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HEALTH AND SAFETY COMMISSION

Development and Implementation of Licensing Systems for Train Drivers and Signallers

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Issue

1. In Part 2 of the Ladbroke Grove Rail Inquiry Report, Lord Cullen recommended that licensing systems should be developed for train drivers and signallers, that training providers or train operators should be accredited and common standards laid down for this purpose. This paper is to inform Commissioners on progress in developing analysis and thinking on licensing systems and to seek early views from the HSC on the strategic issues associated with the implementation of the recommendation. This is a 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) Is the licensing of key safety critical workers (initially drivers and signallers) a suitable method for providing reassurance to the public about their competence to undertake the job? (*para 11-15*)
 - b) Which parts of the rail industry should be covered by requirements to licence key safety critical workers? (*para 16 – 18*)
 - c) If Railway Safety and Standards Board operate the licensing system, would the public perceive it to be sufficiently independent? (*para 19 – 21*)

- d) How important is independent third party accreditation of any licensing scheme?
(paras 22 – 23)
- e) The areas identified for further discussion if a licensing system were to be introduced (para 24 and **Annex 3**).

Background

4. Following the Ladbroke Grove Rail crash, the Public Inquiry headed by Lord Cullen looked at the competence of safety critical workers, such as train drivers and signallers, under the Railways (Safety Critical Work) Regulations 1994 (RSCW Regulations). The Inquiry noted that there was no national standard in place by which the competence of drivers and signallers could be assessed and concluded that training providers or train operators should be accredited. The Inquiry discussed the possibility of introducing licensing to address these issues and Lord Cullen made the following recommendations:
 - **Recommendation 25** - *'There should be a system for the licensing and central recording of those who are qualified for the driving of trains in respect of their knowledge of the rules and regulations and the traction for which they have been assessed as competent. Training providers or train operators should be accredited and common standards laid down for the purpose. Drivers' licences should require to be revalidated every three years.'*
 - **Recommendation 26** *' There should be a similar system for licensing the central recording of qualified signalmen, based on an assessment of their knowledge of the rules and regulations. Revalidation every three years should be required.'*
 - **Recommendation 47** *' The Body [the Rail Industry Safety Body (RISB)] should also be responsible for ... the licensing of individuals, subject to the supervisory activity of the safety regulator.'*
5. Lord Cullen placed the responsibility for developing licensing systems with the Railway Industry Safety Board; now the Railway Safety and Standards Board (RSSB). The implementation date given by Lord Cullen for the licensing systems was three years. The Office of the Rail Regulator (ORR) is hoping that RSSB will be established in April 2003.
6. HSE is exploring options for licensing scheme(s) in the context of other policy work on the review of the RSCW Regulations, which relate to controls on the competence / fitness / fatigue and identification of drivers and signallers (**HSC Paper 03/09**); and the policy development of Lord Cullen's recommendation on the accreditation of suppliers of safety critical products and services, which could include the supply of drivers and signallers (**HSC Paper 03/07**); the review of the Railways (Safety Case) Regulations 2000, which relates to railway safety case holders' arrangements for ensuring the competence of its employees and the safety of its contractors; and developments in Europe.
7. HSE held a stakeholder meeting last November to ascertain the views of stakeholders on driver and signaller licensing with the aim of helping in the development of options

and a recommendation for the Commission. A number of key stakeholders were present including Railway Safety, infrastructure controllers (Network Rail, London Underground, Heritage Railway Association, light rail operators), freight operating companies, Association of Train Operating Companies, infrastructure maintenance contractors, RMT, ASLEF, Rail Industry Training Council, Office of the Rail Regulator and the Strategic Rail Authority.

8. HSE has engaged stakeholders in discussing the issues in this paper and on 12 March 2003 invited the Rail Industry Advisory Committee (RIAC) to comment.

Developments in Europe

9. The European Commission has also been considering licensing and has stated that it wishes to harmonise driver licensing requirements across the EU via a Directive. Any adopted Directive on train driver licensing will have to be implemented into UK law. Policy work in this area needs to continue if HSE is to establish a national position prior to European negotiations. The likely EU action on driver licensing can be seen as an opportunity to ensure that new systems add value to current practice.
10. It will be important to ensure that any requirements do not infringe European law on free movement of labour and equal access to markets.

Argument

Is the licensing of drivers and signallers a suitable method for providing reassurance to the public about their competence to undertake the job?

11. Essentially, the question of whether any licensing is required is really a question about assurance of the competence of individuals to undertake their role. HSE is aware of a number of processes in place to ensure the competence of drivers and signallers in the rail industry. HSE has reviewed the Railway Group and other standards and Approved Codes of Practice that govern the training and assessment of competence for drivers and signallers (see **Annex 1**).
12. Train drivers and signallers are safety critical workers and as such are already subject to the requirements of the RSCW Regulations, which require all safety critical workers to be fit and competent to do their work. The Railways (Safety Case) Regulations 2000 require certain railway duty-holders to describe in a railway safety case the arrangements they have in place for ensuring the competence of employees and for managing the work undertaken by contractors. Many rail operators have competence management systems (CMS) in place that take a step by step approach to competence similar to that detailed in HSE's guidance on developing and maintaining staff competence¹.
13. Notwithstanding the current work on CMSs in the rail industry, HSE considers that there would be benefits in a licensing system. These show that a licensing system formally recognises competence and could instil confidence in sound levels of

¹ HSE's RSPG Part 3A "Developing and maintaining staff competence"

competence. In addition, licences are time limited, portable and can be used in monitoring (see **Annex 2**)

14. RIAC had diverse views on the need for licensing. There was more support for licensing of drivers than signallers. Members stated that industry had already developed many initiatives to improve and record competence, including licensing schemes, and some believed that RIAC would need more information on these initiatives before they could make a decision on the added value of an independent licensing system.
15. However, several RIAC members agreed that societal concern and public perception remained a major problem for the industry and that an externally verified national licensing scheme, as advocated by Lord Cullen, was essential to restore public confidence. An independently verified licence would show publicly that a national standard of competence had been achieved. Whether licences should also be introduced to other safety critical workers was thought to be a function of risk and would need further consideration.

Which parts of the rail industry should be covered by requirements to licence key safety critical workers?

16. Recommendation 47 of Part 2 of the Ladbroke Grove report placed the responsibility for developing licensing systems with RSSB. However, the focus of RSSB is likely to be on Network Rail Controlled Infrastructure (NRCI). The detail of what systems RSSB would administer will ultimately be for its members to decide.
17. Consideration will need to be given as to whether a licensing system would be restricted to those who operate on NRCI; or whether, in addition, London Underground, the light rail industry, Metro and the Heritage Rail sectors should also be covered by the licensing system.
18. Alternatively, a licensing system where licences would be required for rail operators where the risks were deemed to be significant could be considered. This would mean that some parts of the rail sector, such as Heritage Railways, might be excluded from a requirement to licence because their rail operations could be deemed to be of low risk. RIAC's view was that the extension of a licensing scheme beyond NRCI to other parts of the industry should be considered on the basis of risk.

Who should operate a licensing system?

19. To provide confidence, most licensing systems that are in operation outside of the rail industry, require the licence to be awarded by a body that is commercially independent of the licence holder's employer, for example, the Driver and Vehicle Licensing Agency (DVLA) is an independent body that issues driver licences and the Council for Registered Gas Installers (CORGI) is an 'independent body' that registers gas installers.

20. In the case of train drivers and signallers, stakeholders agreed that the body that issues licences and validates them should be commercially independent. They considered that the 'independent body' would need to have sufficient expertise to assess the CMSs of infrastructure controllers and train operating companies as well as being able to manage and administer the scheme.
21. RSSB could be an appropriate 'independent body' to issue licences to drivers and signallers. As already discussed, RSSB could decide to issue licences on NRCI but there is a question mark over who would operate a licensing scheme that went wider in scope than NRCI. It may be possible to enlarge the remit of RSSB through discussions with the ORR and other stakeholders. HSE would need to explore this further once a decision has been made on which parts of the industry should be covered by licences. However, HSC would need to consider how the public would perceive the independence of RSSB.

How important is independent third party accreditation of any licensing scheme?

22. HSE considers that there would be benefit in the 'independent body' being itself accredited by the United Kingdom Accreditation Service (UKAS)² to carry out its duties. There are important benefits that accreditation would bring to the operation of the 'independent body'. This would be consistent with HSE's approach to CORGI's licensing of gas installers. UKAS would also better ensure consistency if there needed to be other independent bodies that would represent other parts of the rail infrastructure, for example, an independent body could wish to operate licences for specific parts of the rail network e.g. London Underground infrastructure only or Heritage Rail only.
23. RIAC suggested that, as public bodies issue licences for other modes of transport, HSE should explore this option for the rail industry. They also considered that the licence should be independently verified. Representatives of Train Operating Companies (TOCs) said that duty-holders are best placed to issue their licences and if necessary would be open to accreditation of their own systems for licensing. The representatives of rail passengers and the Trade Unions did not support this view and felt that independent accreditation and setting of standards was crucial for public confidence.

Areas Identified for further discussion if a licensing system were to be introduced

24. If licences were to be introduced, there are a number of areas that HSE will need to further consider. These are discussed in **Annex 3**.

Consultation

² UKAS is the sole accreditation body recognised by government to assess organisations that provide certification, testing and inspection services against internationally recognised standards. HSC may wish to note the comments on UKAS in paragraphs 18 - 23 of HSC Paper 03/07 on the accreditation of suppliers of safety critical products and services.

25. In developing the options in this paper, HSE has consulted a number of key stakeholders in the rail industry, including Railway Safety, infrastructure controllers (Network Rail, London Underground, Heritage Railway Association, Light Rail operators), freight operating companies, Association of Train Operating Companies, infrastructure maintenance contractors, RMT, ASLEF, Rail Industry Training Council (RITC), Rail Industry Advisory Committee (RIAC), Office of the Rail Regulator (ORR) and the Strategic Rail Authority (SRA).
26. Consultation has also taken place with HMRI, Solicitor's Office, Economic Advisory Unit, and other sections in DRP and SPD who deal with competence and licensing issues.

Presentation

27. There is likely to be interest in the decisions reached by the HSC concerning licensing of train drivers and signallers. Organisations representing the bereaved families and injured from Southall and Ladbroke Grove are likely to comment.

Costs and Benefits

28. A detailed Regulatory Impact Assessment will be developed in liaison with HSE's Economic Advisory Unit to support any regulatory proposal.

Financial/Resource Implications for HSE

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

Environmental Implications

30. None.

Other Implications

31. If national regulations on licensing of train drivers and signallers were to be introduced, they might need to be amended in the future to take into account the possible adoption of the likely EC Directive on driver licensing.

Action

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

Annex 1 – Information on Key Railway Group and other standards and Approved Codes of Practice for Train Drivers and Signallers.

Annex 2 – Main Benefits of a licensing system for train drivers and signallers.

Annex 3 – Driver and signaller licensing: Areas that require further discussion.