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HEALTH AND SAFETY COMMISSION

Accreditation of suppliers of safety critical products and services

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Issue

1. To inform HSC on the analysis and thinking to implement Recommendation 24 of the Ladbroke Grove Rail Inquiry Report Part 2, to seek early views from HSC on the potential options for implementation, and the supporting issues for consideration. This is the first step in the development of further proposals for general consultation.

Timing

2. Routine.

Recommendation

3. HSC is asked to consider the following issues:
 - a) How important is independent third party accreditation for the supply of safety critical products and services to the rail industry? (*para 17-23*)
 - b) Which parts of the rail industry should be covered by such a scheme of accreditation? (*para 24-26*)
 - c) If the Rail Safety and Standards Body was actively involved in the accreditation system, would the public perceive it as being sufficiently independent or would an additional element of independence be needed? (*paras 27 & 28*)

- d) The policy options (*Paras 29 - 31 & Annex A*)
- e) The features of an accreditation / certification system (*Para 32 & Annex B*)

Background

4. Following the Ladbroke Grove rail crash, the Public Inquiry headed by Lord Cullen looked at the supply of safety-critical products and services. These discussions led to the following recommendations:
 - **Recommendation 24** – *‘Suppliers of products and services of a safety-critical kind, for use on, or in regard to, the railways in Great Britain should be required to hold an accreditation as a condition of being able to engage in that activity. But the features of such a system require further study.’*
 - **Recommendation 47** – *‘The body [Rail Industry Safety Body¹] should also be responsible for the accrediting of the suppliers of products and services [and the licensing of individuals], subject to the supervisory activity of the safety regulator.’*
5. Recommendation 24 arose from a wider discussion and evidence presented to Lord Cullen on the safety case regime on the railways. While explicitly rejecting the extension of the safety case regime to contractors, he recommended that some system for quality control of companies who supply to the industry should be explored. In particular, Lord Cullen had in mind that a company is ‘accredited’ if an external body, i.e. an independent third party assessment, had determined it had suitable processes for controlling the safety of products and services it provides, in particular where they are safety-critical.
6. Lord Cullen tasked HSC as the action holder for Recommendation 24, the Rail Regulator for Recommendation 47, and provided a three-year timescale from the publication of the report in which to implement both recommendations.
7. The links between accreditation and other aspects of the rail agenda are also being taken into account. This includes: the policy development of Lord Cullen’s recommendations relating to driver and signaller licensing, which could include accreditation of training providers [**HSC paper 03/08**]; the review of the Railways (Safety Critical Work) Regulations 1994, which relates to controls on the provision of key safety critical workers in the rail industry [**HSC paper 03/09**]; the review of the Railway (Safety Case) Regulations 2000, which relates to railway safety case holders’ arrangements for ensuring the safety of its contractors and for controlling the risks arising from the procurement of plant); the review of the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994, which relates to the role of HSE in ensuring the safety of certain safety critical products; and, the regime under the EU Interoperability Directives, which relates to

¹ Now to be called the Rail Safety and Standards Board (RSSB).

'independent' notified bodies assessing certain interoperable constituents and subsystems.

8. The first phase of developing policy to implement Lord Cullen's recommendations on accreditation involved identifying a network of key stakeholders. A successful stakeholder meeting has been held to engage stakeholders and take views. Participants included representatives from Infrastructure Controllers (Railtrack, London Underground Ltd, Heritage, Light Rail), Freight Operating Companies, Infrastructure Maintenance Controllers, Rolling Stock Operating Companies, the Railway Industry Association, ASLEF, RMT, and Railway Safety. Further stakeholder bi-laterals have also been held to explore issues in more detail.

RIAC views

9. The Rail Industry Advisory Committee (RIAC) has been kept informed of the work undertaken, and at its recent meeting on 12 March 2003, members were invited to comment on the development of policy and issues for consideration (as outlined in this paper).
10. The main outcome from the RIAC meeting included a suggestion from some members that they needed more detailed information on the range and scope of current industry initiatives which addressed supply chain management, supported by a detailed analysis of the strengths and weaknesses of each (although a summary of industry schemes was presented to RIAC and is contained in Option A of Annex A). In the absence of this detailed mapping exercise, some members felt unable to provide further views on the specific questions asked at this stage or to provide a view on the way forward. HSE was offered assistance from members in collating further information about the different schemes. Nonetheless some members believed that existing industry schemes were likely to be adequate and supported Option A in paragraph 29 below.
11. Discussions also centred around the belief that the approach to supplier management should be risk-based; more quantifiable evidence needed to be made available to demonstrate that a national 'accreditation' scheme would mitigate risks and deliver additional benefits over and above those that duty holders had already identified which had led to them establishing their own schemes.
12. HSC will wish to note that the representative from the London Transport Users Committee asked the committee to reflect more closely on the actual recommendation made by Lord Cullen and the context in which it was made. He suggested that Lord Cullen, in making the specific recommendation relating to suppliers, was looking for a mechanism which provided a degree of assurance to purchasers, which had been validated by an independent source. This element of independence also provided a means to raise public confidence in the railway industry, which was much needed. This view concurred with that of the Rail Passenger Interest representative.

Current requirements

13. While some requirements in health and safety law require some products and services to be assessed by a third party (e.g. regulations relating to certain types of machinery), there is currently no comprehensive voluntary or mandatory national railway scheme of the sort envisaged by Lord Cullen. However, there are a number of assessment or registration schemes operated by companies or groups of companies as in house schemes and some of these offer extensive coverage.
14. The Railway Group Standards apply to all companies in the Railway Group (i.e. Network Rail and companies who use its infrastructure). There is a standard in place that requires all safety critical engineering products and services to be procured from qualified suppliers, and which sets out minimum requirements for the process of qualifying those companies². While this Railway Group Standard sets out objectives for compliance, it does not indicate how compliance should be achieved, and in particular it does not provide guidance in the competence assessment of suppliers. This Railway Group Standard does not include a requirement for third party assessment.

Developments in Europe

15. At this stage of considering the implications of the EU Interoperability Directives, HSE is minded that the verification and conformity assessment procedures required by these regimes are unlikely to meet the objective of Lord Cullen's recommendations on accreditation / certification. These Directives require interoperable constituents and subsystems (infrastructure, rolling stock etc) to be assessed by 'notified bodies' against European standards, and, where there are gaps in the European standards, against notified national standards, to ensure the interoperability of the European Railways.
16. The EU Directives are aimed at providing technical harmonisation of products and subsystems only, and not at delivering certification for the systems used by suppliers. As a result, it may be unlikely that we will be able to rely on the Interoperability Directives to deliver the broader objectives envisaged by Lord Cullen.

Argument

The benefits of accreditation/certification

17. It may be useful at this stage to clarify the distinction between 'accreditation' and 'certification', which are terms often used interchangeably and prone to cause misunderstanding. European Standard, Standardisation and related activities – General Vocabulary BS EN 45020:1998 defines:

'accreditation' as *'a procedure by which an authoritative body gives formal recognition that a body or person is competent to carry out specific tasks'* (i.e. certification), and:

² 'Qualification of Suppliers of Safety Critical Engineering Products and Services' RGS GM/RT 2450.

'certification' as *'a procedure by which a third party gives written assurance that a product, process or service conforms to specified requirements'*.

18. The sort of accreditation sought by Lord Cullen, we believe, would entail the accreditation of organisation(s) by, say, the United Kingdom Accreditation Service³ (UKAS), to certify suppliers of products and services to specified requirements. Lord Cullen's model in this respect would look to the RSSB as the certifying body.
19. To that end, the purpose of a supplier accreditation / certification scheme should achieve the following benefits:
 - a degree of safety assurance of products and services, based on an **independent and impartial assessment**;
 - increased confidence that suppliers have adequate processes in place which demonstrates they understand the safety-criticality of products and services, and can produce documentary evidence to validate product approval, conformity to standards etc, and workers are competent to carry out the tasks for which they are supplied;
 - confidence that suppliers have effective systems in place to manage sub-contractors to ensure traceability, and that safety performance monitoring has been/is taking place across the supply chain.
20. It has proved difficult to obtain statistical information to link safety critical products and services to the wider risk profile. However, many stakeholders consider the management of the supply chains as important to ensure safety, and subsequently have developed their own 'accreditation of suppliers' schemes (para 1, Annex A). However, there remains a question of whether these schemes contain the key element of an independent assessment, as may be required to achieve confidence and an appropriate measure of assurance. Ministers have also expressed concern about the management and use of contractors, and HSE was asked by Ministers to prepare a specific report in May 2002⁴. Both Hatfield and the Potters Bar train crashes brought increased attention to the issue of contractor management.
21. Overall, an effective accreditation / certification scheme could lead to a lowering of risks on the railway system and a reduction in the number of related accidents. There may also be an economic benefit in that such a system could lead to better designed and manufactured products, better quality of services, which in turn leads to a more reliable and safe railway.
22. It would also provide some synergy with accreditation approaches in other industries, e.g. the gas industry has an accredited assessment and registration scheme for gas installers for domestic and commercial premises; the Control of Asbestos at Work Regulations 2002 requires UKAS accreditation of laboratories which are asked to carry out air measurements; and to a degree, the aviation industry which, via the Civil Aviation Authority, operates a system of approvals for designers, manufacturers and suppliers of aircraft parts.

³ UKAS is the sole accreditation body recognised by government to assess, against internationally recognised standards, organisations that provide certification, testing and inspection services.

⁴ The Use of Contractors in the Maintenance of the Mainline Railway Infrastructure (HSC May 2002).

23. The key issue for HSC consideration is how important is independent and impartial assessment to the supply of safety critical products and services to the rail industry.

Which parts of the rail industry should be covered?

24. In considering all possible options to implement Recommendations 24 and 47, at this stage, HSE has taken a wide view and has been considering suppliers of safety critical products and services for Network Rail Controlled Infrastructure (NRCI), London Underground controlled infrastructure, the light rail industry, metro and heritage rail sectors.

25. Consideration would need to be given if some parts of the rail sector, such as Heritage Railways, should be excluded from a requirement for certification of its suppliers because their rail operations may be deemed to be of lower risk.

26. HSE would welcome a view from HSC on how it wishes to interpret the scope of the recommendations. Clearly though a regulatory option would apply to the whole industry and not be limited to NRCI.

The role of RSSB

27. Lord Cullen placed the responsibility for 'accreditation' of suppliers on RSSB. The detail of what accreditation system they would be prepared to administer will ultimately be for its members to decide. However, RSSB's initial focus will be on NRCI.

28. In considering any future role for RSSB, HSC will need to consider how 'independent' this new body, owned by the industry, will be perceived to be. The recent survey conducted on behalf of HSE into public attitudes to railway safety (focussed in particular to train protection issues) found that the public were not convinced that the industry would deliver improving standards of health and safety without a regulatory framework in place to provide an element of compulsion⁵.

Policy Options

29. In striving to achieve the spirit of recommendations 24 and 47, the following options for implementation could be considered (see **Annex A** for analysis of each):

- **A)** Reliance on existing industry schemes (no further action required of HSC/E);
- **B)** Approval / accreditation / certification of suppliers by an independent body(ies), with overall UKAS accreditation;

⁵ Report by People Science and Policy Ltd on 'Public Dialogue on Train Protection' Dec 02 and referred to in HSC Paper 03/02.

- **C)** Securing agreement, and facilitating the development of an industry-owned, industry-wide scheme
- **D)** Introducing the requirement for duty holders to use certified suppliers via regulation;

30. Lord Cullen made his suite of recommendations to improve health and safety across the railway industry. The industry, it is acknowledged, is fragmented and complex. In relation to the implementation of recommendation 24, HSE would welcome HSC's views on preferred option(s) for further development which balances the need for introducing requirements through regulation or allowing the industry to manage and control processes, in this case, the management of the supply chain, according to the risks it creates. This would need to take into account not only the current regulatory climate and the latest Cabinet Office guidance, but also the need to address current public perception and confidence in railway health and safety.

31. Any views from HSC on the policy options can be used to inform further stakeholder dialogue which can be linked to discussions on the review of the Railways (Safety Critical Work) Regulations 1994, Safety Case and Approvals regimes and the development of a licensing system for drivers and signallers.

Features of an accreditation /certification system

32. HSE will need to work with rail industry stakeholders to develop the features of a scheme, which will be relevant to the railway industry. These are outlined in **Annex B**.

Consultation

33. In developing the options in this paper, HSE has consulted a number of key stakeholders in the rail industry (see para 8) and RIAC.

34. Consultation has also taken place with the Railway Inspectorate, the Solicitor's Office, the Economic Advisor's Unit, colleagues across the Directorate of Railway Policy, colleagues in HSE dealing with other accreditation schemes, and other Government departments who operate accreditation schemes, e.g. the Civil Aviation Authority.

Presentation

35. There is likely to be interest in the decisions reached by HSC concerning implementation of Lord Cullen's recommendation on the accreditation / certification of the supply chain. Organisations representing the bereaved families and injured from Ladbroke Grove are likely to comment.

Costs and Benefits

36. A detailed Regulatory Impact Assessment will be developed in liaison with HSE's Economic Advisory Unit to support any regulatory proposal following cabinet office guidance. Similarly, more detailed costs will also be worked out in relation to those options that do not feature any form of legislation if HSC wishes to pursue a non-regulatory option.

Financial/Resource Implications for HSE

37. Funding for this project has recently been agreed to the end of the financial year 2004/2005.

Environmental Implications

38. None

Other Implications

39. It will be important to ensure that any proposals do not infringe relevant European law on equal access to markets.

Action

40. HSC is asked to consider the questions in paragraph 3.