

Written evidence submitted by the Office of Rail and Road (RSM0112)

1. ORR is providing written evidence to this inquiry to clarify our role regarding the Strategic Road Network.
2. ORR was established as the Office of Rail Regulation in 2004, replacing the Rail Regulator. It became the Office of Rail and Road in 2015, following its appointment as the Monitor of Highways England under the Infrastructure Act 2015. This was part of the UK Government's roads reform programme, in which it also created Highways England as a new arms-length company to plan, design, build, operate and maintain England's strategic road network, and appointed Transport Focus as a statutory Watchdog on behalf of road users.
3. ORR has approximately 350 staff across the UK of whom 19 work in the Highways Monitor. ORR has an annual budget of £38.2m. Its road budget is funded by a Department for Transport grant of £2.9m, while its rail budget of £35.3m is funded by industry levies.
4. ORR monitors Highways England's management of the strategic road network – the motorways and main 'A' roads in England. At a high level our role has four main aspects:
 - (a) to monitor how well Highways England is delivering against the Performance Specification, Investment Plan and aspects of its licence, to publicly report our findings and to advise the Secretary of State;
 - (b) if there are problems with delivery, to require improvement and potentially levy a fine;
 - (c) to advise the Secretary of State on the development of the next Road Investment Strategy (RIS) including advice on challenging and deliverable efficiencies; and

(d) to advise the Secretary of State on any other relevant issues as requested.

5. In holding Highways England to account we are forward-looking in our approach, seeking to identify and resolve issue early rather than waiting until things go wrong to take action. This involves three stages:

(a) Routine monitoring and assessment

Routine monitoring involves assessing operational and financial performance to determine how Highways England is performing. Our activities in this phase involve reviewing data and conducting more in-depth monitoring and analysis where required.

We may also engage external experts to assists us with our work. Routine monitoring alerts us to whether obligations or commitments are at risk and whether we or highways England need to take action.

(b) Investigation and early resolution

We take a staged approach to escalating performance concerns, and try to resolve issues and agree actions early, without the need to use our statutory enforcement powers. Our activities in this phase may include:

- gathering information;
- engaging on/requiring an improvement plan;
- engaging external advisers;
- making public comment;
- initiating an investigation;
- holding an ORR hearing.

(c) Enforcement

If Highways England is failing or has failed to comply with the RIS or with its Licence then we may choose to take statutory enforcement action. The enforcement actions we can take are:

- issuing a notice (which would formally require Highways England to take certain action);
 - and/or requiring it to pay a fine.
6. Each year, ORR produces an Annual Assessment of Highways England's performance, published every Summer. At the end of each Road Period we report on the company's performance across the whole of those five years. We also produce annual benchmarking reports, measuring performance across England's regions on areas including user satisfaction, average traffic delays, road conditions, network availability, the clearing of traffic incidents, and maintenance and renewal spending.
 7. Our role on rail is different. As well as an economic role, ORR has a health and safety remit for the entire mainline rail network in Britain, London Underground, light rail, trams and the heritage sector. We have no equivalent powers on roads.
 8. However, we do monitor Highways England's commitment to improving road safety for users and workers, and we will continue to scrutinise, and report on, the actions it takes to improve safety in Road Period 2 and beyond. In particular, we monitor Highways England against a key performance indicator which focusses on the reduction of people killed or seriously injured, with a trajectory aimed at zero fatalities by 2040.
 9. **Smart Motorways**
 10. In 2019, Secretary of State for Transport, the Rt Hon Grant Shapps MP, asked the Department for Transport to carry out an evidence stocktake to gather the facts on the safety of smart motorways and make recommendations. This stocktake was published in March 2020 and included a plan, known as the Smart Motorway Stocktake Action Plan, which included 18 actions for both Highways England and DfT.
 11. ORR did not have a role in the original stocktake, but having been asked by DfT we have been monitoring Highways England's delivery of the parts of the Smart Motorway Stocktake Action Plan it is responsible for. In the

summer we will report our independent annual assessment of its performance over the past year and whether it is on course to deliver future commitments. As it stands, Highways England has delivered the first eight actions of the 18-point plan. Based on current information, it remains on track to deliver the remaining actions.

12. As well as our monitoring of the Action Plan's delivery, we are taking a detailed look at the methodologies Highways England is using to assess the efficacy of the actions it is undertaking as part of the Action Plan, and are also looking at how the company resources the operation of Smart Motorways on a day-to-day basis. This specific piece of work will conclude by June 2021 and we will provide a copy of the report to the committee once it has been completed. We intend to publish it alongside our Annual Assessment in July 2021.
13. The Secretary of State asked for a one-year on report from Highways England detailing its progress in delivering actions identified in the stocktake and identifying actions that can be delivered ahead of schedule. This was sent to the SofS on 12 March 2021.
14. Following receipt of report, the Secretary of State commissioned ORR for advice on the evidence base for the relative safety of All Lane Running motorways. The questions we have been asked to answer are:
 - (a) Are the data and evidence used in the stocktake and the progress report reliable and robust and in line with established/best practice?
 - (b) Have comparisons been made in an appropriate way about the relative safety of ALR motorways, with reference to conventional motorways and other roads?
 - (c) Are there any other data that could be used to enhance our understanding of the relative safety of ALR motorways, or to support the monitoring and evaluation of the effectiveness of the measures we are putting in place to improve safety and perceptions of safety?

(d) Are there data and evidence available which can compare the international experience of operating similar types of road?

15. We will be providing our final report to the Secretary of State on 28 June 2021.

April 2021