



Department for

**Infrastructure**

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# **Proposal for a Rail Safety and Transport Bill - Consultation Analysis**

October 2025

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# 1. Introduction

Rail safety is a devolved matter in Northern Ireland (NI). The Department acts as the Rail Safety Authority (RSA) for NI and is responsible for ensuring compliance with the rail safety and interoperability regulatory framework. The Department does this in accordance with the Railway Safety Act (Northern Ireland) 2002 and associated regulations.

From the implementation of the Northern Ireland Act 1998 until EU Exit in 2020, policy with regards to railways has largely been developed in the context of EU membership. The EU context has meant the Department focussed on implementing policy through transposing EU directives within the devolved competence, essentially playing a mostly legislative role. For the operation of Railways legislation, a range of organisations including the Department, HSENI, the Office for Rail and Road had responsibilities which were not always aligned with enforcement powers for those responsibilities.

EU Exit has meant that policy responsibility for rail safety and interoperability of the rail system has returned to the UK from the EU, with safety returning to the Assembly as it falls within the devolved competence.

Given the context of EU membership and legislative framework for rail safety, there has not been a review of rail safety since the development of the Rail Safety Act (Northern Ireland) 2002. To ensure the legislative framework and arrangements for rail regulation are fit for purpose in a post EU Exit environment, the Department commenced a review of rail safety in 2022.

The Department's review of rail safety consisted of a three phased approach. The first phase was an extensive review of railway legislation benchmarked against GB legislation to identify potential gaps in powers and functions. The second phase was a desk-based case study of rail regulation in other jurisdictions (Ireland, GB, USA, Canada, Australia and South Africa), as well as other regulators in Northern Ireland. The third phase involved stakeholder engagement with key individuals and

organisations in the local sector, as well as partner organisations and individuals in other jurisdictions. The Department completed the Rail Safety Review in December 2024.

The review formed the basis for policy development to address the challenges identified in phase 1 of the review, making use of the examples considered in phase 2 and the preferences expressed by stakeholders in phase 3. This resulted in a set of proposals that will: -

- Establish an independent rail regulator
- Provide powers to enforce railway regulations
- Provide powers to appoint warranted inspectors
- Introduce an annual safety levy to fund railway regulation and enforcement
- Provide a power for the Department to order the construction of a railway
- Provide powers to licence and regulate railway operators, regulate market access and issue contracts to public transport operators
- Provide powers for the Department to make regulations regarding the rights and obligations of passengers and the responsibilities of railway undertakings towards passengers using the railway
- Create an offence for railway employees to be under the influence of drugs or alcohol while working on the railway
- Provide powers for the Department to regulate the train driver's profession, including educational, training and health requirements
- Implement streamlined provisions for the reporting of accidents, incidents and/or dangerous occurrences on the railway
- Amendments to the Transport Act (Northern Ireland) 2011
- Provision for off vehicle checks for fare evasion

## 2. Methodology

### 2.1 Overview

In June 2025, the Minister for Infrastructure, Liz Kimmins MLA, launched the Department's consultation exercise on its proposals for the future of railway regulation. The proposals were based on the results of the rail safety review and set out to modernise rail regulation and address legislative gaps.

The consultation process was advertised on the Department's website and social media channels, and in addition the Department wrote to statutory consultees highlighting the consultation and detailing response options. The consultation launched on 16 June 2025 and closed on 16 September 2025.

The Department offered the option for respondents to respond to the consultation by either completing the online survey or by writing to the Department with more in-depth returns.

### 2.2 Response Options

The online option was hosted by Citizen Space and respondents were asked to respond to questions on all the proposals. Each proposal being consulted upon posed two questions to provide the Department with a broad overview of support or opposition to a proposal. The first question prompted a 'Yes or No' answer, while the second asked for commentary (in a free text box) to derive more qualitative detail from consultees. Not all respondents included a supporting comment in their response, with some only engaging with the 'Yes' or 'No' query.

Likewise, where some respondents did include a comment, there were occasions when this could be read as contrary to their 'Yes' or 'No' answer or provided a caveat or qualification to that answer.

Taking this into consideration, the findings from the responses cannot be based purely on the number of 'Yes and No' answers, these can only be assessed in terms

of a broad indication of position. As a result, this consultation report considered both quantitative and qualitative when analysing the consultation responses.

Those wishing to respond to the consultation in more detail also did so by writing to the Department either by posting or emailing their responses. Some respondents taking this approach followed the online format of yes/no and commentary for each Measure. However, those adopting this approach generally provided a more detailed narrative on the proposals most of interest to them. This report covers all forms of feedback provided.

The Department also offered to meet with organisations and individuals where this may have been helpful to respondents. While the proposals were the subject of discussion during regularly scheduled meetings with some stakeholders, there were no bespoke in-person meeting specifically focussed on the consultation.

## 2.3 Responses

There was a total of 31 responses received during the consultation exercise with 24 of those responses coming from the online survey and a further 7 returns by way of email or postal correspondence. Of the 31 respondents, 58% described themselves as answering as an individual, with 42% answering on behalf of an organisation.

A summary of the main points raised to each of the proposals contained in the consultation is provided in the relevant section of the analysis in the following section of the report.

## 3. Findings

### 3.1 Establishing an independent rail regulator

The Department for Infrastructure acts as rail regulator and holds responsibility for a range of rail regulatory activity. This includes responsibilities as

- 'National Safety Authority' for rail safety matters.
- 'Competent Authority' for technical standards.
- 'Competent Authority' for regulating the train driving professions.
- 'Regulatory Authority' for rail passenger rights and obligations.

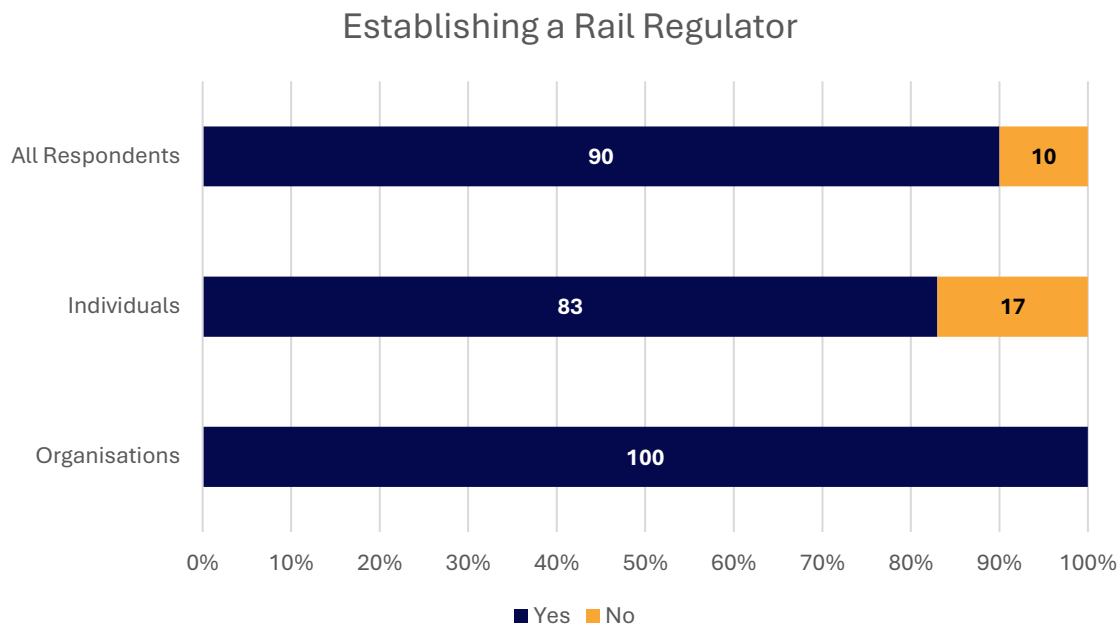
There is a lack of clarity around responsibilities for regulation and enforcement as there is a mixed picture with the Department having responsibilities for regulation and enforcement in some areas and in other areas responsibilities are split between the Department and HSENI. This is confusing for regulated entities who have to deal with multiple regulatory bodies with overlapping remits.

In Ireland there is a single rail regulatory body, the Commission for Rail Regulation (CRR) who regulate across the full spectrum of responsibilities, similarly in Great Britain the Office of Rail and Road (ORR) act as single regulatory body. During the stakeholder engagement of Phase 3 of the Rail Safety Review, there was a widespread view that there should be a single regulatory body which covers all the rail regulatory and safety responsibilities that are currently split.

The Department is proposing to establish a single rail regulatory body independent from Government.

Respondents were asked whether they agree that there should be a single rail regulatory body independent from Government.

Figure 1 - Establishing an independent rail regulator



Of the 31 respondents, 90% agree that there should be a single rail regulatory body while 10% disagree. In terms of those responding as individuals, 83% agreed with the proposal while 100% of those responding on behalf of an organisation agreed with the proposal to establish a single independent rail regulatory body for Northern Ireland.

There were five key themes which emerged from the open-ended response options allowing respondents to explain their preference for supporting, or not, the Department's proposals.

The first theme to emerge was around accountability and efficiency. Many respondents felt that a single independent rail regulator would result in streamlined responsibilities, reduced confusion for stakeholders, and improve accountability compared to the current fragmented system involving multiple agencies (DfI and HSENI).

The second theme to emerge related to oversight. Respondents felt that a dedicated regulator could focus solely on rail safety, ensuring consistent standards and better

resource allocation for inspections and audits. It was felt that the current model sometimes resulted in duplication of effort between DfI and HSENI.

The third theme to emerge from the qualitative data was that the Department's proposal would help to align with neighbouring jurisdictions. Respondents generally felt that the Department's proposal mirrors similar models in Ireland (CRR) and Great Britain (ORR), promoting consistency and positive opportunities for cross-jurisdictional collaboration. Some respondents felt cooperation between DfI and CRR to be important given the regulation of cross-border services between Belfast and Dublin. Equally, some respondents noted the importance of access to ORR expertise to help support the work of rail regulators in Northern Ireland.

The fourth theme to emerge from the analysis of the qualitative responses to the consultation was around the benefits of transparency from establishing an independent regulator. Respondents felt that removing government influence is essential for unbiased decision-making and effective regulation.

The final theme to emerge was in relation to heritage rail considerations. A number of respondents participating in the consultation represented interests in the heritage rail sector. In general, those respondents were supportive of the need for a single independent rail regulator but felt the approach of the regulator ought to be proportionate for the heritage sector and avoid putting in place barriers to their operations. It was also felt that there should be alignment between NI and GB for heritage operators to ensure consistency in standards and guidance.

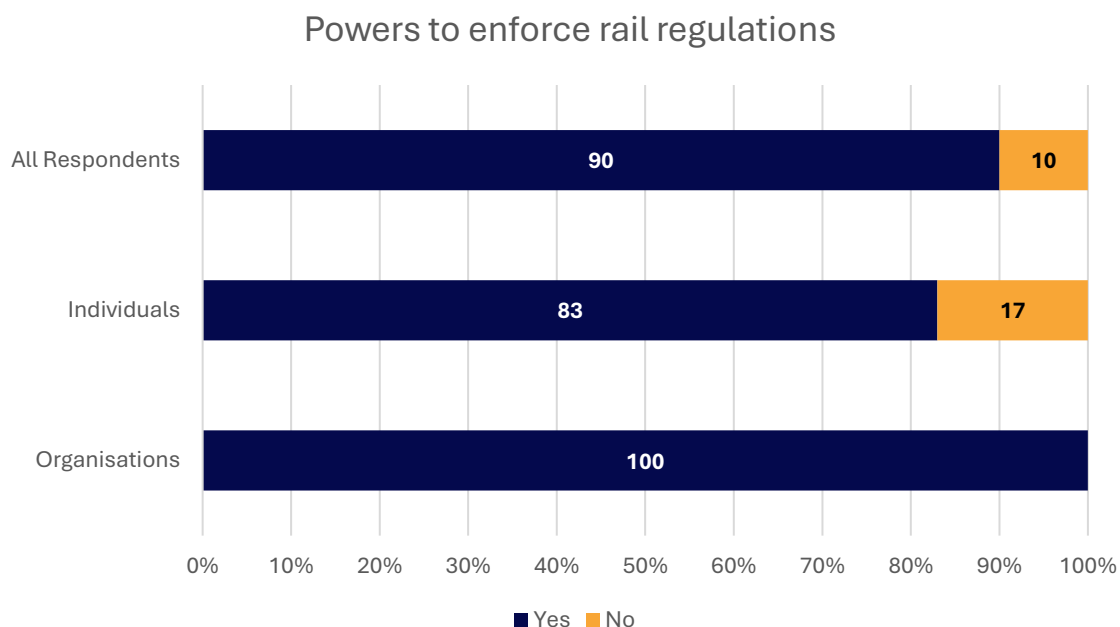
### 3.2 Provide power to enforce railway regulations

The Department are responsible for enforcing the Train Driver Licensing Regulations, Cross Border Railway Working Time Regulations, the Rail Passenger Rights and Obligations Regulations and some parts of the Access Management & Licensing Regulations with ORR responsible for enforcing the other parts of these regulations. In turn, HSENI are responsible for enforcing the Railway Safety Management and Rail Interoperability regulations.

The Rail Safety Review identified that stakeholders in the local sector find this confusing and pointed out that in some instances it results in engaging with multiple regulators on the same issues. Further, it was highlighted that it results in duplication of regulatory effort with potentially multiple investigations on the same issue. The situation in Northern Ireland is unlike Ireland or Great Britain, where there is one rail regulatory body responsible for enforcing railway legislation and regulations across the full spectrum of policy areas set out in the legislation noted previously. The preference expressed by almost all local stakeholders was for a single regulatory body with concomitant enforcement powers.

The Department is proposing to legislate to consolidate powers for rail regulation in a single regulatory body. This would provide clarity and consistency in regulatory decision making, as well as reducing the administrative burden of regulation on the sector. Respondents were asked whether they agree with the Department's proposal to consolidate legislative provisions for enforcing railway regulations in a single body.

Figure 2 - Provide power to enforce railway regulations



Of the total 31 respondents, 90% agree with Department's proposal to consolidate legislative provisions for enforcing railway regulations in a single body, while 10% disagreed with the proposal. Among respondents who participated individually, 83% agreed with the Department's proposal, while 17% disagreed. 100% of the 13 organisations agreed that with the Department's proposal to consolidate legislative provisions for enforcing railway regulations in a single body.

There were four key themes to emerge from the analysis of the qualitative responses received. Firstly, respondents felt that a having enforcement powers' allocated to a single regulatory body would result in efficiency and clarity. Respondents felt that a single regulatory body would reduce duplication, streamline decision-making, and eliminate confusion caused by overlapping responsibilities among the Department, HSENI, and ORR. Respondents indicated that greater clarity would help both industry stakeholders and the public understand who enforces what and how.

The second theme to be identified was closely related to the first with respect to legislative and regulatory cohesion. Respondents felt that having all railway-related legislative provisions under one body would avoid fragmentation and improve enforcement consistency. Respondents also noted the risk at present of having different enforcing bodies making different and potentially conflicting decisions and the impact this could have on those being regulated. They felt it was important to ensure fair treatment and have predictable outcomes for operators and stakeholders.

The third theme to emerge was around increasing safety through greater professionalism of those regulating the railways in Northern Ireland. Several respondents expressed the view that centralising enforcement in a single body enhances safety oversight and promotes a more consistent, professional regulatory approach.

The final theme to be identified was in relation to alignment with best practice in neighbouring jurisdiction. Respondents indicated that the proposed model aligns with systems in Great Britain and Ireland, offering proven benefits in clarity, accountability, and resource efficiency. It was felt that adopting a similar approach as

neighbouring jurisdictions would help stakeholders buy into the Department's intended approach given the sector's familiarity with the proposed model.

### 3.3 Provide powers to appoint warranted inspectors

Currently the Department has powers to appoint inspectors who may enter any railway premises to conduct their investigations and inspect any new infrastructure, plant or equipment prior to it being brought into use. This is set out in the Regulation of the Railways Act 1871 which provided these powers to the Board of Trade across the UK.

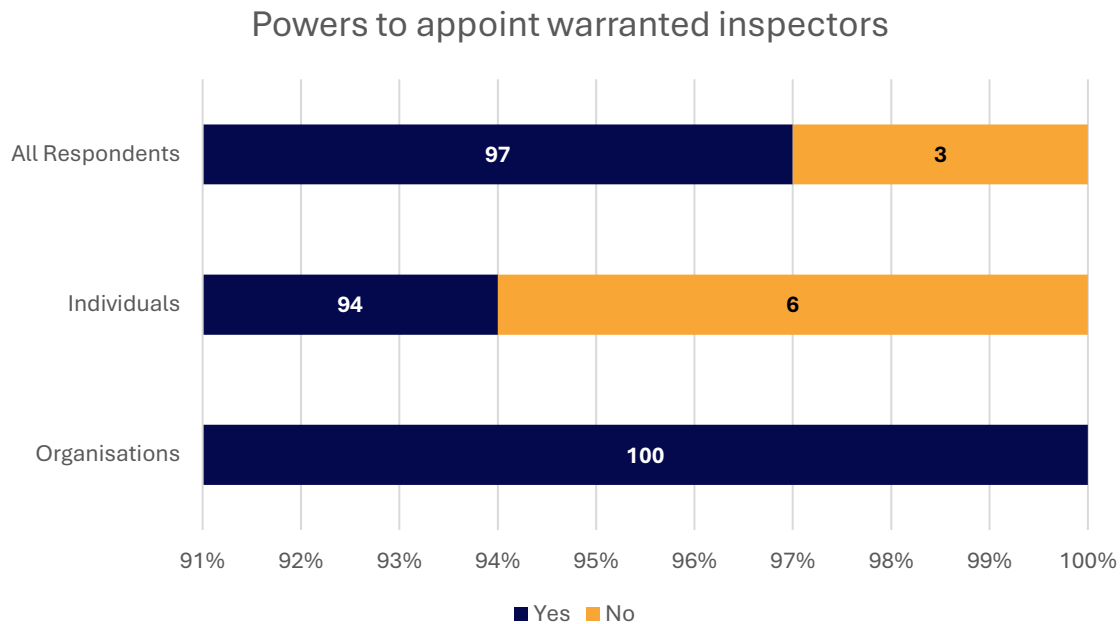
This legislation was made over 150 years ago and there has been significant development of this legislation during this time. As such it is complex to trace the transfer of powers that were taken in the 1871 Act and how these have transferred from the Board of Trade through several Government Departments to finally resting with DFI. As a consequence, these powers require modernisation.

It is also worth noting that there are potentially restrictions on these powers in relation to rail regulation as the powers in the 1871 Act are not as extensive as more recent health and safety legislation and the Department's powers to set rail regulations are not as broad as our counterparts in either Ireland or Great Britain.

The Department are proposing to modernise the legislation and provide clarity about the exercise of these powers. Modernising the legislation would also ensure that any inspector appointed locally would have the same powers as those inspectors in Ireland or Great Britain. This would help to ensure that rail regulation on North-South services could be achieved on a similar basis in both jurisdictions unlike at present.

Respondents were asked whether they agree with the Department's proposal to modernise current legislation.

Figure 3 – Provide powers to appoint warranted inspectors



Overall, 97% of the respondents agreed with the Department’s proposal to modernise legislation to provide powers to appoint warranted inspectors. Among those responding as individuals 94% agreed with the Department’s proposals, while 100% of the 13 organisations agreed with the Department’s proposal to modernise the legislation to provide powers to appoint warranted inspectors.

There were a number of themes to emerge from the analysis of the open-ended response question on appointing warranted inspectors. The first key theme to be identified was in relation to outdated legislation. Respondents noted that the 1871 Act is over 150 years old, and lacks enforcement powers for inspectors, making it inadequate for modern rail safety and regulation needs. Respondents felt that the legal framework for appointing inspectors should be modernised to reflect current operational and safety needs.

The second theme to be drawn out of the analysis was again related to the outdated legislation in that respondents felt this put rail regulation in Northern Ireland at a comparative disadvantage. Respondents identified that the Department has fewer regulatory powers compared to counterparts in Great Britain (Office of Rail and Road - ORR) and Ireland (Commission for Railway Regulation - CRR), leading to potential inconsistencies, especially in cross-border services.

The third theme to be categorised during the analysis was in relation to the need for alignment with wider Health and Safety legislation. Respondents suggested that there would be benefits for both the rail regulator and regulated entities if there was alignment with more modern legislation like the Health and Safety at Work (NI) Order 1978, Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997 (amended 2004), and the Management of Health and Safety at Work Regulations (Northern Ireland) 2000.

The fourth theme to be identified was in relation to public and stakeholder support for this proposal. Contributors support legislative reform, suggesting that adopting similar frameworks to those in Ireland or Great Britain would improve clarity, enforcement, and service quality. It was felt that this would ensure consistency across jurisdictions and leverage existing expertise.

Finally, there were some respondents from heritage rail organisations that felt expressed support for modernising this legislation and advocating for alignment with GB standards to benefit from existing guidance and expertise available in that jurisdiction.

### 3.4 Introduction of an annual safety levy to fund railway regulation and enforcement

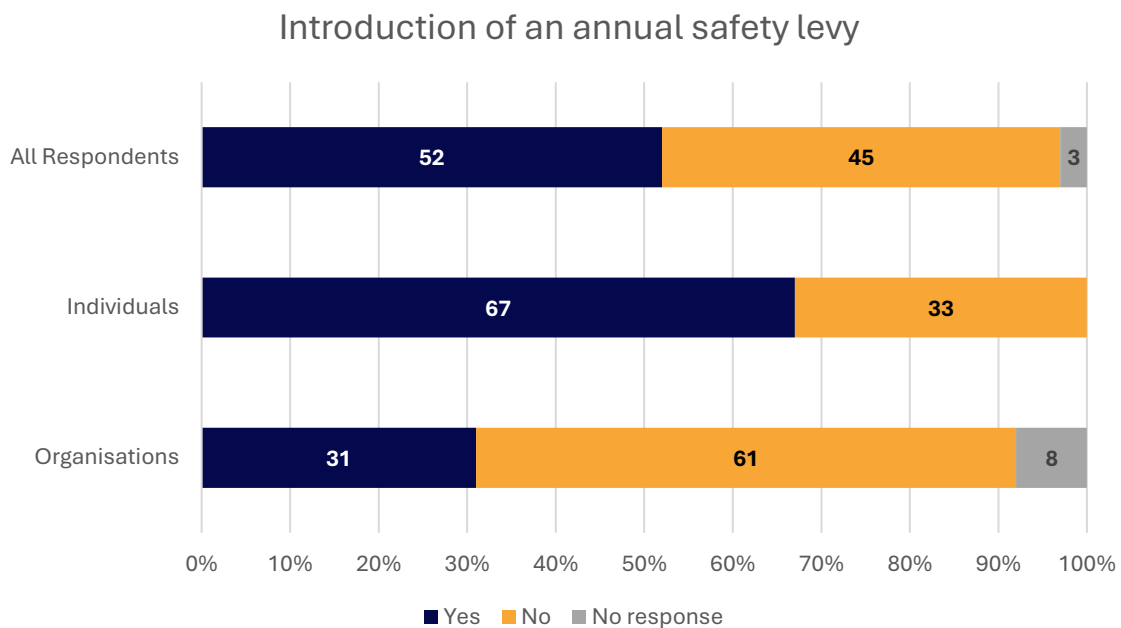
The Department currently funds the delivery of its statutory duties for rail regulation from the Departmental Expenditure Limits (DEL) and Annually Managed Expenditure (AME) from HM Treasury. Essentially, all rail regulatory activity is Government funded regardless of whether the Department is undertaking regulatory activity with Northern Ireland Railways, Irish Rail, Rail Preservation Society of Ireland or the heritage sector. The Rail Safety Review identified that most regulators have a mixed funding model with some funding coming from Government with the remainder from the sector although the balance is different across jurisdictions.

In Ireland, 75% of the funding comes from an industry levy and the remaining 25% as grant-in-aid from central Government. It should be noted that the industry levy in Ireland includes an annual levy against NIR with the 75% of funding split among all operators. There is no equivalent levy against Irish Rail for regulating their operations in Northern Ireland. In contrast, in Great Britain rail regulation is entirely industry funded with a levy of 0.1% of turnover placed on all operators with more than £1m turnover annually and a much smaller contribution for those with a smaller turnover.

The Department is proposing a fully industry funded model, where all the funding comes from the local sector. This has the advantage of ensuring the costs of rail regulation are properly balanced across all the organisations licensed and certified to operate on our network. It will also avoid any challenges or uncertainty as a result of the annual budget settlement from Government.

Consultees were asked whether they agree that the Department should introduce an annual safety levy to fund railway regulation.

*Figure 4 - Introduction of an annual safety levy to fund railway regulation and enforcement*



Of the 31 respondents to the consultation, 52% agreed with the Department's proposal to introduce an annual safety levy to fund railway regulation, while 45% disagreed and 3% did not answer. The proportion of respondents agreeing with the Department's proposals to introduce a safety level was considerably higher among individuals - 67% agreeing and 33% disagreeing.

In contrast, there were more organisations indicating that they disagreed (61%) with the Department's proposal than agreed (31%). It should be noted that the majority of organisations who disagreed with the proposal represented the heritage rail sector and were concerned about its application. It is also worth noting that mainline operators responding to the consultation were not necessarily against the concept of a levy but rather were concerned about the amount to be levied and how this would be funded from already tight budgets. These issues and others were noted when analysing how respondents explained in more detail how they supported, or not, the Department's proposals for introducing an annual safety levy.

The general support for a ring-fenced annual safety levy was reflected in the first theme to emerge from the analysis of qualitative data. Many respondents felt that it was important to properly fund regulation, and the levy would enable the regulator to operate independently from Government. Respondents considered it much more difficult for the regulator to operate independently without this type of funding.

Nevertheless, the concerns around the impact of funding were identified as the second key theme from respondents' feedback. Some respondents expressed their concerns and cautioned that a levy should not lead to fare increases or penalise smaller operators. A small number of respondents went further and indicated their concerns that the levy may be passed on to passengers, making public transport less affordable. With that in mind, those respondents emphasised protecting regular commuters and concessionary fares.

The potential challenges of affordability were categorised as the third key theme from the qualitative data. Respondents recognised that Northern Ireland's rail sector differs from Great Britain's, with only one statutory operator (Translink) experiencing a challenging financial climate making it difficult to afford additional expenditure.

Some respondents highlighted what they felt to be underinvestment in rail and noted that a levy may present an additional challenge. As a result, a small number of respondents suggested reallocating funding from the Department's roads budget to the railway budget to cover the expense of a levy.

The final theme identified in the analysis was in relation to heritage operators being treated differently from mainline operators. Among those mentioning heritage railways, there was strong opposition to applying the levy to heritage railways. Respondents pointed out that heritage operators are mostly charitable, not-for-profit, and financially vulnerable making affordability of a levy on the same basis as mainline operators very difficult. It was pointed out by some respondents that heritage operators have exemptions from the levy in both Ireland and Great Britain.

It should be noted that the common themes to this proposal were similar across respondents who agreed and those who disagreed.

### 3.5 Provide a power for the Department to order the construction of a railway

Currently, the construction of a new Railway in Northern Ireland would be subject to the conditions of several pieces of legislation from the Railways Clauses Consolidation Act 1845, through the Transport (Northern Ireland) Act 1967 to the Railway Safety (Northern Ireland) Act 2002. Construction of a new railway would require a piece of primary legislation and may take several years to progress. Alternatively, new railways could be constructed under the provisions of the Planning (Northern Ireland) Act 2011. This would mean the construction of new railways would be subject to the full application of planning legislation and may take several years to complete the process before construction can begin.

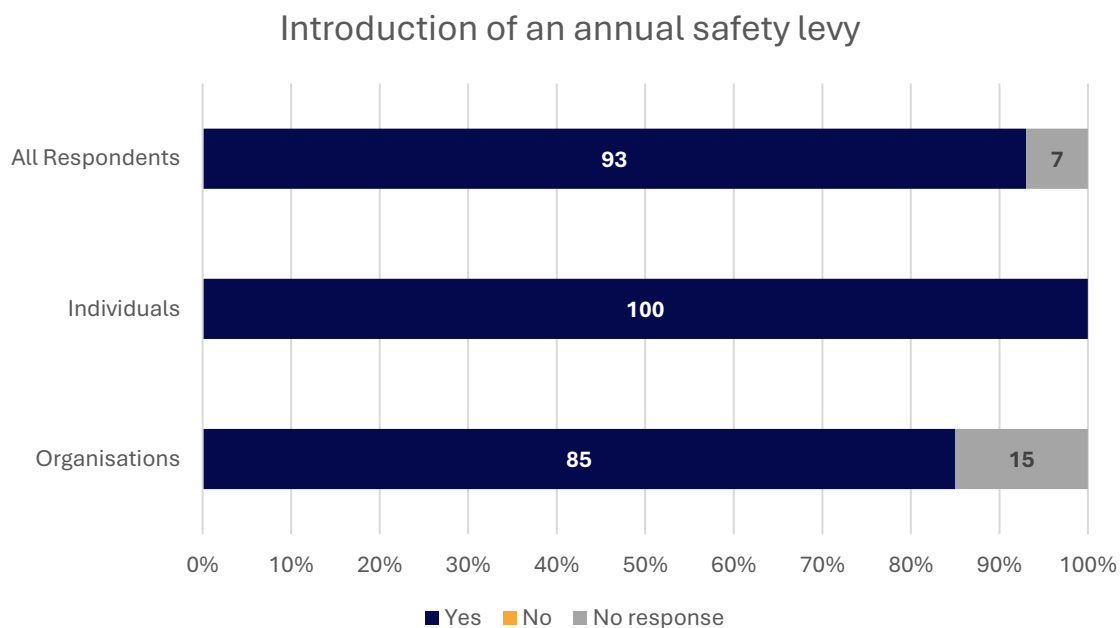
In Ireland, the Transport (Railways Infrastructure) Act 2011 enables the Government to order the construction of a new railway. This legislation sets out the process under which an order can be requested and the condition Government can set on the

construction of a new railway. Similarly, in Great Britain the Transport & Works Act 1992 enables the Government to order the construction of new railways and like the Irish legislation sets out the process and conditions which government can place on construction.

The Department are proposing to legislate so it can order the construction of new railways. This would bring Northern Ireland in line with other jurisdictions such as Ireland and Great Britain. This will make it easier to deliver the priorities of the All-Island Strategic Rail Review by reducing the time required to obtain authorisation to construct new railways. It would also provide separation of responsibilities within the department in relation to funding, planning approval and authorisation.

Consultees were asked whether they agree with the Department’s proposal to legislate for the Department to order the construction of new railways.

Figure 5 - Provide a power for the Department to order the construction of a railway



In total, 93% of the 31 respondents agreed with the proposal to legislate for the Department to order the construction of new railways, while 7% did not answer. Among those responding as individuals 100% agreed with the proposal to legislate for the Department to order the construction of new railways. Among those

responding on behalf of an organisation, 85% agreed that legislation is required for the Department to order the construction of new railways, while 15% did not answer. The first theme to be highlighted in the analysis of qualitative data was in relation to the need for legislative reform. Among respondents there was a broad consensus that existing legislation is outdated and not fit for purpose in supporting modern rail infrastructure needs. Many respondents favoured an approach similar to Ireland or Great Britain, with some indicating that the Department should include in the legislation provisions similar to the Transport and Works Act 1992 in Great Britain to streamline railway development.

The second theme identified was in relation to the need to speed up infrastructure projects. A number of respondents expressed their frustration over feasibility studies with no tangible outcomes and their cynicism regarding the ability of the planning process to result in concrete action and project delivery. In fact, several respondents indicated that they see current planning processes as slow and obstructive, which potentially risks delays to projects and loss of funding.

The third theme to emerge was around perceived public support for developing rail infrastructure. Several respondents highlighted public support for growing rail infrastructure across the Island of Ireland, connecting to airports, improving overall public transport and rebuilding rail links that were closed in the 1950s and 1960s. Some respondents also highlighted the importance of carefully managing objections to rail projects to ensure they did not unduly disrupt and delay their delivery.

The final theme the analysis highlighted was in relation to providing access for the heritage sector to powers to order the construction of a railway. Those respondents from the heritage rail sector advocated for the inclusion of heritage railways and tramways in any new legislation. In particular, those respondents highlighted long-standing frustrations with current laws and the potential for heritage rail to boost tourism and the visitor economy through their expansion.

### 3.6 Provide powers to licence and regulate railway operators, regulate market access and issue contracts to public transport operators

There is a clear legislative gap around licensing and regulation of railway operators, as well as powers to issue contracts to public transport operators. Current regulations were made under Section 2.2 of the European Communities Act 1972, which has since been repealed and there are no alternative primary legislative provisions to update these regulations.

In Ireland, the Railway Safety Act 2005 sets out a prohibition that operators may not provide services unless licenced by the regulator. Similarly, in Great Britain the Railways Act 1993 sets out the requirements to obtain a licence and how this will be regulated.

The Rail Safety Review identified that the current licensing regime and regulation of operators is not fit for purpose in how it is applied to railway operators in Northern Ireland. It has established an accounting and management separation for different parts of the business which add bureaucracy and administrative costs which could be removed through reorganising the Railways Infrastructure (Access, Management & Licensing) Regulations (Northern Ireland). This however cannot be undertaken without appropriate primary legislative powers.

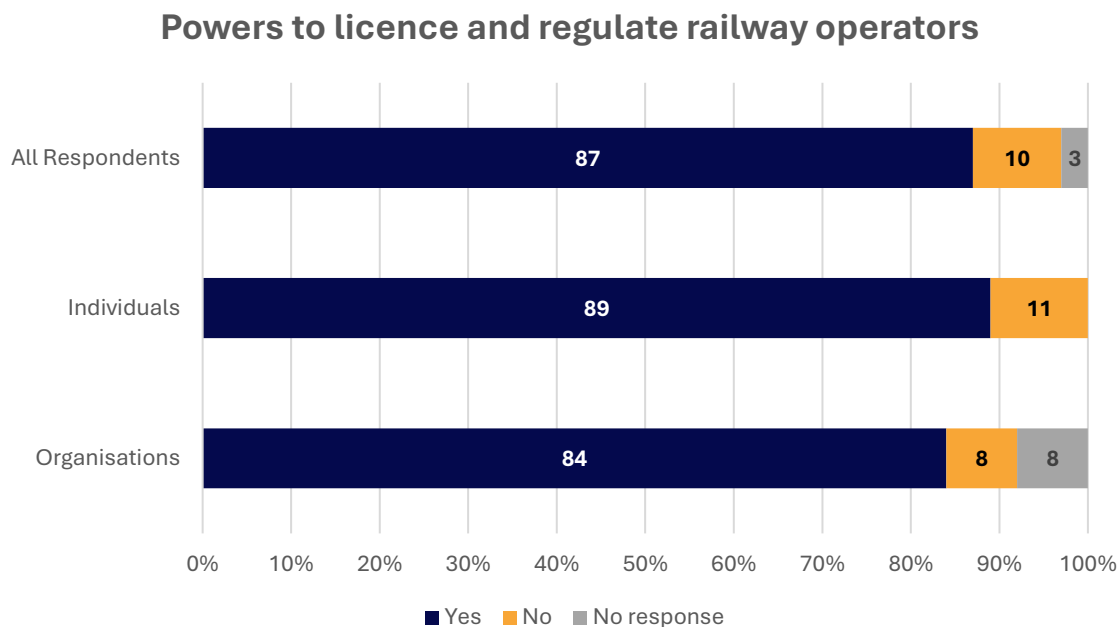
Similarly, the conditions for issuing public service contracts are set in Regulation (EU) 1370/2007 on public passenger transport services by rail and by road. Without amendments to the Transport Act 2011 it would not be possible to update the requirements and process for issuing public service contracts.

Further, the current regulations split the responsibilities for licensing, regulation and regulatory enforcement between the Department and ORR. This creates confusion among operators in terms of who operators need to engage with on different parts of the regulation adding to their administrative burden.

The Department is proposing to bring forward legislation to close the current gaps and ensure the Department can bring forward regulations to revoke, amend and replace the regulatory framework for licensing and regulating railway operators, regulating market access and issuing public service contracts.

Respondents to the consultation were asked whether they agree with the Department's proposal to legislate to address the gap in powers to licence and regulate operators, regulate market access, and issue public service contracts and allocate responsibilities to a single regulatory body.

*Figure 6 - Provide powers to licence and regulate railway operators, regulate market access and issue contracts to public transport operators*



Overall, 87% of all respondents agreed with the Department's proposal to legislate to address the gap in powers to licence and regulate operators, regulate market access, and issue public service contracts and allocate responsibilities to a single regulatory body, while 10% disagreed and 3% did not answer. There were similar levels of agreement among individual respondents (89%) and those responding on behalf of an organisation (84%).

There was broad support among respondents to reform and update the licensing regime for railway operators. The first theme to emerge from the analysis of

qualitative data was focussed on simplifying licensing, improving safety, and aligning with practices in Ireland and Great Britain. Many responses emphasised the importance of harmonising Northern Ireland's rail regulatory framework with that of Great Britain and Ireland, especially for cross-border services and market access.

The second theme to come out of the analysis of qualitative data was around increased efficiency. Among respondents there was broad support for consolidating powers within a single regulatory body, which was seen as a way to streamline processes, reduce duplication, and improve oversight. This was felt to provide clearer accountability and engagement pathways for operators.

The third theme to be identified was in relation to concerns expressed around the meaning of "regulating market access". Some respondents felt that this potentially suggested a move toward privatising Northern Ireland's railways, which they oppose. Specifically, those respondents expressed their doubt that private companies would invest adequately in infrastructure, with fears they would prioritise profits over public service.

The final theme was around the broad support among respondents from the heritage rail sector that heritage operators should be treated differently to mainline operators. Respondents consistently highlighted the need for proportionate regulation for heritage and volunteer-run railways, recognising their unique operational models and limited resources.

### 3.7 Provide powers for the Department to make regulations regarding the rights and obligations of passengers and the responsibilities of railway undertakings towards passengers using the railway

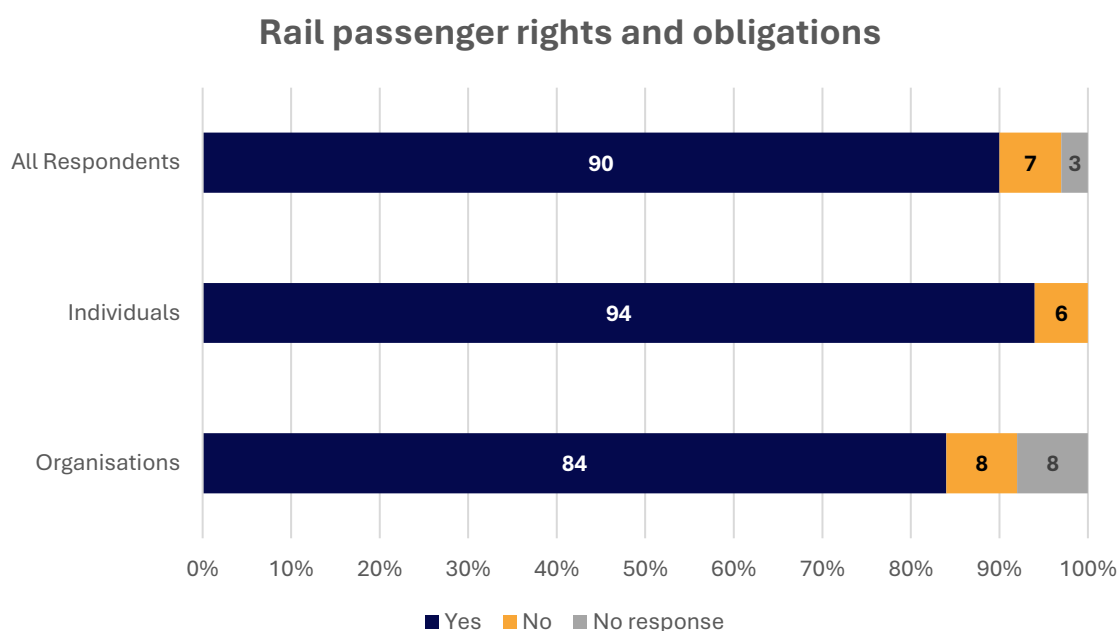
There is a clear legislative gap around regulating rights and obligations of passengers and the responsibilities of railway undertakings towards passengers. Current regulations were made under Section 2.2 of the European Communities Act 1972 and there are no alternative primary legislative provisions to update these

regulations. These regulations set out the standards passengers can expect from railway companies, and the compensation scheme for when railway companies get it wrong. This means these regulations are frozen and cannot be updated, amended replaced or revoked.

In Ireland, the Department of Transport has powers to make regulations regarding the rights and obligations of passengers and the responsibilities of railway undertakings towards passengers using the railway. These regulations are monitored and enforced by the CRR. Similarly, in Great Britain the Department for Transport has powers to make regulations regarding the rights and obligations of passengers and the responsibilities of railway undertakings towards passengers using the railway. Again, these regulations are enforced by the ORR.

The Department is proposing to close the current legislative gap and allocate enforcement powers to a single rail regulatory body. This will ensure parity of passenger rights on a North-South basis and enable the effective regulation and enforcement of rail passengers' rights and obligations regulations. Respondents were therefore asked whether they agree with the Department's proposal to legislate to close the gap on powers to regulate rail passenger rights and obligations.

Figure 7 – Rail passenger rights and obligations



In total, 90% of 31 respondents agreed with the Department's proposal to legislate to close the gap on powers to regulate rail passenger rights and obligations and the responsibilities of railway undertakings and allocate regulatory enforcement duties to a single rail regulatory body, while 7% disagreed and 3% did not answer. Slightly more individual respondents agreed (94%), while somewhat fewer of those responding on behalf of an organisation agreed (84%) with the Department's proposal.

In terms of the first theme to be identified from the qualitative data this was centred on the need for updated legislation. There was broad agreement that the Department should have powers to regulate in these areas as existing legislation does not adequately cover modern passenger rights, operator responsibilities, or enforcement mechanisms. This was seen by some respondents as logical and necessary to maintain up-to-date legislation protecting rail passengers.

The second theme to emerge was in relation to the impact that a lack of powers in this area could have on operators and the need for alignment with both GB and Ireland. Many responses supported harmonising Northern Ireland's regulatory framework with that of Great Britain and Ireland, particularly to ensure consistency in passenger protections and cross-border operations.

The third theme to be highlighted by qualitative analysis was in relation to passenger protection. Some respondents were concerned about ticket prices and ensuring passengers were protected from significant increases in ticket prices. It was felt that an independent body would be well placed to scrutinise decisions, simplify regulations and improve compliance.

Finally, respondents from the heritage rail sector expressed their concerns about including heritage services under passenger rights and obligations regulations. It was pointed out that the heritage sector in both GB and Ireland has exemptions from similar regulations in those jurisdictions and their inclusion here could threaten their

viability due to their not-for-profit nature. Further, it was pointed out that heritage services are not public transport services and are already covered by the Consumer Rights Act 2015.

### 3.8 Create an offence for railway employees to be under the influence of drugs or alcohol while working on the railway

In Ireland, Part 9 of the Railway Safety Act 2005 sets out offences in relation to intoxicants consumed by those working on the railways, powers to detect any offences, and legal proceedings and penalties relating to such offences. In Great Britain, Chapter 1 of Part II of the Transport and Works Act 1992 set out offences in relation to alcohol and drugs, powers to detect any such offence, and legal proceedings and penalties relating to such offences. Similar provisions to those in Ireland or Great Britain were never replicated in NI statute.

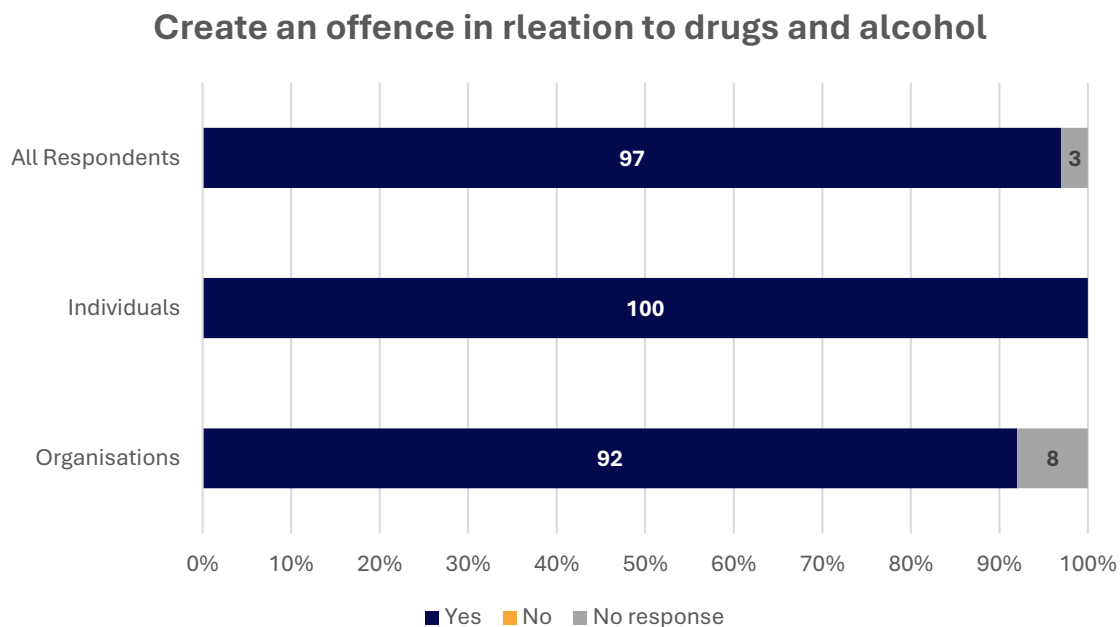
In contrast, Translink have developed their internal employment policies that safety critical staff suspected (e.g. train drivers, signallers, etc.) of being under the influence of alcohol or drugs and if confirmed their contract of employment would be terminated. In effect, this means that while safety critical railway staff could have their employment terminated if found to be under the influence of alcohol or drugs, they would not be guilty of an offence. An offence which in Ireland or in Great Britain could result in imprisonment and significant fine. The PSNI do not have the same powers as An Garda Síochána or British Transport Police with regards to entering railway premises to respond to issues associated with safety critical railway staff being under the influence of alcohol or drugs, breathalyse safety critical railway staff, or to arrest safety critical railway staff if an offence has been committed. During the Rail Safety Review, Departmental officials received representations from the PSNI Safer Transport Team to address this gap in their powers.

The Department is proposing to create an offence in Northern Ireland for safety critical employees to be under the influence of drugs or alcohol while working on the railway. This addresses a gap in police powers and ensures consistency across

Transport professions in Northern Ireland, as well as consistency between jurisdictions. It would also ensure that railway employees dismissed for being under the influence of drugs or alcohol while working on the railway would be held to account and where prosecuted for an offence this information could be shared with other jurisdictions.

Consultees were asked whether they agree with the Department’s proposal to create an offence for a safety critical employee to be under the influence of drugs or alcohol while working on the railway.

*Figure 8 - Create an offence for railway employees to be under the influence of drugs or alcohol while working on the railway*



There was almost unanimous support for the Department’s proposal to create an offence for a safety critical employee to be under the influence of drugs or alcohol while working on the railway. Of those responding, 30 agreed with the Department’s proposal, while one respondent did not provide an answer.

The first theme to be identified when analysing the qualitative data was surprise among respondents that such an offence did not already exist. Indeed, many respondents felt this legislation should already be in place, aligning with expectations

in other safety-critical sectors like aviation and road transport. The proposal was widely viewed as reasonable and practical, reinforcing professional standards and public confidence in rail safety.

The only other theme to emerge from the analysis of the qualitative data was in relation to the need to protect passengers. Respondents strongly supported the proposal as a necessary measure to safeguard public safety.

### 3.9 Provide powers for the Department to regulate the train driver's profession, including educational, training and health requirements

A significant legislative gap exists with regards to the regulation of the train driving profession. Legislation in all UK jurisdictions was made using powers under Section 2.2 of the European Communities Act 1972 which was subsequently repealed as part of the European Union Withdrawal Act 2018. Consequently, Westminster and Stormont can no longer legislate to amend, update, revoke or replace the Train Driver Licensing and Certification Regulations.

This is concerning as the European Commission are preparing changes to the way in which train drivers in the EU are licensed and certified which would affect Ireland while at the same time United Kingdom Government are legislating to obtain regulatory powers and reform how they regulate the train driving profession in GB. It is worth noting that the reforms in the EU (applying to Ireland) and in Great Britain are potentially on diverging paths that may be challenging to manage without primary legislative powers. Essentially, the Department would have to rely on the provisions of the Professional Qualifications Act 2022.

It is Department's assessment that these provisions would be insufficient to manage the potential impact of changes being considered in neighbouring jurisdictions towards maintaining mutual recognition of professional qualifications. In such a scenario, all train drivers operating cross-border services would likely require to be fully trained, licensed and certified in both jurisdictions. This would potentially result

in a significant increase in time and costs for both NIR and Irish Rail in training drivers to operate the cross-border service.

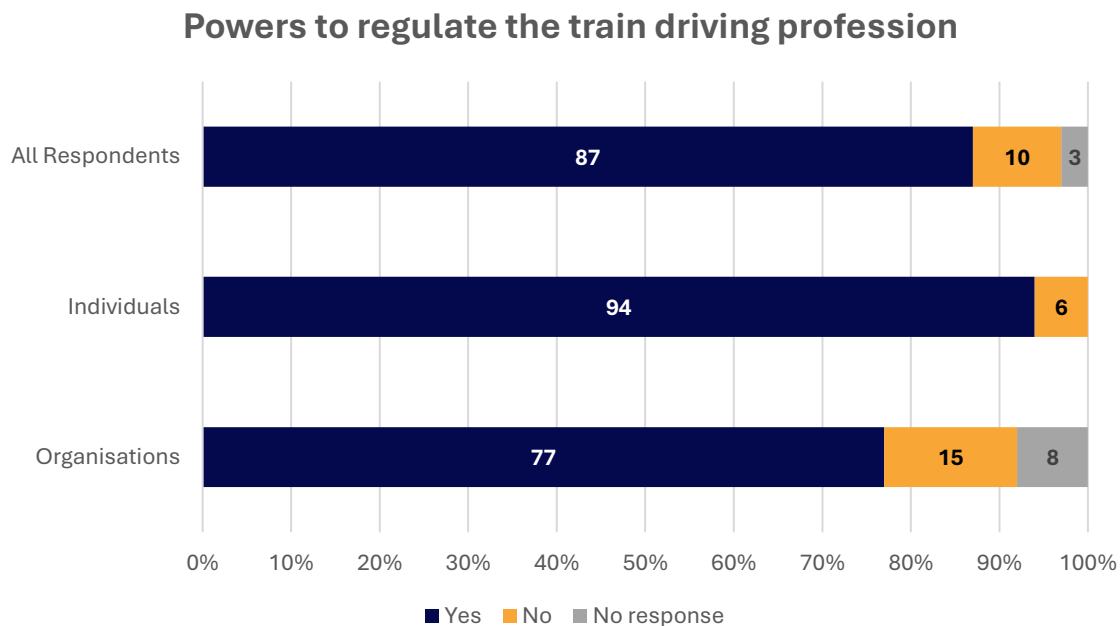
The lack of powers may also potentially result in an end to automatically recognising train driver licences issued in Great Britain given their proposed changes to age and medical requirements, as well as the training and education requirements for new train drivers. This would mean that if NIR, or any other operator on the NI network, wanted to recruit a train driver from Great Britain then they may not meet the requirements in NI legislation. Effectively they may have to completely retrain and be subject to further medical and psychological assessment.

Responsibility for regulating the train driving profession in Northern Ireland sits with the Department and those statutory duties are delivered by Rail Safety Branch. During the rail safety review, it was identified that in most jurisdictions those responsibilities are exercised by the independent rail regulator. Stakeholders participating in the review felt that responsibility for regulating the train driving profession should be allocated to a single rail regulatory body.

The Department is proposing to close the legislative gap and allocate responsibility for regulating the train driving profession to a single rail regulatory body. This corrects the current legislative position regarding the train driving profession to ensure there is access to appropriate primary legislative powers to give effect to the Minister for Infrastructure's position with regards to regulating the train driving profession.

Respondents to the consultation were asked if they agree with the Department's proposal to close the legislative gaps and allocate responsibility for regulating the train driving profession to a single rail regulatory body.

Figure 9 - Provide powers for the Department to regulate the train driver's profession, including educational, training and health requirements



Of the 31 respondents 87% agreed with the Department's proposal to close the legislative gaps and allocate responsibility for regulating the train driving profession to a single rail regulatory body, while 10% disagreed and 3% did not answer. Among individual respondents, 94% agreed with the Department's proposal while 6% disagreed. Of those responding on behalf of an organisation, 77% agreed with the Department's proposal, while 15% disagreed and 8% did not provide a response.

On analysing the qualitative data provided by respondents, the first theme to be identified was the general support for legislative reform. Almost all respondents felt that it was important that the train driving profession was regulated. However, there were some mixed views on who should hold regulatory responsibility. While most respondents felt that the Department should set the regulations and an independent body should enforce compliance with the regulations, there were some who felt that regulatory responsibility should remain with the Department.

While there were different views on who should hold regulatory responsibility, there was general recognition that regulating the sector was vital for safety and standards which was the second theme highlighted. Respondents placed an emphasis on the importance of training and health screening for drivers to ensure safety for both staff

and passengers. It was felt that the Department's proposals would help maintain standards and streamline licensing for new employees.

In terms of the third theme which emerged from the qualitative data, this related to the importance of cross border recognition of professional qualifications. Some respondents noted the potential risks of not legislating in this area. It was felt that closing legislative gaps in this area would help to ensure mutual recognition of train driver qualifications across the Irish border.

Finally, those respondents from the heritage sector for exemptions for heritage railways, citing their lower risk profile. These respondents advocated for alignment with the approach in Great Britain and Ireland, where train drivers operating on dedicated heritage networks are regulated through internal Safety Management Systems rather than national licensing.

### 3.10 Implement streamlined provisions for the reporting of accidents, incidents and/or dangerous occurrences on the railway

Rail accident investigation is currently separate from rail safety regulation and there is a UK Wide accident investigation body, the Rail Accident Investigation Branch (RAIB) who investigate the most serious rail accidents and incidents in Great Britain and Northern Ireland. In Ireland, the RAIU (Rail Accident Investigation Unit) undertake investigations of the most serious rail accidents and incidents. There is a Memorandum of Understanding (MOU) between RAIB and RAIU which establishes cross-border cooperation for these organisations to investigate accidents or incidents on cross border routes that meet the threshold for their investigation. There is separate legislation from a workplace health and safety perspective which is similar across NI, Great Britain and Ireland which enables HSENI, HSE and the HSA to investigate workplace incidents on the railways. However, in both Great Britain and Ireland the rail regulator has investigatory powers to examine incidents which do not meet the requirement for independent investigation by an accident body or by the HSE/ HSA or where those bodies decide not to investigate. In both Great Britain and

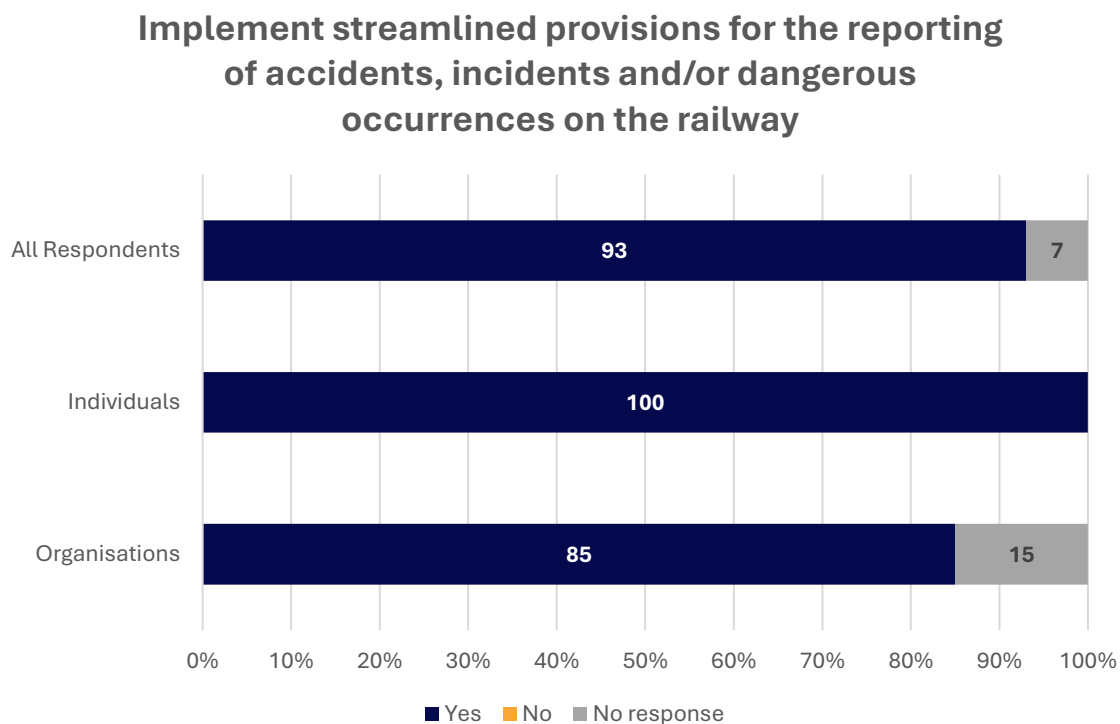
Ireland, railway operators are required to report accidents and incidents to the independent accident investigation body, the health and safety authorities, and the rail regulator. In Northern Ireland, there is only a requirement to report accidents and incidents to the independent accident investigation body and the health and safety executive, but not to the rail regulator. Further, there is lack of clarity around the extent of the Department's railways investigatory powers and the Department has no powers to take enforcement action following any investigation.

There is broad alignment between Northern Ireland, Great Britain and Ireland with respect to railway accidents and incidents which must be reported to the independent investigation body or health and safety authorities, and which may be investigated and actioned by those bodies. However, there is an inconsistent position in relation to the requirement for railway operators to report accidents and incidents to the Department as rail regulator and investigatory powers for the rail regulator to investigate incidents which are not being investigated by other authorities or do not meet criteria for investigation by other authorities.

The Department is proposing to update legislation that would require railway operators to report all accidents and incidents to the rail regulator and provide powers for the rail regulator to investigate and take enforcement action where necessary.

Consultation respondents were asked whether they agree with the Department's proposal to update legislation to require all accidents and incidents to be reported to the single regulatory body and provide investigatory powers in such instances where other authorities decide not to investigate.

Figure 10 - Implement streamlined provisions for the reporting of accidents, incidents and/or dangerous occurrences on the railway



In total, 93% of the 31 respondents agreed with Department’s proposal to update legislation to require all accidents and incidents to be reported to the single regulatory body and provide investigatory powers in such instances where other authorities decide not to investigate, with no respondents disagreeing and 7% who did not answer. Of all individual respondents, 100% agreed with the Departments, proposals while 85% those responding on behalf of an organisation agreed with Department’s proposal.

The main theme to come out of the analysis of qualitative data gathered in response to this question was around ensuring there is a clear threshold for reporting accidents and incidents to the regulator. Respondents stressed the importance of having a defined and proportionate threshold for what constitutes a reportable accident or incident, to avoid unnecessary administrative burden on both operators and the regulator.

The second theme to emerge was related to the first with respondents stressing the need for clarity. There was strong support for clear guidance and procedures around

reporting and investigation responsibilities, ensuring all parties understand their obligations. It was felt that this would ensure consistency. In particular, respondents indicated that having a single regulatory body with investigatory powers would be more likely to ensure consistent handling of incidents, especially when other authorities opt not to investigate.

### 3.11 Amendments to the Transport Act (Northern Ireland) 2011

Since the Transport Act (Northern Ireland) 2011 (the 2011 Act) came into operation a number of deficiencies have been identified that need to be rectified. Firstly, sections 10 and 11 of the 2011 Act detail the grounds or circumstances under which the Department may refuse, revoke, suspend or curtail a Service Permit. However, the 2011 Act does not provide affected parties with a statutory right of appeal against decisions made under these provisions. In the absence of a formal appeals process, there are limited options for seeking redress, aside from judicial review which can be costly and time-consuming and does not consider the merits of the decision but rather the process by which it was made.

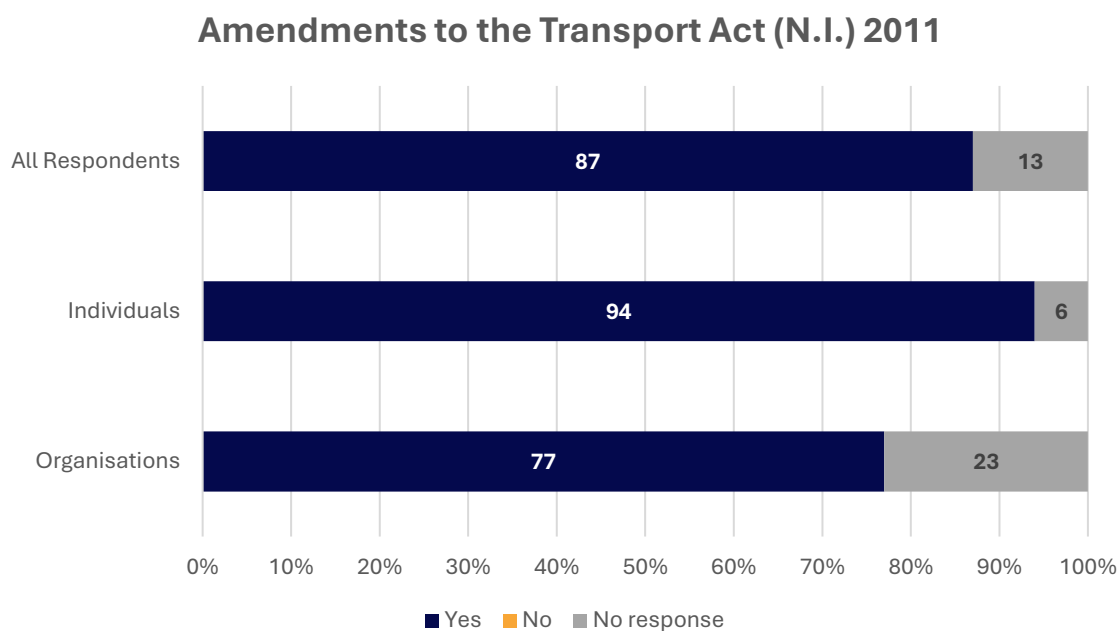
Secondly, the 2011 Act does not include any provisions regarding Inquiries. Normally, when an Act lacks specific details about Inquiry procedures, default procedures for Inquiries and how they should be conducted can be provided for by Schedule A1 of the Interpretation Act (NI) 1954. However, Schedule A1 only applies to legislation passed before 2005 unless it is specifically 'attracted' to newer legislation. Schedule A1 was not specifically attracted to the 2011 Act and, therefore, there are no automatic procedures for Inquiries and all Inquiries must be dealt with administratively. As these procedures must be compliant with Article 6 of the European Convention on Human Rights, the Department believes it is preferable to attract Schedule A1 the 1954 Interpretation Act provisions to the 2011 Act.

Finally, while Section 57 of the Transport Act (Northern Ireland) 1967 (the 1967 Act) provides powers to Translink to make byelaws in respect of railways there are no similar provision for byelaw making powers in respect of bus transport. A power was provided in the 2011 Act to allow the Department to make regulations to cover the "conduct of persons at bus stations", however, such regulations if they were to be

made, would be limited to bus stations and so would not be sufficient in scope for current requirements. In addition, under Section 31 of the 2011 Act, prosecutions for such matters can only be brought by the Department or a Constable, and not by Translink.

The Department is proposing to bring forward legislation that would address the deficiencies in the Transport Act (Northern Ireland) 2011 and introduce a right of appeal, set the standards for inquiries and introduce bus bylaws on the same basis as rail bylaws. Consultees were therefore asked if they agree with the Department's proposal to legislate to introduce a right of appeal, bus bye laws and set the standards for inquiries.

Figure 11 - Amendments to the Transport Act (Northern Ireland) 2011



Overall, 87% of the 31 respondents agreed with the Department's proposal to legislate to introduce a right of appeal, bus bye laws and set the standards for inquiries, with no respondents disagreeing and a total of 13% who did not provide a response. Among individual respondents the proportion agreeing with the Department's proposals was 94% and among organisations responding a total of 77% agreed with the Department's proposal.

In terms of the themes which were identified from the analysis of qualitative data, the most common theme was that it would be good for customers. Respondents welcomed the proposal as a way to strengthen passenger rights, improve accountability, and ensure fair treatment in regulatory decisions.

The second most common theme to emerge from the data is that the legislative framework needs to be fit for purpose. There was broad agreement among respondents that the current legislative framework needs to be modernised to reflect today's transport environment and support effective governance.

Finally, the need for equal treatment was highlighted as an important issue by a number of respondents. Responses emphasised the importance of equal treatment across transport modes and operators, ensuring that all stakeholders—especially passengers—have access to fair processes and protections.

### 3.12 Provision for off vehicle checks for fare evasion

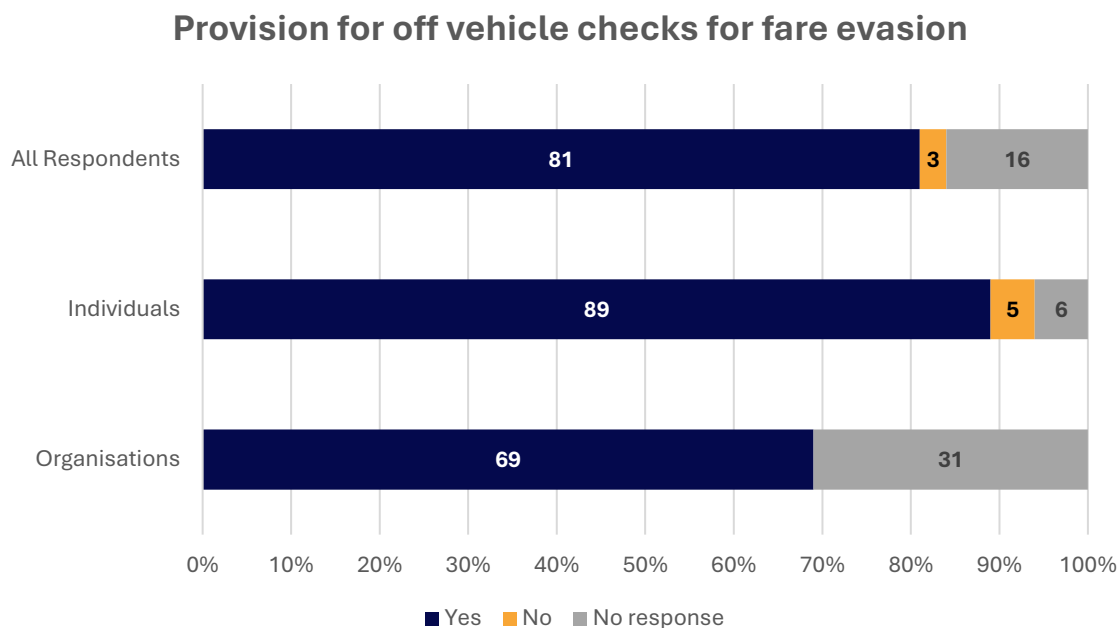
To mitigate the higher risk of fare evasion on Glider services, which arises due to how the system operates, Translink employs revenue protection officers who have the authority to issue a Penalty Fare Notice where a passenger is found not to have a valid ticket to travel.

Currently, Glider authorised persons are unable to issue Penalty Fares once the passenger alights the vehicle, which has led to a developing trend of fare evaders simply alighting the vehicle upon seeing Glider revenue protection officers board the vehicle.

The Department is proposing to legislate to amend the Transport Act (Northern Ireland) 1967 to provide powers to detect fare evasion whether on a bus or when alighting. This ensures that Translink's revenue protection officers can better detect fare evasion and protect Translink's fare box.

Respondents were asked whether they agree with the Department’s proposal to legislate to enable Translink revenue protection officers to issue penalty fares in all fare evasion circumstances.

Figure 12 - Provision for off vehicle checks for fare evasion



Of the 31 respondents to the consultation 81% agreed with the Department’s proposal, while 3% disagreed and 16% did not answer. The total of individual respondents who agreed with the Department’s proposals was 89%, while 69% of those responding on behalf of an organisation agreed with the Department’s proposal.

The analysis of the qualitative responses to this question revealed that generally respondents supported the fact that fare evasion should be addressed and viewed the Department’s proposal as a reasonable and necessary measure to deter fare evasion and uphold fairness for paying passengers. However, some respondents did point out that in some situations it may be unworkable.

### 3.13 Impact Assessment

When taking forward a set of measures; or introducing a new or amended strategy, policy, procedure or legislation, the Department is required to carry out a screening exercise to determine the impact the proposals may have on Section 75 groups, a Rural Needs Assessment and, where regulation is being proposed, a Regulatory Impact Assessment.

The Department has published both a screening assessment for both Section 75 and Rural Needs and would welcome any comments you may care to make on the proposed legislation, with particular regard to the potential impact it may have on equality of opportunity, human rights issues, rural impact and implementation costs. Respondents were therefore asked whether there are any equality impacts that they felt need to be considered and to provide details of any concerns.

The analysis of responses to the question on equality impacts identified two common themes among respondents regarding potential equality impacts that they felt should be considered. These were:

- No Significant Equality Impacts Identified - most respondents did not foresee any major equality concerns arising from the proposals, suggesting that the changes are broadly neutral in terms of equality.
- Protection for Disabled Passengers and those with Reduced Mobility - Several responses highlighted the need to ensure accessibility and protection for disabled passengers and those with reduced mobility, particularly in areas such as enforcement, appeals, and infrastructure development.

Respondents were also asked whether there are any rural impacts that they felt need to be considered and to provide details of any concerns. The comments received regarding rural impacts focussed on the provision of current public transport provision in rural area, park and ride facilities, and the impact of the legislation on those in rural areas who do not have access to a car. These responses fall outside the scope of the consultation on the proposed legislation.

## 4. Summary & Conclusions

The Department proposes establishing a single, independent rail regulatory body in Northern Ireland to streamline responsibilities and reduce confusion caused by overlapping roles between DfI and HSENI. This proposal received strong support (90%), with respondents citing improved accountability, oversight, and alignment with Ireland and Great Britain. Consolidating enforcement powers was also widely supported (90%), with stakeholders highlighting efficiency and consistency benefits.

Modernising outdated legislation, such as the Regulation of Railways Act 1871, was backed by 97% of respondents to ensure inspectors have appropriate powers. Legislative reform to allow the Department to order railway construction was supported by 93%, with respondents emphasising the need to accelerate infrastructure projects. Updating licensing and market access regulations was supported by 87%, though some feared potential privatisation. While most proposals received broad support, the introduction of an annual safety levy was not as clear cut with only 52% of all respondents agreeing with the Department's proposals. Nevertheless, the majority of respondents recognised the need to properly fund rail regulation but identified their concerns around affordability, particularly for the heritage rail sector.

Proposals to regulate passenger rights, train driver qualifications, and create offences for working under the influence of drugs or alcohol were strongly supported (87–90%), with emphasis on safety and cross-border consistency. Respondents also backed investigatory powers for the regulator and clearer accident reporting thresholds. Amendments to the Transport Act (NI) 2011 were welcomed to introduce appeal rights and bus byelaws. Finally, 81% supported off-vehicle fare evasion checks, though some noted practical challenges. Equality and rural impact assessments revealed no major concerns but highlighted the need to protect disabled passengers and rural communities.