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## HEALTH AND SAFETY COMMISSION

### UPDATE ON POLICY PROPOSALS FOR THE ACCREDITATION OF SUPPLIERS OF SAFETY CRITICAL PRODUCTS AND SERVICES IN THE RAILWAY INDUSTRY, AND A LICENSING SYSTEM FOR TRAIN DRIVERS AND SIGNALLERS.

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#### Issue

1. To provide an update on progress in developing policy to implement Recommendations 24, 25 and 26 of the Ladbroke Grove Rail Inquiry, Part 2 Report, given that the Railway Safety and Standards Board (RSSB) currently does not wish to fulfil the role envisaged by Lord Cullen.

#### Timing

2. Routine

#### Recommendation

3. HSC is asked to note the following issues:
  - Current policy options now under consideration (*Paras 12 - 22*).
  - These policy options will be developed further with industry stakeholders through dialogue in a HSC Discussion Document, due to be considered by HSC in October, and through the creation of a Steering Group.

#### Background

4. Following the Ladbroke Grove rail crash, the Public Inquiry, headed by Lord Cullen, discussed whether there should be a system for the quality control of companies who supply the rail industry with safety critical goods and services, and whether train drivers and signallers should be licensed. Following these discussions, Lord Cullen made his recommendations (*Annex A sets out Recommendations 24,25,26 and 47*). He tasked

HSC as the action holder for Recommendation 24, the Rail Industry Safety Body (RISB) as the action holder of Recommendations 25 and 26 and the Rail Regulator as the action holder for Recommendation 47. RISB was established on 1 April 2003 under a new name of Railway Safety Standards Board (RSSB).

5. In April 2003, HSC was presented with a range of proposals to implement Recommendations 24, 25 and 26, in order to seek its early views on a preferred route for further exploration and policy development [HSC papers 03/07 & 03/08]. HSC agreed the following:

*Accreditation of Suppliers of Safety Critical Products and Services [Recommendation 24]*

- not to propose regulation in this area, at present;
- that HSE should explore the development of an industry owned, industry wide accreditation / certification scheme, **with the recently established RSSB taking an important role in such a scheme;**
- independent third party involvement was needed in the accreditation / certification scheme to be developed and HSE should explore the involvement of the United Kingdom Accreditation Service (UKAS); and
- the accreditation / certification scheme should apply to the whole rail industry, with the initial focus being the establishment of the system on Network Rail controlled infrastructure.

*Licensing of Drivers and Signallers [Recommendations 25 & 26]*

- that driver and signaller licensing should be pursued, although regulation was inappropriate at present given the likelihood of European Commission proposals for a Directive.
  - **RSSB could take an important role in the licensing scheme and could issue the licenses;**
  - independent third party involvement was needed and HSE should explore the involvement of UKAS;
  - licensing should apply to the whole rail industry with any exemptions given on the basis of risk; and
  - effective generic national standards for drivers and signallers would need to be developed.
6. Following HSC's discussion on the policy options, HSE began the process of exploring how schemes might work, based on the steer provided by HSC. HSE met with the Chief Executive of RSSB, Len Porter, to find out how his organisation saw its role in implementing these recommendations.
  7. Currently, RSSB is not minded to seek a significant role in setting up a national accreditation / certification scheme for suppliers, or have responsibility for the licensing of train drivers and signallers. Such a role would have significant financial and resourcing implications for RSSB. The RISB development group, under the chairmanship of the Office of the Rail Regulator (ORR), did not consider such roles as falling within the organisation's core functions, although its constitution agreement does

not prevent it from doing such work if its members wish it to do so. Currently, RSSB consider that the commercial administration of these schemes is more appropriate.

8. Len Porter suggested that HSE seek to drive forward in this direction, or encourage dutyholders to manage, and subsequently seek, independent third party assessment of their own supplier management schemes.
9. For licensing, RSSB does not, for the moment, see itself as the leading authority that should identify and develop standards relating to train drivers and signallers. They were, however, willing to facilitate the identification and development of standards by the industry itself. RSSB did consider that the identification and development of standards for medical fitness would be an issue that it was likely to explore further.

## **Argument**

10. As a result of RSSB's current position, HSE has explored further proposals that could be developed with industry stakeholders as an alternative way forward. As far as possible, industry best practice will be enhanced and harnessed, with the aim of introducing an element of third party assessment.
11. In progressing proposals for the revision of the Safety Case regime, the Approvals regime and the Railways (Safety Critical Work) Regulations 1994, it is proposed to develop further dialogue with the industry through the publication of a Discussion Document on HSE's website. HSE will use the responses from this future document to explore the way forward on accreditation and licensing given that the issues relate to aspects of the regulations under review.

### *Accreditation of Suppliers of Safety Critical Products and Services:*

12. *Annex B* maps out a proposal to manage the accreditation / certification framework, taking into account the steer provided by HSC and RSSB's current position on limited involvement.
13. HSE would facilitate setting up a Steering Group of key stakeholders to develop and oversee the accreditation / certification framework. HSE would at least seek RSSB representation on this group. The Group may be guided by HSE and use the advisory function provided by UKAS to establish its role, remit, terms of reference and to develop a framework criteria. This collaborative approach would ensure that a potential scheme was industry-wide, and appropriately owned by the industry.
14. The Steering Group would be responsible for appointing an Independent Body(ies) to certify suppliers according to the specified criteria. Advice on the remit and function of an Independent Body would be provided by UKAS. A proposed Independent Body would then be assessed by UKAS, and if it satisfied Certifying Body assessment, then accreditation would be granted for it to carry out the certification role.
15. HSE considers this option meets the spirit of Recommendation 24 and takes account of HSC's view that independent third party assessment of the supply of safety critical products and services to the rail industry is important.

16. HSE recently discussed the above alternative proposal at a meeting with Network Rail. Early views indicated that Network Rail would be willing to take a significant role in the Steering Group with a view to identifying key stakeholders and drawing up draft Terms of Reference.
17. Following dialogue with HSE, some industry stakeholders have indicated that they are open to third party assessment / certification of their schemes. HSE has also been in discussion with a supply company called Railpart. It is worth noting that whilst suppliers to Railpart undergo a qualification assessment under the 'Railpart Technical Dossier', a certifying body further assesses them, in this case Det Norske Veritas (DNV), to provide a degree of independent assurance.

*Licensing of Drivers and Signallers:*

18. Further models for the licensing of drivers and signallers have been developed by HSE to accommodate the views expressed by HSC and RSSB and these are outlined below. Both of these models would be offered for consideration in the proposed HSC Discussion Document and explored in more detail with stakeholders of the Steering Group to gain a balanced view of a preferred option.

*Model 1 - Issuing of licences by an accredited Independent Body(ies)*

19. *Annex C* maps out this model. HSE would work with UKAS and a Steering Group to develop and oversee a framework under which Independent Bodies could be appointed and accredited to issue licences. RSSB would be a representative on the Steering Group along with other key stakeholders such as Network Rail, ATOC and the Trades Unions. At this stage it is unclear whether one or more Independent Body(ies) would be needed to ensure that all parts of the rail industry could be licensed.
20. At this stage in development, this proposal is considered to be the preferred option for HSE, given that it appears to be the type of model that the European Commission prefers. Developing this model now could mean minimal change in the future if a Directive were agreed along these lines. However, consultation with the rail industry has found that the Train Operating Companies (TOCs) are strongly opposed to any form of independent assessment prior to the issuing of licences.

*Model 2 - HSE appoint Railway Undertakings, accredited by UKAS, to issue licences.*

21. *Annex D* maps out this model. HSE would work with a Steering Group that included Trades Unions, RSSB, ATOC, Network Rail and UKAS. The group would develop and oversee a framework under which Railway Undertakings would be accredited by UKAS to issue licences to their own employees.
22. This model would retain a requirement for independent third party assessment of competence, required by UKAS for accreditation and seen by HSC to be an important element in any licensing system. However, it is likely that TOCs would still be opposed to the need for independent assessments. If a 'permit to work' was not granted in addition to the licence by the Railway Undertakings, there could be difficulties in making the licences portable between railway undertakings. A main aim of the European Commission's interest in making these proposals is that drivers' licences should be portable.

### **Consultation**

23. In developing the options in this paper, HSE has consulted RSSB, the United Kingdom Accreditation Service (UKAS), colleagues in Railway Policy and Cullen Division, the Economic Advisor's Unit (EAU), Solicitor's Office, Employment Medical Advisory Service (EMAS) and the Railway Inspectorate. In addition, Network Rail was also consulted for the accreditation models.
24. The HSC meeting in April 2003 agreed that consideration of accreditation and licensing should be more closely tied to HSE reviews of the Safety Case and Approvals regimes and the review of the Railways (Safety Critical Work) Regulations 1994. In this way, HSC will be able to present a single package of regulatory amendments for stakeholder dialogue and consultation and then for Ministerial consideration.

### **Presentation**

25. There is likely to be interest in the decisions reached by HSC concerning implementation of Lord Cullen's recommendations on the accreditation / certification of the supply chain and on the licensing of train drivers and signallers. Organisations representing the bereaved families and injured from the Southall and Ladbroke Grove rail crash may comment.

### **Costs and Benefits**

26. HSE's Economic Advisory Unit is currently developing an initial Regulatory Impact Assessment based on these proposals. The initial RIA will support the Discussion Document when published.

### **Financial/Resource Implications for HSE**

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

## **Environmental Implications**

28. None

## **Other Implications**

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

## **Action**

30. HSC is asked to note paragraph 3.

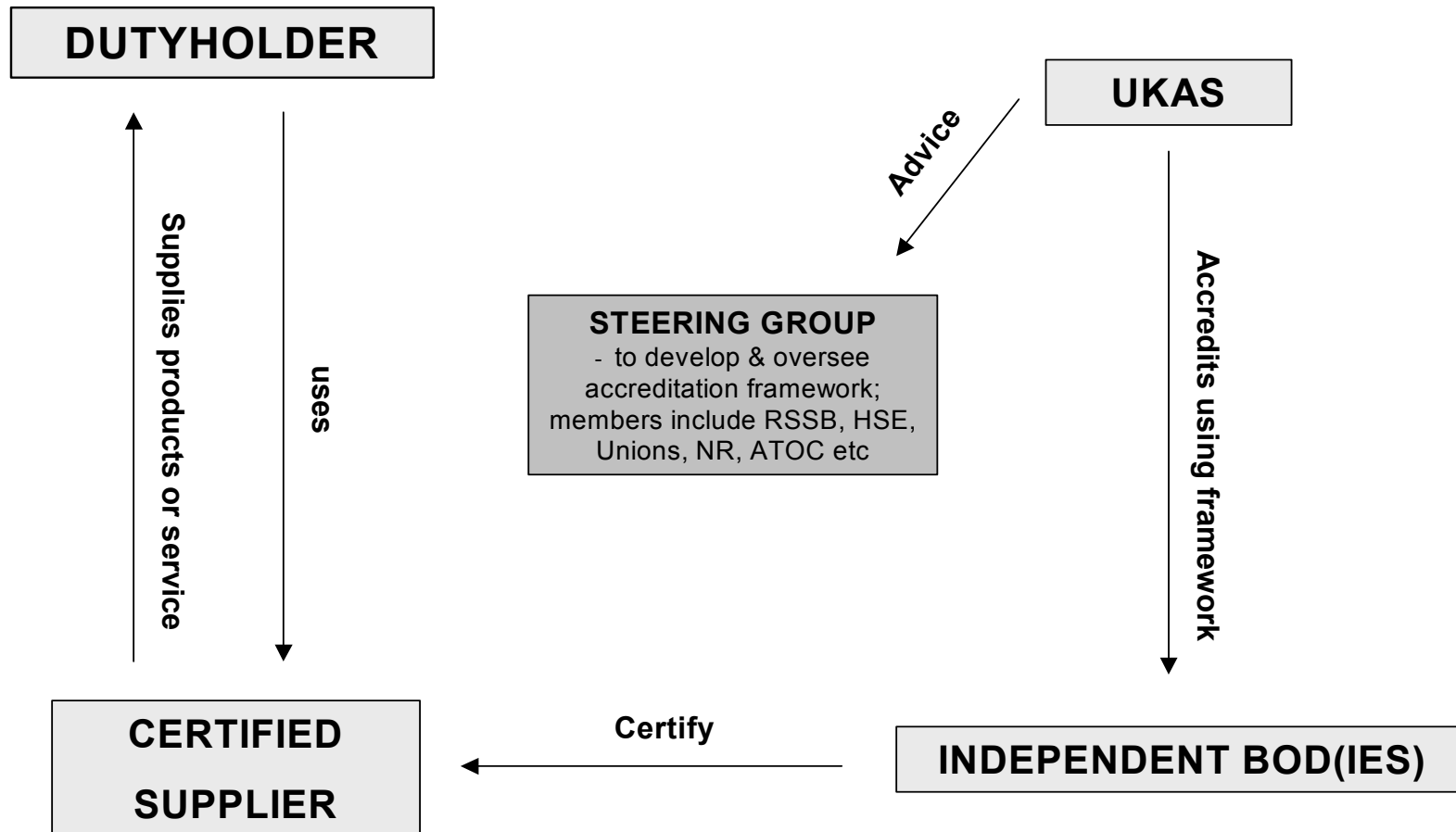
- Annex A** - *Recommendations 24, 25, 26 & 47.*
- Annex B** - *Proposal to manage the accreditation / certification framework*
- Annex C** - *Licensing - Model 1*
- Annex D** - *Licensing - Model 2*

## ANNEX A

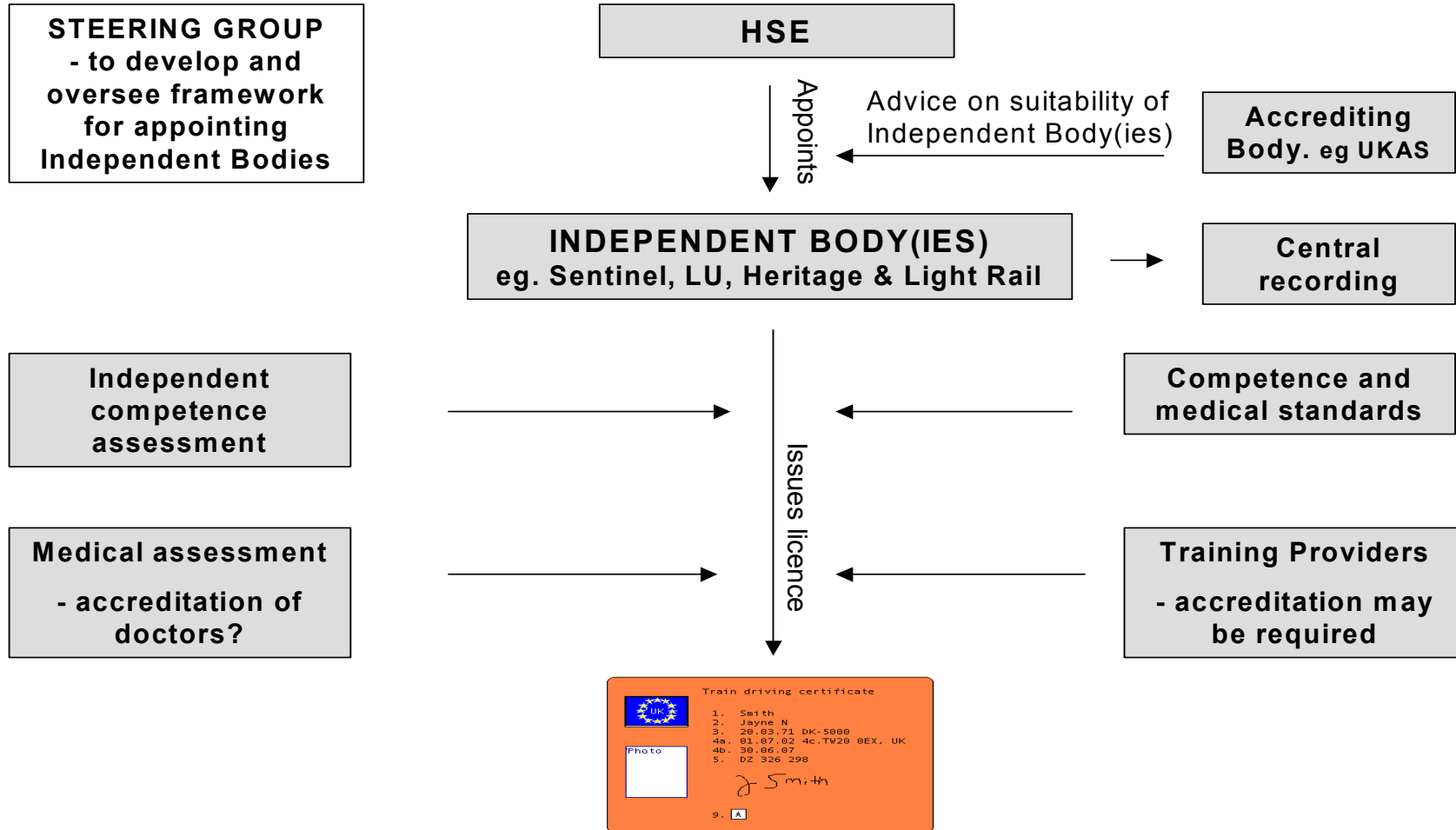
### Recommendations from the Ladbroke Grove Rail Inquiry Report, Part 2.

- **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.’ (Action holder: HSC).*
- **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’ licenses should require to be revalidated every three years.’ (Action holder: RISB).*
- **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.’ (Action holder: RISB).*
- **Recommendation 47** – *‘The Body [the Rail Industry Safety Body (RISB)] should also be responsible for the accreditation of the suppliers of products and services and the licensing of individuals, subject to the supervisory activity of the safety regulator.’ (Action holder: Rail Regulator).*

# FRAMEWORK FOR THE ACCREDITATION OF RAILWAY SUPPLIERS



# LICENSING MODEL 1



## LICENSING MODEL 2

