within the organisation.

We have experienced no information risk incidents sufficiently significant for the Information Commissioner to be informed.

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We have experienced no information risk incidents sufficiently significant for the Information Commissioner to be informed.



6. Resource accounts

These accounts cover the operation of the Office of Rail Regulation (ORR) for the period 1 April 2008 to 31 March 2009. They have been prepared on an accrual basis in accordance with the Government Resources and Accounts Act 2000 and HM Treasury's Financial Reporting Manual



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6. Resource accounts

Introduction

ORR was established by the Railways and Transport and Safety Act 2003 to replace the Office of the Rail Regulator. It is a non-ministerial department, funded through licence fees and safety levies, the value of which are set by ORR. Our functions were broadened by the Railways Act 2005, which established us as the combined safety and economic regulator for the railway industry.

We are independent of, but work closely with, the Department for Transport, (including the Rail Accident Investigation Branch), the Health and Safety Executive and the Rail Safety and Standards Board.

These accounts cover the operation of the Office of Rail Regulation (ORR) for the period 1 April 2008 to 31 March 2009. They have been prepared on an accrual basis in accordance with the Government Resources and Accounts Act 2000 and HM Treasury's Financial Reporting Manual.

In so far as the Accounting Officer is aware, there is no relevant audit information of which our auditors are unaware. The Accounting Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that our auditors are aware of that information.





Remuneration Report

Remuneration Committee

The Remuneration Committee's role relates to the pay and performance of ORR senior civil service (SCS) staff. It consists of non-executive members of the Board. For 2008-09 these were Richard Goldson (committee chairman), Peter Bucks and Chris Bolt.

The committee's role is to review the remuneration packages of ORR's senior civil servants; to keep under review the criteria for allocating individuals to performance tranches and awarding bonuses; to make recommendations to the Board on pay decisions for senior civil servants; to recommend to the Board broad pay policy in relation to all aspects of executive remuneration and to monitor the operation of the pay system. Our civil servant pay strategy accords with parameters set by the Cabinet Office for the Senior Civil Service following recommendations by the Senior Salaries Review Body. Further information about the work of the Review Body can be found at www.ome.uk.com

The Committee met on 15 July 2008 to consider SCS pay strategy and remuneration and its recommendations were agreed by the Board on 22 July 2008. The Committee also considered further SCS pay strategy and remuneration issues in correspondence in October and its recommendations were agreed by the Board in correspondence on 28 October 2008, (and reported to the Board on 18 November 2008).



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Service Contracts

Civil service appointments are made in accordance with the Civil Service Commissioners' Recruitment Code, which requires appointment to be on merit on the basis of fair and open competition, but also includes the circumstances when appointments may otherwise be made.

Unless otherwise stated below, the officials covered by this report hold appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commissioners can be found at www.civilservicecommissioners.gov.uk.

Remuneration of senior civil servants is set out in their contracts and is subject to annual review in line with awards recommended by the Senior Salaries Review Body. The notice period for all senior members of ORR does not exceed six months.

The arrangements for early termination of contracts of senior civil servants are made in accordance with the service contract of the relevant individual. Each contract provides for a payment in lieu of notice on early termination based on the provisions of the Civil Service Compensation Scheme. One executive received early termination payments of £25,620, (2007-08: Nil).

Each senior civil servant participated in a bonus scheme which is in line with the Senior Salaries Review Body recommendations. The bonus is based on the individual's performance. Bonus payments are non-consolidated and non-pensionable.

The remuneration of the Chairman and non-executive directors is set by the Secretary of State for Transport. Remuneration of non-executive Board members is by payment of salaries and they have no entitlement to performance related pay or pension benefits, with the exception of the Chairman who is entitled to pension benefits. Compensation in the event of early termination is at the discretion of the Secretary of State.

Salary and Pension entitlements

The following sections provide details of the remuneration and pension interests of the most senior managers of the ORR during 2008-09, and has been subject to external audit.

Remuneration

	2008-09		2007-08	
	Salary	Benefits in kind (to nearest £100)	Salary	Benefits in kind (to nearest £100)
	£000		£000	
Bill Emery <i>Chief Executive</i>	175-180	-	165-170	100
John Thomas * <i>Director, Competition and Regulatory Economics</i>	115-120	600	110-115	600
Juliet Lazarus <i>Director, Legal Services</i>	90-95	-	100-105	-
Linda Williams** (to 25 Sept 08) <i>Director, Railway Inspectorate</i>	55-60	1800	105-110	2,600
Ian Prosser (from 4 August 08) <i>Director, Railway Inspectorate</i>	75-80	-	-	-
Michael Beswick <i>Director, Safety and Economic Policy Development</i>	120-125	-	115-120	-
Michael Lee <i>Director, Access, Planning and Performance</i>	115-120	-	105-110	-
Sarah Straight <i>Director, Safety and Economic Policy Development</i>	0-5	-	95-100	-
Lynda Rollason* <i>Director, Corporate Services</i>	110-115	300	105-110	-

Notes * Benefits in kind comprise subsidised gym membership
 ** Benefits in kind comprise travel benefits

'Salary' includes gross salary; performance pay or bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances; benefits in kind and any other allowance to the extent that it is subject to UK taxation.

'Pension entitlement/allowances' relates to an allowance paid to senior staff who have chosen to take extra salary to invest in a pension scheme of their own choice rather than participate in a Civil Service pension. No senior managers exercised this option. Pension benefits are shown on page 6.

The full-year equivalent salary for Juliet Lazarus, (who works part-time hours) and Ian Prosser are in the range £120,000 to £125,000.



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Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes; either a 'final salary' scheme (classic, premium or classic plus); or a 'whole career' scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus and nuvos are increased annually in line with changes in the Retail Prices Index (RPI). Members who joined from October 2002 could opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on his or her pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and, immediately after the scheme year end, the accrued pension is uprated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus and 65 for members of nuvos.

Further details about the Civil Service pension arrangements can be found at the website www.civilservice-pensions.gov.uk

Some employees, including the Director, Safety and Economic Policy Development and the Director, Access, Planning and Performance, are

covered by the provisions of the Railway Pension Scheme (RPS), which is contributory and funded. The scheme is a defined benefit scheme with obligations met by the RPS trustees. Details of the RPS scheme statements and other financial information can be found in the Annual Report and Accounts of Railway Pensions Management Limited (www.railwaypensions.co.uk).

The former Rail Regulators' and Chairman's pensions are by analogy with the Principal Civil Service Pension Scheme. During 2008-09 this scheme had one member in employment (2007-08: one member). The accruing cost of providing for the member's future benefits, which is based on actuarial advice, is charged to the Operating Cost Statement. A provision for the expected future liabilities for the Rail Regulators' and Chairman's Pension Scheme is disclosed as a liability on the balance sheet.

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.



Pension Benefits

	Accrued pension at age 60 as at 31/3/08 and related lump sum	Real increase/ (decrease) in pension and related lump sum at age 60	CETV at 31/3/09	CETV at 31/3/08	Real increase (decrease) in CETV
	£000	£000	£000	£000	£000
Bill Emery (a) <i>Chief Executive</i>	50-55 (pension) 155-160 (lump sum)	0-2.5 (pension) 5.0-7.5 (lump sum)	1,156	1047	23
John Thomas (b/c) <i>Director, Competition and Regulatory Economics</i>	10-15 (pension)	0-2.5 (pension)	145	119	15
Juliet Lazarus (c) <i>Director, Legal Services</i>	5-10 (pension)	0-2.5 (pension)	86	65	13
Linda Williams (a) <i>Director, Railway Inspectorate</i>	40-45 (pension) 120 -125 (lump sum)	0-2.5 (pension) 0-2.5 (lump sum)	932	913	13
Ian Prosser (e) <i>Director, Railway Inspectorate</i>	1-5 (pension)	0-2.5 (pension)	13	0	10
Michael Beswick (d) <i>Director, Safety and Economic Policy Development</i>	50-55 (pension) 40-45 (lump sum)	2.5-5.0 (pension) 2.5-5.0 (lump sum)	1,082	998	84
Michael Lee (d) <i>Director, Access, Planning and Performance</i>	50-55 (pension) 40-45 (lump sum)	2.5-5.0 (pension) 2.5-5.0 (lump sum)	906	805	101
Sarah Straight (a) <i>Director, Safety and Economic Policy Development</i>	35-40 (pension) 115-120 (lump sum)	(5.0)-(10.0) (pension) (25)-(30) (lump sum)	730	729	0
Lynda Rollason (a) <i>Director, Corporate Services</i>	10-15 (pension) 30-35 (lump sum)	0-2.5 (pension) 2.5-5.0 (lump sum)	196	164	19

Notes: (a) opted to join Classic, (b) opted to join Classic plus, (c) Premium, (d) member of the Railway Pension Scheme from date of appointment, (e) Nuvos

Non-executive Directors

Other Non-executive Directors received the following salaries:

	2008-09	2007-08
	£	£
Chris Bolt	111,254	107,583
Peter Bucks	21,619	20,931
Jane May	21,619	20,931
Jim O'Sullivan	21,619	20,931
Dr. Chris Elliott	21,619	15,698
Richard Goldson OBE	21,619	20,931

Chris Bolt's accrued benefits at pension age as at 31 March 2009 is in the range £5k – £10k, with a real increase of £0 - £2.5k. The CETV at 31 March 2009 is £152k (31 March 2008: £117k)¹, with a real increase of £25k.

In addition to the amounts shown above, Non-executive Directors are also entitled to receive reimbursement of expenses incurred in relation to their duties.

1. In 2007-08 this was a full-year equivalent of £20,931

The CETV figures at 31/03/08 ,may be different from the closing figures in the 2007-08 accounts. This is due to the CETV factors being updated to comply with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008.

In addition to the amounts shown above, Non-executive Directors are also entitled to receive reimbursement of expenses incurred in relation to their duties.

Bill Emery
Accounting Officer
Date to be inserted

Statement of Accounting Officer's Responsibilities

Under the Government Resource and Accounts Act 2000, ORR is required to prepare resource accounts for each financial year, in conformity with a Treasury direction, detailing the resources required, held, or disposed of during the year and the use of resources by ORR during the year.

The resource accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of ORR and of the net resource outturn, resources applied to objectives, recognised gains and losses and cash flows for the financial year.

The Treasury has appointed the Chief Executive as ORR's Accounting Officer with responsibility for preparing ORR's accounts and for transmitting them to the Comptroller and Auditor General.

In preparing these resource accounts, the Accounting Officer is required to comply with the Government Financial Reporting Manual prepared by the Treasury and, in particular, to:

- observe all relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards, as set out in the Government Financial Reporting Manual, have been followed, and disclose and explain any material departures in the accounts, and
- prepare the financial statement on a going concern basis.

The relevant responsibilities of the Accounting Officer (including his responsibility for the propriety and regularity of public finances for which an Accounting Officer is answerable, for the keeping of proper records and for safeguarding ORR's assets) are set out in 'Managing Public Money' published by the Treasury.



Statement on Internal Control

Scope of responsibility

As Accounting Officer for the Office of Rail Regulation (ORR), I have responsibility for maintaining a sound system of internal control that supports:

- the obligations laid down in, or arising from, the Railways Act 1993 as amended by the Transport Act 2000, the Railways and Transport Safety Act 2003, the Railways Act 2005 and the Health and Safety at Work etc. Act 1974;
- the concurrent powers held with the Office of Fair Trading to investigate competition cases under the Competition Act 1998, as amended, and under the Enterprise Act 2002;
- the achievement of ORR's departmental policies, aims and objectives; whilst;
- safeguarding ORR's public funds and departmental assets for which I am personally responsible in accordance with the responsibilities assigned to me in Managing Public Money.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness.

The system of internal control is an ongoing process designed to identify and prioritise the risks to the achievement of departmental policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in ORR for the year ended 31 March 2009 and up to the date of the approval of the annual reports and accounts, and accords with Treasury guidance.

Capacity to handle risk

The business planning and corporate governance team in the corporate services directorate has lead responsibility for managing and driving forward the risk management process and for ensuring that risk management is effectively implemented and embedded in ORR's processes. The team has put forward formal papers to the ORR Board and the Audit Committee and has facilitated discussions on risk at directorate level.

The ORR Board reviewed risk in May 2008 and January 2009. The Audit Committee continued to scrutinise the risk management framework and took formal papers on risk management at each of its quarterly meetings (June, September and December 2008, and March 2009)

The assessment of risks and the identification of appropriate controls forms a key part of the business planning process. Each Directorate is required to consider these aspects and include them in the working level planning documentation.

The risk and control framework

ORR's risk management strategy sets out the key features of the risk management framework and provides guidance for staff on their role in the process. The risk management strategy was kept under review during the reporting year and further refined to ensure that it remained consistent with the developing policies and procedures.

ORR has a two-tier risk management structure comprising:

- a strategic risk register; and
- directorate risk registers.

All the risk registers are available to staff on ORR's intranet.

The strategic risk register is a concise statement of the key strategic risks facing ORR. It identifies risk owners and control actions along with progress and next steps on these. A changes log records revisions and updates to the register, allowing risk owners to identify and respond to developments easily and in timely fashion. The *strategic risk register* has been reviewed every month at the directors' group meeting and any significant changes to the risk profile are brought to the attention of the ORR Board at its next meeting through the office report. The strategic risk register is subject to robust scrutiny through challenge at every audit committee meeting. It is also formally submitted to Board for consideration twice a year.

The key strategic risks include the occurrence of a major rail incident and shortcomings in ORR's response, as well as more general deterioration in the industry's safety standards and performance. Failure to deliver the Periodic Review 2008 was also a significant risk during the year (although this risk was removed from the register in February 2009 in the light of Network Rail's acceptance of ORR's determination of its outputs and funding for 2009-14). Additionally, a new risk on change management was included in 2008-09 as ORR embarked upon a change management programme designed to deliver a more efficient and highly skilled organisation with the capability to deliver the new corporate strategy for 2009-14.

The *directorate risk registers* provide the principal focus for risk management at working level. Each directorate is required to maintain a directorate risk register and to review this regularly as part of its routine management processes. To keep the paperwork to a manageable level, the directorate risk registers themselves are not formally submitted to Directors' Group, but they do inform the review of the strategic risk register at the meeting once a month (see above). In addition, the directorate risk registers are submitted periodically to the Audit Committee and the relevant director or deputy director is required to attend the meeting to account for the effectiveness of the directorate review processes.



In all the registers, risk is assessed at baseline, target, and current levels, with the baseline being the assessment of the level of risk at the beginning of the financial year rather than before the implementation of any controls. This makes for a more dynamic review process with the current level becoming the new baseline at the beginning of each financial year. A date for the attainment of the target risk level is stated where this is appropriate.

Information assurance

We have an information management strategy which sets out how we will manage our information more efficiently and intelligently as a combined safety and economic regulator. The implementation of this strategy is managed through the information management programme, which includes an area of work on information security.

One aspect of this is ensuring that we manage information risk, which we have done by following the requirements in the Cabinet Office 'data handling procedures in government' document. In line with this, we nominated the director of corporate services as our senior information risk owner (SIRO) and ensured that an information risk policy and information charter were in place by July 2008 (the information charter is published on ORR's website). We have also updated and revised our information security policy in line with these requirements and those set out in the government Manual of Protective Security (recently reissued as the Security Policy Framework). This included guidance on the protection of protected personal data, and security classifications such as the PROTECT marker. These markings were used to provide an effective information security regime around our corporate change programme, with all e-mails and documents marked as PROTECT and managed accordingly.

We are also reviewing our compliance with our information security policy to allow us to target training and communication for ORR staff in information security practices. This is to ensure that the importance of information security is embedded within the organisation. This review will also inform our risk assessment on information security. We have experienced no information risk incidents sufficiently significant for the Information Commissioner to be informed.

Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within the department who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and the Audit Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place. Executive directors have provided a statement of assurance for their areas of responsibility at the end of the 2008-09 financial year.

Some of the key features of the system are as follows:

- monthly Board and weekly directors' group meetings to review strategic plans and to manage policy, resource and operational requirements;
- regular (normally quarterly) Audit Committee meetings, which include an independent member as well as internal and external auditors. These meetings provided informed advice on the adequacy of internal controls, corporate governance, risk management and audit arrangements;
- independent internal audit, provided by RSM Bentley Jennison, which operates to criteria defined in Government Internal Audit Standards and reports to, and agrees forward plans with the audit committee;
- a team within the corporate services directorate dedicated to the development and implementation of corporate governance within the Office of the Rail Regulation;
- a budget manager training manual, procurement manual and a financial procedures manual;
- comprehensive budgeting systems with an annual budget which is reviewed and agreed by the Board, and with regular monthly and annual accounts with actual performance compared to budget;
- a scheduled monthly session at the directors' group meeting to monitor and review a range of financial matters, including performance against forecast budget and any procurement issues;
- consultations with industry stakeholders on the contents of the corporate strategy and draft budget and licence fees/safety levy; and
- individual performance agreements for each staff member which align with the ORR's objectives through each directorate and ensure that its affairs are conducted with efficiency, economy and effectiveness.

The detailed internal control arrangements within ORR are kept under review by its Audit Committee and Board, as appropriate.

Furthermore, at least annually, RSM Bentley Jennison provides me with a report on internal audit activity for ORR. This independent report for 2008-09 has provided a positive opinion on the adequacy and effectiveness of ORR's system of internal controls.



OFFICE OF RAIL REGULATION

Bill Emery
Accounting Officer
Date to be inserted

The Certificate and Report of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Office of Rail Regulation for the year ended 31 March 2009 under the Government Resources and Accounts Act 2000. These comprise the Statement of Parliamentary Supply, the Operating Cost Statement and Statement of Recognised Gains and Losses, the Balance Sheet, the Cashflow Statement and the Statement of Net Operating Costs by Departmental Aim and Objectives and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

The Accounting Officer is responsible for preparing the Annual Report, which includes the Remuneration Report, and the financial statements in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with HM Treasury directions issued under the Government Resources and Accounts Act 2000. I report to you whether, in my opinion, the information which comprises the introduction to the resource accounts and Section 5, ORR as an effective combined safety and economic regulator, included in the Annual Report, is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Department has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Department's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or to form an opinion on the effectiveness of the Department's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the Chairman's Foreword, the Chief Executive's Review, Sections 1-4 and the unaudited part of the Remuneration Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Department's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Government Resources and Accounts Act 2000 and directions made thereunder by HM Treasury, of the state of the Department's affairs as at 31 March 2009, and the net cash requirement, net resource outturn, net operating cost, net operating costs applied to departmental strategic objectives, recognised gains and losses and cashflows for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with HM Treasury directions issued under the Government Resources and Accounts Act 2000; and
- information, which comprises the introduction to the resource accounts and Section 5 'ORR as an effective combined safety and economic regulator', included within the Annual Report, is consistent with the financial statements.

Opinion on Regularity

In my opinion, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements

T J Burr
Comptroller and Auditor General
National Audit Office
151 Buckingham Palace Road
Victoria
London SW1W 9SS

Date to be inserted



OFFICE OF RAIL REGULATION

Statement of Parliamentary Supply

Summary of Resource Outturn 2008-09

Request for Resources	Estimate			Outturn			2007-08	2006-07
	Gross Expenditure	A in A	Net Total	Gross Expenditure	A in A	Net Total	Net Total outturn compared with Estimate: saving/ (excess)	Outturn
	£000	£000	£000	£000	£000	£000	£000	Net Total
To create a better railway for passengers and freight, and better value for public funding authorities, through independent, fair and effective regulation (Note 2)	36,795	(36,792)	3	32,308	(32,306)	2	1	2
Total resources (Note 3)	36,795	(36,792)	3	32,308	(32,306)	2	1	2
Non-operating cost A in A		-	-	-	-	-	-	-

Net cash requirement 2008-09

			2008-09 £000	2007-08 £000
	Note	Estimate	Outturn	Outturn
			Net total outturn compared with estimate: saving/(excess)	
	4	1,320	1,000	320
				250

Summary of income payable to the Consolidated Fund

In addition to appropriations in aid, the following income relates to the Department and is payable to the Consolidated Fund (cash receipts being shown in italics).

		Forecast 2008-09 £000	Outturn 2008-09 £000
	Note	Income	Receipts
Total	5	656	656
		296	296



Net Operating Cost Statement

for the year ended 31 March 2009

		2008-09		2007-08
	Note	Staff Costs	Other Costs	Income
		£000	£000	£000
Administration Costs:				
Staff Costs	7	20,635		19,833
Other administration costs	8		11,673	10,664
Operating income	9			32,306
				(30,495)
Totals		20,635	11,673	32,306
Net Operating Cost	3			2
				2

Statement of Recognised Gains and Losses

for the year ended 31 March 2008

	2007-08	2006-07
	£000	£000
Net Operating Cost	2	2
Net gain on revaluation of tangible fixed assets	(50)	(232)
Actuarial (gain)/loss on by-analogy pension scheme	(16)	(26)
Recognised gains for the financial year	(64)	(256)

Balance Sheet

as at 31 March 2009

	Note	31 March 2009		31 March 2008	
		£000	£000	£000	£000
Fixed assets:					
Tangible assets	10	3,343		3,745	
Intangible assets	11	249		262	
			3,592		4,007
Current assets:					
Debtors	12	1,711		730	
Cash at bank and in hand	13	296		3,784	
		2,007		4,514	
Creditors (amounts falling due within one year)	14	(2,438)		(8,016)	
Net current liabilities			(431)		(3,502)
Total assets less current liabilities			3,161		505
Provisions for liabilities and charges	15		(2,762)		(755)
Other payables >1 year	14		(74)		(291)
Total net liabilities before pension provision			325		(541)
Pension liabilities	15		(428)		(393)
Total net liabilities			(103)		(934)
Taxpayers' equity:					
General fund	16		(411)		(1,414)
Revaluation reserve	17		308		480
			(103)		(934)

Bill Emery
Accounting Officer
May 2008

Cash Flow Statement

for year ended 31 March 2009

		<u>2008-09</u>	<u>2007-08</u>
		<u>£000</u>	<u>£000</u>
	Note		
Net cash (outflow)/inflow from operating activities	18a	(115)	360
Capital expenditure and financial investment	18b	(589)	(1,122)
Payments of amounts due to the Consolidated Fund	18e	(3,784)	(478)
Financing	18d	1,000	4,546
(Decrease)/increase in cash in the period	18e	<u>(3,488)</u>	<u>3,306</u>

Statement of Operating Costs by Departmental Aim and Objectives

for the year to 31 March 2009

	<u>2008-2009</u>			<u>2007-08</u>		
	<u>£000</u>	<u>£000</u>	<u>£000</u>	<u>£000</u>	<u>£000</u>	<u>£000</u>
	<u>Gross</u>	<u>Income</u>	<u>Net</u>	<u>Gross</u>	<u>Income</u>	<u>Net</u>
Aim:						
ORR applies independent, fair and effective regulation to enable the railway to be safe, well maintained and efficient and to ensure that it provides value for money for users and for its funders						
Objective 1 – Improving health and safety performance	13,295	13,294	1	12,076	12,075	1
Objective 2 – Securing improved efficiency and performance	2,196	2,196	-	2,949	2,949	-
Objective 3 – Securing robust plans for 2009 and beyond	2,031	2,031	-	2,412	2,412	-
Objective 4 – Improving and aligning relationships and incentives in the industry	3,506	3,506	-	2,293	2,293	-
Objective 5 – ORR as an effective combined safety and economic regulator 2	11,280	11,279	1	10,767	10,766	1
Net operating costs	<u>32,308</u>	<u>32,306</u>	<u>2</u>	<u>30,497</u>	<u>30,495</u>	<u>2</u>

An explanation of the methodology for allocating costs to objectives is given in note 1.15 and note 19.

1. Statement of accounting policies

The accounts have been prepared in accordance with the 2008-09 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector.

In addition to the primary statements prepared under UK GAAP, the FReM also requires the Department to prepare two additional primary statements. The *Statement of Parliamentary Supply* and supporting notes show outturn against Estimate in terms of the net resource requirement and the net cash requirement. The *Statement of Operating Cost by Departmental Aim and Objectives* and supporting notes analyse the Department's income and expenditure by the objectives agreed by its Board in consultation with licence fee payers.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the Department for the purpose of giving a true and fair view has been selected. The Department's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

We do not exercise in-year budgetary control over any other public or private body. We are a single entity department whose entire operations are within the accounting boundary reflected in these accounts.

1.1 Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of fixed assets at their value to the business by reference to their current costs.

1.2 Tangible fixed assets

These comprise fitting out costs; furniture, office and telecommunications equipments and computers. The minimum level for capitalisation of a tangible fixed asset is £5,000. The grouping of assets below the threshold has been restricted to IT and fit out costs.

Tangible fixed assets are carried at valuation in existing use and stated at current cost using appropriate indices provided by the Office of National Statistics.

1.3 Depreciation

Depreciation is provided at rates calculated to write-off the valuation of tangible fixed assets by equal instalments over their estimated useful lives. Lives are normally in the following ranges:

Fitting out costs	up to 15 years (limited to period of remaining lease)
Furniture, Office & Telecom Equipment	5 - 10 years
Information Technology & Purchased software licences	3 - 5 years
Motor Vehicles	3 years

1.4 Intangible fixed assets

Purchased computer software licences and software development costs are capitalised as intangible fixed assets where expenditure of £5,000 or more is incurred. Software licences are amortised over the shorter of the term of the licence and the useful economic life. The useful economic life for software is normally 3 years. Intangible fixed assets are stated at current cost using appropriate indices provided by the Office of National Statistics.

1.5 Operating income

Operating income is income which relates directly to ORR's operating activities. It comprises licence fees, safety levies and safety related income. It includes not only income appropriated-in-aid of the Estimate but also income payable to the Consolidated Fund, which in accordance with FReM is treated as operating income. The operating income is stated net of VAT.

Since all costs are recovered via the licence fees or safety levy and these are invoiced based on estimated costs, any over recovery is treated as deferred income within Creditors, and any under recovery is treated as accrued income within Debtors.

1.6 Administration expenditure

In the Operating Cost Statement administration costs reflect the costs of running ORR. These include both administration costs and associated operating income. Income is analysed in the notes between that which, under the administrative cost-control regime, is allowed to be offset against gross administration costs in determining the outturn against the administration cost limit, and that operating income which is not.

1.7 Capital charge

A charge, reflecting the cost of capital utilised by ORR, is included in operating costs. The charge is calculated at the real rate set by HM Treasury (currently 3.5 per cent) on the average carrying amount of all assets less liabilities, except for:

- (a) cash balances with the Office of the Paymaster General, where the charge is nil;
- (b) liabilities for amounts to be surrendered to the Consolidated Fund, where the credit is nil

1.8 Foreign exchange

Transactions which are denominated in a foreign currency are translated into sterling at the rate of exchange ruling on the date of each transaction, except where rates do not fluctuate significantly, in which case an average rate for a period is used.

1.9 Pensions

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS). The defined benefit schemes are unfunded and are non-contributory except in respect of dependants' benefits. ORR recognises the expected cost of providing pensions on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, ORR recognises the contributions payable for the year.

In addition, seven present employees are covered by the provisions of the Railways Pension Scheme (RPS) which is contributory and funded. The scheme is a defined benefit scheme with the obligations met by the trustees. The benefits of the British Rail section are ultimately guaranteed by the Secretary of State. The amount paid in respect of these pensions is shown under staff costs in the Operating Cost Statement.

Past Rail Regulators and the current Chairman have separate pension arrangements that are broadly analogous with the PCSPS. Like the PCSPS, the pension arrangements are defined benefits and unfunded schemes. A provision to meet ORR's liability for future payment is included in these accounts. The provision is based on actuarial valuations carried out by the Government Actuary's Department. The amounts paid and provided under these pension arrangements are included in the Operating Cost Statement and shown in Note 15.

1.10 Operating leases

Rentals due under operating leases are charged to the Operating Cost Statement over the lease term on a straight-line basis, or on the basis of actual rentals payable which fairly reflects the usage. Future payments, disclosed at Note 21, "Commitments under leases", are not discounted.

1.11 Provisions

ORR provides for legal or constructive obligations which are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the real rate set by HM Treasury (currently 2.2 per cent). The provisions for past Rail Regulators' pension commitments have also been assessed using a discount rate of 3.2 per cent net of price inflation (2007-08: 2.5).

1.12 Value Added Tax (VAT)

Most of ORR's activities are outside the scope of VAT and in general output tax does not apply and input tax on some purchases is not recoverable. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase cost of fixed assets. Where output tax is charged or input VAT is recoverable, the amounts are stated net of VAT.

1.13 Going concern

The balance sheet at 31 March 2009 shows a negative Taxpayers Equity of £0.103 million. This reflects the inclusion of liabilities falling due in 2009-10, including the repayment of excess cash to Treasury's Consolidated Fund. Any liabilities in excess of cash receivable in year are financed mainly by drawings from the UK Consolidated Fund. Such drawings are from grants of Supply approved annually by Parliament, to meet ORR's Net Cash Requirement. Under the Government Resources and Accounts Act 2000, no money may be drawn from the Fund other than required for the service of the specified year or retained in excess of that needed. All unspent cash, including those derived from ORR's income, are surrenderable to the Fund.

In common with other government departments, the future financing of ORR's liabilities is accordingly to be met by future grants of Supply and the application of future income, both to be approved annually by Parliament. Such approval for amounts required for 2009-10 has already been given. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

1.14 Contingent Liabilities

In addition to contingent liabilities disclosed in accordance with FRS 12, the department discloses for parliamentary reporting and accountability purposes certain statutory and non-statutory contingent liabilities where the likelihood of a transfer of economic benefit is remote, but which have been reported to Parliament in accordance with the requirements of Government Accounting.

Where the time value of money is material, contingent liabilities which are required to be disclosed under FRS 12 are stated at discounted amounts and the amount reported to Parliament separately noted. Contingent liabilities that are not required to be disclosed by FRS 12 are stated at the amounts reported to Parliament.

1.15 Statement of Operating Costs by Departmental Aim and Objectives

The Statement of Operating Costs by Departmental Aim and Objectives has been prepared from the underlying books and records. Where possible costs have been directly attributed to each objective. Overhead costs have been attributed in proportion to staff numbers.

2. Analysis of net resource outturn by function

						2008-09	2007-08
						Estimate	
Outturn							
Admin	Gross resource expenditure	A in A	Net Total	Net Total	Net Total outturn compared with Estimate	Prior-year outturn	
£000	£000	£000	£000	£000	£000	£000	
Request for resources 1:							
To create a better railway for passengers and freight, and better value for public funding authorities, through independent, fair and effective regulation							
A. Administration, associated capital other expenditure	12,400	12,400	12,399	1	1	-	1
B. Rail Safety Regulation	19,908	19,908	19,907	1	1	1	1
Resource Outturn	32,308	32,308	32,306	2	2	1	2

3. Reconciliation of outturn to net operating cost and against Administration Budget

3(a) Reconciliation of net resource outturn to net operating cost

		2008-09		2007-08
	Note	Outturn	Supply Estimate	Outturn compared with Estimate
		£000	£000	£000
Net Resource Outturn	2	2	2	1
Net operating cost		2	2	1

3(b) Outturn against final Administration Budget

	2008- 09		2007-08	
	Budget	Outturn	Budget	Outturn
	£000	£000	£000	£000
Gross Administration Budget	36,795	32,308	32,704	30,497
Income allowable against the Administration Budget	36,792	32,306	(32,702)	(30,495)
Net outturn against final Administration Budget	3	2	2	2

4. Reconciliation of resources to cash requirement

	Note	Estimate	Outturn	Net total outturn compared with estimate: (saving)/excess
		£000	£000	£000
Resource Outturn	2	3	2	1
Capital				
Acquisition of fixed assets	10,11	750	547	203
Non Operating A-in-A				
Proceeds of fixed asset disposals				
Accruals adjustments				
Non-cash items (staff costs)	7	(38)	(32)	(6)
Non-cash items (other administration costs)	8	(7,050)	(3,259)	(3,791)
Changes in working capital other than cash		6,999	3,291	3,710
Use of provision	15	-	155	(156)
Excess cash receipts surrenderable to the Consolidated Fund	5	656	296	360
Net cash requirement		1,320	1,000	320

5. Analysis of income payable to the Consolidated Fund

In addition to appropriations in aid, the following income relates to the department and is payable to the Consolidated Fund (cash receipts being shown in italics):

	Note	Forecast 2008-09	Outturn 2007-08		
	Income	Receipts	Income	Receipts	
	£000	£000	£000	£000	
Excess cash surrenderable to the Consolidated Fund	13	656	656	296	296
Other amounts collectable on behalf of the Consolidated Fund	18f	-	-	-	-
Total income payable to the Consolidated Fund		656	656	296	296

6. Reconciliation of income recorded within the Operating Cost Statement to operating income payable to the Consolidated Fund

	Note	2008-09	2007-08
		£000	£000
Operating income	9	32,306	30,495
Income authorised to be appropriated-in-aid		32,306	30,495
Operating income payable to the Consolidated Fund		-	-

7. Staff numbers and related costs

Staff costs comprise:

	2008-09		2007-08	
	Total	Permanently employed staff	Others	Total
	£000	£000	£000	£000
Wages and salaries	15,962	15,561	401	15,365
Social security costs	1,378	1,378	-	1,338
Other pension costs	3,295	3,295	-	3,108
Sub Total	20,636	20,234	401	19,811
Less recoveries in respect of outward secondments	(32)	(32)		(12)
Total	20,603	20,202	401	19,799
Non cash items: By analogy pension current service costs	32	32		34
Total net costs*	20,635	20,234	401	19,833

*of the total no charge has been made to capital

Included in the figure for other pension costs are employers' contributions of £3,150,548 payable to the PCSPS (2007-08: £2,918,685) at one of four rates in the range 16.7 to 24.3 per cent (2007-08: 17.1 to 25.5 per cent) of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

The (PCSPS) is an unfunded multi-employer defined benefit scheme and ORR is unable to identify its share of the underlying assets and liabilities. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk).

The Railway Pension Scheme (RPS) is a funded multi-employer defined benefit scheme administered by Railway Pensions Trustee Company Limited. This is a defined benefit scheme which prepares its own scheme statements. Details of the RPS pensions statements can be found in the Annual Report and Accounts of the RPS at (www.railwaypensions.co.uk). Employer contributions of £137,138 were paid to the trustees of the RPS in 2008-09 at a rate of 2.2825 times the individual member's contributions, on the basis of actuarial valuations (2007-08: £137,386). ORR matches some of the BRASS2 contributions (an AVC scheme) made by the members. In 2008-09, matching contributions of £4,908 were made (2007-08: £4,908).

With regard to the accrued pension costs for the Current Chairman and past Rail Regulators, notional contributions of £32,000 as advised by the Government Actuary have been charged to the Operating Cost Statement, (2007-08: £34,000). The liability at 31 March 2009 is estimated at £428,000 (31 March 2008: £393,000).

Average number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows.

Objective	2008-09		2007-08	
	Number		Number	
	Total	Permanent staff	Others	Total
Improving Health and Safety performance	160	160	-	163
Securing improved efficiency and performance	22	22	-	35
Securing robust plans for 2009 and beyond	19	19	-	16
Improving and aligning relationships and incentives in the industry	38	37	1	29
ORR as an effective combined safety and economic regulator ³	103	94	9	110
Total	342	332	10	353

8. Other Administration Costs

	2008-09	2007-08
	£000	£000
Rentals under operating leases		
Hire of Office Equipment	45	49
Other Operating Leases	899	899
	944	948
Non-cash items		
Depreciation	775	865
Amortisation	106	117
Gain on disposal of fixed assets	-	(12)
Cost of capital credit	(17)	(53)
Interest charges in respect of by-analogy pension scheme	22	18
Diminution in value of fixed assets	168	186
Auditors' remuneration and expenses*	43	37
	1,097	1,158
Provisions:		
Provision for redundancy costs	2,123	60
Provision for dilapidations and other leasehold liabilities	35	321
Release of provision for accommodation costs		
Provision for tax on benefits in kind	5	
	2,163	381
Other		
Travel and subsistence	990	1,133
Hospitality	49	40
Consultancies	2,145	2,613
IT and Telecommunications	1,263	1,207
Landlord service charges and rates	791	743
Printing and stationery	373	410
Recruitment and training	476	657
Staff-related costs	127	134
Building-related costs	801	825
External services	416	388
Other	38	27
	7,469	8,177
	11,673	10,664

*There was no auditor remuneration for non-audit work

9. Income

	Note	2008-09	2007-08
		£000	£000
Licence fees	RfR1	12,340	12,652
Less: Income deferred to future year	RfR1 12a	(50)	(294)
Safety Levy and related safety income	RfR1	18,789	18,052
Plus: Income accrued (deferred) to future year	RfR1 12a	944	(83)
Miscellaneous income	RfR1	284	168
		32,306	30,495

10. Tangible fixed asset

	Fitting out costs	Furniture, Office Equipment and Telecoms	Information Technology	Total
	£000	£000	£000	£000
Cost or valuation				
At 1 April 2008	3,001	878	1,810	5,689
Write off	-			
Additions	177	55	177	409
Revaluations	81	24	(201)	(96)
At 31 March 2009	3,258	957	1,786	6,001
Depreciation				
At 1 April 2008	449	399	1,096	1,944
Charged in year	206	142	532	880
Revaluations	33	23	(221)	(166)
At 31 March 2009	688	563	1,407	2,659
Net book value at 31 March 2009	2,570	394	379	3,343
Net book value at 31 March 2008	2,552	479	714	3,745

11. Intangible fixed assets

Intangible fixed assets comprise software licences

	Total
	£000
Cost or valuation	
At 1 April 2008	653
Additions	139
Disposals: actual cost	-
Revaluation	(65)
At 31 March 2009	727
Amortisation	
At 1 April 2008	391
Charged in year	138
Revaluation	-
Disposals: depreciation on cost	(51)
At 31 March 2009	478
Net book value at 31 March 2009	249
Net book value at 31 March 2008	262

12. Debtors

12(a) Analysis by type

	2008-09	2007-08
	£000	£000
Amounts falling due within one year:		
Trade debtors	171	234
Staff Debtors	122	112
Prepayments and accrued income	1,308	279
HM Revenue and Customs (VAT)	110	105
Total debtors at 31 March 2009	1,711	730

Included in staff debtors are season ticket loans for 88 employees totalling £93,191 (2007-08:£98,841 for 90 employees) and £28,342 relating to other advances made to 46 employees (2007-08: £13,171).

12(b) Intra-Government Balances

	Amounts falling due within one year	
	2008-09	2007-08
	£000	£000
Balances with other central government bodies	222	264
Balances with bodies external to government	1,496	466
Total debtors at 31 March 2009	1,711	730

13. Cash at bank and in hand

	2008-09	2007-08
	£000	£000
Balance at 1 April	3,784	478
Net change in cash balances	(3,488)	3,306
Balance at 31 March	296	3,784

The following balances at 31 March 2009 were held at:

Office of HM Paymaster General	270	3,766
Commercial banks and cash in hand	26	18
Balance at 31 March	296	3,784

The balance at 31 March 2009 comprises excess cash surrenderable to the Consolidated Fund

296	3,784
------------	--------------

14. Creditors

14(a) Analysis by type

	<u>2008-09</u>	<u>2007-08</u>
	<u>£000</u>	<u>£000</u>
Amounts falling due within one year		
Trade creditors	-	912
Other creditors	761	724
Accruals	1,381	2,219
Deferred income	-	377
Excess cash surrenderable to the Consolidated Fund		
Received	296	3,784
Total creditors at 31 March	<u>2,438</u>	<u>8,016</u>
Amounts falling due after more than one year	<u>74</u>	<u>291</u>

14(b) Intra-Government Balances

	Amounts falling due within one year	
	<u>2008-09</u>	<u>2007-08</u>
	<u>£000</u>	<u>£000</u>
Balances with other central government bodies	296	5,501
Balances with bodies external to government	2,216	2,806
Total creditors at 31 March	<u>2,512</u>	<u>8,307</u>

15. Provisions for liabilities and charges

	Early retirement	Accommodation	Taxable benefits in kind	Total
	£000	£000	£000	£000
Balance at 1 April 2008	422	321	12	755
Provided in the year	2,123	35	5	2,163
Provisions not required written back	-	-	-	-
Provisions utilised in the year	(151)		(5)	(156)
Balance at 31 March 2009	2,394	356	12	2,763

The provision for early retirement was established to provide for future retirement benefits of staff who have retired early or may be required to retire early or be made redundant. Included in the provision is an amount of £1,955,000 in respect of future restructuring costs.

The provision for accommodation has been established in order to satisfy the obligation to return our offices to their original condition.

The provision for taxable benefits relates to future tax liabilities relating, for example, to retained travel benefits and subscriptions for non-approved professional bodies for staff

Details for by-analogy defined benefit pension schemes

Class	As at 31 March 2009	As at 31 March 2008
	£000	£000
Actives	186	133
Deferreds	127	138
Pensioners	115	122
Total Present Value of the Scheme Liabilities	428	393
	2008-09	2007-08
Liability calculation	£000	£000
Present value of scheme at 1 April	393	370
Current service cost (net of employee contribution)	32	34
Employee contribution	4	4
Interest costs	22	18
Actuarial gains/losses	(16)	(26)
Less: benefits paid	(7)	(7)
Balance at 31 March	428	393

Former Rail Regulators and the current Chairman benefit from a defined benefit pension scheme by-analogy with the PCSPS. An actuarial valuation was carried out on the scheme by the Government Actuary's Department (GAD) at 31 March 2009. In 2008-09 ORR contributed £32k in respect of the active member, and £22k in respect of interest costs. GAD have advised that ORR contribution for 2009-10 should be estimated at 31.5% of gross salary of the active member.

The pension provision is unfunded, with benefits being paid as they fall due and guaranteed by the employer. There is no fund, and therefore no surplus or deficit.

Relevant financial assumptions made by the actuary are as follows:

	As at 31 March 2009	As at 31 March 2008
	% per annum	% per annum
Inflation	2.75	2.75
Rate of increase in salaries	4.29	4.30
Rate of increase for pensions in payment and deferred pensions	2.75	2.75
Rate used to discount scheme liabilities	6.04	5.30

History of experience losses/(gains)

	Year Ending 31/03/2009	Year Ending 31/03/2008	Year Ending 31/03/2007	Year Ending 31/03/2006	Year Ending 31/03/2005
Experience loss/(gain) arising on the scheme liabilities					
Amount (£'000)	2	1	0	(1)	(1)
Percentage of scheme liabilities at end of year	0.5%	0.2%	0.0%	-0.4%	-0.5%

Estimate of contributions expected to be paid into the scheme over the year 1 April 2009 to 31 March 2010

Employer contributions	£8,683
Employee contributions	£965

Under FRS 17 employers are required to disclose any other material actuarial assumptions used for the assessment. Accordingly the life expectancies shown below illustrate the longevity assumption used for the assessment.

Life expectancy at retirement

Current pensioners	As at 31 March 2009		As at 31 March 2008	
	Men (years)	Women (years)	Men (years)	Women (years)
Exact Age				
60	29	32	29	32
65	24	27	23	27

Future pensioners	As at 31 March 2009		As at 31 March 2008	
	Men (years)	Women (years)	Men (years)	Women (years)
Exact Age				
60	30	33	30	33
65	26	29	25	29

Cumulative amount of actuarial gains and losses.

The cumulative actuarial loss for the year to date amounts to £69,000 (31 March 2008: £85,000)

Present value of scheme liabilities

	Value at 31/03/2009 £ 000	Value at 31/03/2008 £ 000	Value at 31/03/2007 £ 000	Value at 31/03/2006 £ 000	Value at 31/03/2005 £ 000
Liability in respect of					
Active members	186	133	102	51	11
Deferred pensioners	127	138	145	108	88
Current pensioners	115	122	123	106	97
Total present value of scheme liabilities	428	393	370	265	196

16. General Fund

The General Fund represents the total assets less liabilities of each of the entities within the accounting boundary, to the extent that the total is not represented by other reserves and financing items.

	2008-09	2007-08
	£000	£000
Balance at 1 April	(1,414)	(2,225)
Net Parliamentary Funding		
Drawn Down	1,000	4,546
Machinery of Government General Fund transfer	-	2
Net Transfer from Operating Activities		
Net Operating Cost	(2)	(2)
Excess cash surrenderable to the Consolidated Fund	(296)	(3,784)
Non Cash Charges		
Cost of Capital Credit	(17)	(53)
Auditors' remuneration	43	37
Transfer from Revaluation Reserve	36	39
Adjustment in respect of previous years' depreciation	223	-
Gain/(Loss) relating to pension liabilities	16	26
Balance at 31 March	(411)	(1,414)

17. Revaluation Reserve

The revaluation reserve reflects the unrealised element of the cumulative balance of indexation and revaluation adjustments (excluding donated assets).

	2008-09	2007-08
	£000	£000
Balance at 1 April	480	287
Arising on revaluation during the year (net)	87	96
Transferred to General Fund in respect of realised element of the revaluation reserve	(259)	(39)
Additional depreciation charged on revaluation of assets		136
Balance at 31 March	308	480

18. Notes to the Cash Flow Statement

18(a) Reconciliation of operating cost to operating cash flows

	Note	2008-09	2007-08
		£000	£000
Net operating cost	3	2	2
Adjustments for non-cash transactions	7,8	(3,291)	(1,573)
Decrease in Debtors		981	(27)
Decrease in Creditors		2,267	1,143
Use of provisions	15	155	95
Net cash inflow from operating activities		116	(360)

18(b) Analysis of capital expenditure and financial investment

	2008-09	2007-08
	£000	£000
Tangible fixed asset additions	448	965
Intangible fixed asset additions	141	196
Proceeds of disposal of fixed assets		(39)
Net cash outflow from investing activities	589	1,122

18(c) Analysis of capital expenditure and financial investment by Request for Resources

All capital expenditure and financial investment relate to Request for Resources 1.

18(d) Analysis of financing

	Note	2008-09	2007-08
		£000	£000
From the Consolidated Fund (Supply) – current year	16	1,000	4,546
Advances from the Contingencies Fund		10,000	10,000
Repayments to the Contingencies Fund		(10,000)	(10,000)
Net financing		1,000	4,546

18(e) Reconciliation of Net Cash Requirement to increase in cash

	Note	2008-09	2007-08
		£000	£000
Net cash requirement	4	(1,000)	(4,546)
From the Consolidated Fund (Supply) – current year	18(d)	1,000	4,546
Amounts due to the Consolidated Fund – received in a prior year and paid over		(3,784)	(478)
Amounts due to the Consolidated Fund received and not paid over		296	3,784
(Decrease)/Increase in cash		(3,488)	3,306

19. Notes to the Statement of Operating Costs by Departmental Aim and Objectives

Programme grants and other current expenditures have been allocated as follows:

	<u>2008-09</u>	<u>2007-08</u>
	<u>£000</u>	<u>£000</u>
Objective 1 – Improving health and safety performance	13,295	12,076
Objective 2 – Securing improved efficiency and performance	2,196	2,949
Objective 3 – Securing robust plans for 2009 and beyond	2,031	2,412
Objective 4 – Improving and aligning relationships and incentives in the industry	3,506	2,293
Objective 5 – ORR as an effective combined safety and economic regulator	11,280	10,767
Total	<u>32,308</u>	<u>30,497</u>

Where possible costs have been directly attributed to each objective. Overhead costs have been attributed in proportion to staff numbers.

ORR's capital is employed exclusively for administrative purposes.

20. Capital commitments

There are no contracted commitments at 31 March 2009 and no provision has been made (31 March 2008:nil).

21. Commitments under leases

21.1 Operating leases

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, analysed according to the period in which the lease expires.

	<u>2007-08</u>	<u>2006-07</u>
	<u>£000</u>	<u>£000</u>
Obligations under operating leases comprise:		
Land and buildings:		
Expiry within 1 year	8	-
Expiry after 1 year but not more than 5 years	-	-
Expiry thereafter	931	904
	<u>931</u>	<u>904</u>
Other:		
Expiry within one year	2	-
Expiry after 1 year but not more than 5 years		43
Expiry thereafter		-
	<u>2</u>	<u>43</u>

22. Other financial commitments

The department had not entered into any non-cancellable contracts (which are not operating leases) for any new capital expenditure as at 31 March 2009 (31 March 2008:nil)

23. Losses and Special Payments

Special payments to three members of staff amounting to £ 30,427 were made in the year.

24. Financial Instruments

Because of the largely non-trading nature of its activities and its licence fee and safety levy financing structure, ORR does not face significant medium to long-term financial risks.

As the cash requirements of the department are met through the Estimates process, financial instruments play a more limited role in creating and managing risk than would apply to a non-public sector body of a similar size.

The majority of financial instruments relate to contracts for non-financial items in line with the Department's expected purchase and usage requirements and the Department is therefore exposed to little credit, liquidity or market risk.

Interest rates and foreign currency risks

ORR is not exposed to any significant interest rate or foreign currency risks.

Fair values

There is no material difference between the book values and fair values of ORR's financial assets and liabilities as at 31 March 2009.

25. Contingent liabilities disclosed under FRS 12

There were no reportable contingent liabilities at 31 March 2009 (31 March 2008:nil).

26. Related Party Transactions

There have been a small number of transactions with other government departments and other central government bodies.

Additionally during the year £160,707 (2007-08: £153,667) of income was received from the Office of the Public Private Partnership Arbiter in respect of services provided by ORR. There was no outstanding balance at year end, (2007-08: £6,521). The Office of the PPP Arbiter is a related party as Chris Bolt, ORR's Chairman, holds the position of PPP Arbiter.

No other board members, key managerial staff or other related parties have undertaken any material transactions with ORR during the year.

27. Post Balance Sheet Events

There have been no reportable post balance sheet events between the balance sheet date and the date the accounts were certified, the authorised for issue date. The financial statements do not reflect events after this date.

Appendix 1

Safety activity tables

Summary of enforcement notices issued 2004/05 – 2008/09

	Improvement (IN)	Prohibition (PN)	Total
2004/05	13	5	18
2005/06	16	6	22
2006/07	23	5	28
2007/08	16	6	22
2008/09	29	4	33

Summary of complaints received 2004/05 -2008/09

	Number of Complaints
2004/05	647
2005/06	593
2006/07	644
2007/08	510
2008/09	531

Summary of prosecutions heard 2004/05 – 2008/09

Year	Number of prosecutions heard	Total fines	Total costs
2004/05	20	£14,392,600	£866,441
2005/06	2	£23,000	£3,507
2006/07	5	£943,000	£132,770
2007/08	2	£35,000	£13,536
2008/09	11	£1,456,000	£131,543

Permissioning Activity 2008-09

Level Crossing Orders issued	52
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ROTS approvals issued	131
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Mainline

Safety Certificates issued - Part A	19
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- Part B	20
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Safety Authorisations issued	8
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Revocations	1
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Non-mainline

Safety Certificates issued	3
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Safety Authorisations issued	2
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Interoperability Authorisations issued	15
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Appendix 2

economic activity

tables

Licences granted:

Licence Holder	Date	P	NP	S	LMD	Network
None						

Licence exemptions granted:

Exemption Holder	Date	P	NP	S	LMD	Network
S & C R Limited (Swindon & Cricklade)	20 May 2008	✓	✓	✓	✓	✓
Gamble Rail Limited	22 May 2008		✓			
W. H. Malcolm Limited	5 June 2008		✓		✓	✓
Morgan Est Plc	26 June 2008		✓			
Bridgen (Rail) Maintenance Limited	4 July 2008		✓			
Bridgen Holdings Limited	4 July 2008		✓			
Bridgen (Rail) Welding Limited	4 July 2008		✓			
Bridgen Construction Limited	4 July 2008		✓			
Bridgen (Rail) S & T Limited	4 July 2008		✓			
The Deeside Railway Company Limited	12 August 2008	✓	✓	✓	✓	✓
Electro-Motive Services International Limited	22 August 2008	✓	✓		✓	
W. H. Malcolm Limited No.17	10 October 2008		✓		✓	✓
W. H. Malcolm Limited No.18	10 October 2008		✓		✓	✓
London Eastern Railway Limited No.19	20 October 2008					✓
Docklands Light Railway Limited No.20	16 December 2008	✓	✓	✓	✓	✓
Miller Argent (South Wales) Ltd	4 February 2009					✓
Strathspey Railway Company Limited	18 February 2009	✓	✓	✓	✓	✓
Whitwell and Reepham Railway Limited	24 February 2009	✓	✓	✓	✓	✓

Licences revoked:

Licence Holder	Date Revoked	P	NP	S	LMD	Network
Serco Railtest Limited	4 June 2008		✓			✓
Gatwick Express Limited	21 July 2008	◆			✓	
Jarvis Rail Limited	26 September 2008		✓			

Licence exemptions revoked:

Exemption Holder	Date	P	NP	S	LMD	Network
Tibbet and Britten Applied Limited (Doncaster International Railport)	1 April 2008				✓	✓
Tibbet and Britten Applied Limited (Daventry International Freight Terminal)	11 June 2008		✓		✓	✓
Gamble Trackline Services Limited	25 June 2008		✓		✓	
The Deeside Railway Company Limited 2007 Exemption	12 August 2008	✓	✓	✓	✓	✓
W.H.Malcolm 2002 No.2	10 October 2008					✓
W.H.Malcolm 2005 No.8	10 October 2008					✓
Bridgen Group Limited	14 November 2008					✓
Docklands Light Railway Limited 1995	16 December 2008	✓	✓	✓		✓
Docklands Light Railway Limited 1999	16 December 2008	✓	✓	✓		✓
Docklands Light Railway Limited 2005	16 December 2008					✓
Docklands Light Railway Limited 2008	16 December 2008			✓		✓
Serco Limited	13 January 2009		✓			
Strathspey Railway Company Limited 1998	18 February 2009	✓	✓	✓		✓

◆ = European licence and/or a GB statement of national regulatory provisions (SNRP).

✓ = Licences and /or exemptions granted under the Railways Act 1993.

P = passenger train, NP = non-passenger train, S = station, LMD = light maintenance depot, N = network.

Access Contracts: 1 April 2008-31 March 2009	Track	Connection	Stations	Depots
New contracts directed under section 18 of the railways act 1993	3	21	27	24
New contracts directed under section 17 of the Railways Act 1993	0	1	0	0
Amendments to existing agreements approved under section 22 of the Railways Act 1993	124	2	10	3
Amendments to existing agreements directed under section 22A of the Railways Act 1993	2	0	0	0
Amendments to existing agreements approved by general approval	85	0	245	10

Appendix 3

Board & Committee member attendance records 2008-09

Board meeting attendance 2007-08

Board member	29th April	20th May	17th June	22nd July	2nd Sep	30th Sep	30th Sep	18th Nov	20th Jan	17th Feb	17th Mar	Total / possible
Chris Bolt (Chairman)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	12 / 12
Michael Beswick (Executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	11 / 11
Peter Bucks (NED)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	11 / 11
Bill Emery (Chief Executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	11 / 12
Chris Elliott (NED from 1 July 2007)	✓	✓	✓	✓	✓	✓	✓	✓	A	✓	✓	8 / 8
Richard Goldson (NED)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	A	9 / 11
Michael Lee (executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	3 / 3
Jane May (NED)	✓	✓	✓	✓	✓	✓	✓	✓	✓	A	✓	12 / 12
Jim O'Sullivan (NED)	✓	✓	✓	A	✓	✓	✓	✓	✓	✓	✓	10 / 11
John Thomas (Executive)	✓	✓	A	✓	✓	✓	✓	✓	✓	✓	✓	11 / 11
Linda Williams (executive until 2nd Sep)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	11 / 11
Ian Prosser (executive from 30th Sep)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	11 / 11

A = Apologies received for absence

No mark indicates member not on Board at that time

Linda Williams was an executive until 2 September 2008 (retiring on 25 September 2008)

Table of Audit Committee attendance

Committee member	11th Jun	18th Sep	9th Dec	10 Mar	Total / possible
Peter Bucks (Committee Chairman & NED)	✓	✓	✓	✓	4 / 4
Jane May (NED)	✓	✓	✓	✓	4 / 4
Jeremy Chittleburgh (Independent Member)	✓	✓	✓	✓	4 / 4

Table of remuneration committee attendance

Committee member	15th July	Total / possible
Richard Goldson (Committee Chairman & NED)	✓	1 / 1
Chris Bolt (NED)	✓	1 / 1
Peter Bucks (NED)	✓	1 / 1

Periodic Review Committee attendance 2007-08

Committee member	1st Apr	6th May	3rd June	5th Aug	14th Oct	9th Dec	Total / possible
Bill Emery (Committee Chairman & Chief Executive)	✓	✓	✓	✓	✓	✓	6/6
Chris Bolt (ORR Chairman)	✓	✓	✓	✓	✓	A	6/6
Michael Beswick (Executive)	A	✓	✓	A	✓	✓	4/6
Peter Bucks (NED)	✓	✓	✓	✓	✓	✓	6/6
Richard Goldson (NED)	✓	✓	✓	✓	✓	✓	6/6
Juliet Lazarus (Executive)	✓	✓	✓	A	✓	✓	5/6
Michael Lee (Executive)	A	✓	✓	✓	✓	✓	5/6
Paul McMahon (Executive)	✓	✓	✓	A	✓	✓	5/6
John Thomas (Executive)	✓	✓	✓	✓	✓	✓	6/6

Table of remuneration committee attendance

Committee member	13th May	15th July	23rd Sep	11th Nov	10th Feb	Total / possible
Jim O'Sullivan (Committee Chairman & NED)	✓	✓	✓	✓	✓	5/5
Chris Bolt (ORR Chairman)	✓	✓	✓	✓	✓	5/5
Michael Beswick (Executive)	✓	✓	✓	✓	✓	5/5
Bill Emery (Chief Executive)	✓	✓	✓	✓	✓	5/5
Chris Elliott (NED appointed to SRC from September 2007)	✓	✓	✓	✓	✓	5/5
Juliet Lazarus (Executive)	A	✓	✓	✓	✓	4/5
Jane May (NED)	✓	✓	✓	✓	✓	5/5
David Morris (Executive)	✓	✓	✓	✓	✓	5/5
Ian Prosser (executive attended SRC from Sep 2008 formally appointed to SRC from Nov 2008)			✓	✓	✓	3/5
Caroline Wake (Executive attended SRC from Sep 2008 formally appointed to SRC from Nov 2008)		✓	A	✓	A	2/4
Linda Williams (Executive)	✓	✓	✓			3/3

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St. Pancras International

Nexus

Takazumi Uemura

Graeme Clarke

Gary Faux

Mervyn Carter

Andrew Wallace

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