



The PPP Arbiter

**Annual Review and Business Plan
2009-10**

1 June 2009

Role and approach of the PPP Arbiter

The role of PPP Arbiter was created by the Greater London Authority Act 1999 (the GLA Act) to give guidance or directions on matters relating to the London Underground PPP Agreements. Although appointed by the Secretary of State for Transport, the Arbiter is independent of Government and of the Parties to the PPP Agreements.

In giving guidance or directions, the Arbiter is under a statutory duty to act in the way he considers best calculated to achieve four objectives:

- to ensure that London Underground has the opportunity to revise its requirements under the PPP Agreements if the proper price exceeds the resources available;
- to promote efficiency and economy in the provision, construction, renewal, or improvement and maintenance of the railway infrastructure;
- to ensure that if a rate of return is incorporated in a PPP Agreement, and taking into account matters specified in the Agreement, a company which is efficient and economic in its performance of the requirements in that PPP Agreement would earn that return; and
- to enable the Infracos to plan the future performance of the PPP Agreements with reasonable certainty.

The Arbiter is also under a duty to take account of any factors which are notified to him by both Parties to an Agreement, or are specified in the relevant PPP Agreement, as ones to which he must have regard.

Following consultation, the Arbiter has adopted the following aim for his work, and that of his Office:

The aim of the PPP Arbiter and his Office is to give sound and timely guidance and directions on relevant aspects of the PPP Agreements when this is requested, and to work constructively with the Parties to the PPP Agreements in support of their key objective of providing to the public a modern and reliable metro service in a safe, efficient and economic manner.

We seek to achieve this by:

- *working within a clear, transparent and consistent framework;*
- *giving reasoned guidance and directions which are based on well developed analysis shared with the Parties and procedures which achieve predictability in process and outcome;*
- *establishing effective dialogue with the PPP Parties and other stakeholders to facilitate timely response to requests for guidance or direction, while maintaining our independence; and*
- *operating to high standards of accountability in all our actions.*

Further information on the functions, duties and approach of the Arbiter can be found on the Arbiter's website <http://www.ppparbiter.org.uk>

Contents

Foreword

1	Introduction	1
2	Infraco performance in 2008-09	2
	(a) Tube Lines	2
	(b) Metronet	3
	(c) Implications to the Arbitrator	5
3	Review of 2008-09	7
	(a) Work programme	7
	(b) Financial and performance review	14
4	Business Plan 2009-10	22
	(a) Work programme	22
	(b) Key risks	27
	(c) Financial projections and performance targets	30

Annexes **33**

Annex 1	2008-09 outturn against revised budget
Annex 2	Budget for 2009-10
Annex 3	Financial projections for 2010-11 to 2012-13

Foreword

As anticipated in last year's Business Plan, 2008-09 has been dominated by preparations for the Periodic Review of Tube Lines' PPP Agreement. This started formally on 8 December, when London Underground issued Restated Terms. But for my office, this was but a milestone on the journey towards the start of the second Review Period on 1 July 2010 which had begun in earnest with the 'Initial Ranges' reference made by London Underground on 14 April 2008.

As was clear from my work on the Initial Ranges reference, there are significant differences of view between Tube Lines and London Underground both about the programme of works needed to deliver obligations in the period July 2010 to December 2017, and the associated cost. Key issues for the review will therefore be the appropriate programme of works to be undertaken in the period 2010-2017, the efficient cost of that programme, the resulting performance in terms of the contractual metrics of capability, availability and ambience and related performance revenues, and affordability.

The intention of the Periodic Review process is that London Underground and Tube Lines will negotiate revised terms, and seek directions from me only in the event of failing to agree. But the size of the gap between the positions taken by the two parties at the start of the process – around £3 billion – suggests that a negotiated settlement could be very difficult to achieve without significant movement from both sides.

Also, while my own estimate of costs was considerably less than that of Tube Lines, it was still well above the levels assessed by London Underground, and this raises concerns about the affordability of the work required under the contract. Unless costs can be further reduced or more funding can be allocated from Transport for London's ten-year budget, London Underground would need to scale back its output requirements under the contract.

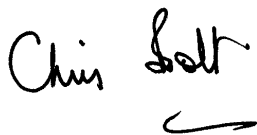
Because of the consequences of failing to resolve the programme and funding for the second Review Period by 1 July 2010, and given the time that would be required for giving directions following a reference, I remain of the view that I should use my powers under the GLA Act to consult the parties formally around the end of September, on the basis of an updated view of the range of costs, either to assist the conclusion of negotiations or to prompt a reference if there is still a material gap between the position of the two parties.

Concerns about affordability are, if anything, increased by the continuing lack of visibility of the costs being incurred by London Underground under the two Metronet contracts. The Metronet companies came out of administration, and into Transport for London ownership, on 27 May 2008. Metronet's activities have in effect been re-integrated into London Underground, although the companies and their PPP Agreements remain in place. So while I still have statutory access to Metronet information, the transition to new financial systems has made it difficult to assess the robustness of Metronet information on future costs, or to use it effectively in benchmarking against Tube Lines. I will be looking at this in more detail in the coming year.

In addition, London Underground has made it clear that it does not intend to seek my views on Metronet's efficiency and economy or involve me in the repricing of their two PPP Agreements. Changes in the supply chain arrangements – including splitting the Bombardier contract for upgrading the Sub-Surface Lines between rolling stock and signalling – means that the allocation of risks between London Underground and Metronet has changed. This adds to the difficulty of interpreting Metronet cost projections and benchmarking against both Tube Lines and international peers. This was an issue raised by the GLA Transport Committee in its report published in March 2009, which included a recommendation that I should give an annual report on progress in delivering the Metronet programme to the London Assembly. It is also likely to be addressed in the forthcoming NAO report on the failure of Metronet, and I look forward to discussing these recommendations with DfT and with TfL over the coming months.

Uncertainty about the extent of the future role of the Arbiter makes planning beyond the Periodic Review difficult. At one extreme, the role could be limited to future Periodic Reviews of the one-third of the network covered by Tube Lines – always assuming that the Tube Lines contract survives the review; at the other, it could include regular reporting on progress with maintaining, renewing and enhancing the whole of the underground infrastructure, as envisaged by the GLA Transport Committee.

I will be seeking greater clarity on the future role of the Arbiter over the next few months, to enable effective succession planning to be undertaken. I am proud of the work undertaken by my office, and believe that the value of an independent body to assess value for money has been well demonstrated by the work we have undertaken. I will want to ensure that its effectiveness is maintained through to – and beyond – the end of my term of office in December 2010.

A handwritten signature in black ink that reads "Chris Bolt". The signature is written in a cursive style. Below the signature is a small, simple arrow pointing to the right.

Chris Bolt

1 June 2009

1. Introduction

- 1.1 This document describes the work undertaken by the Arbiter and his Office (OPPPA) during 2008-09 and plans for 2009-10. It reflects the requirement of the Financial Framework agreed with the Department for Transport (DfT) under which the PPP Arbiter is required to produce audited accounts and submit a business Plan to the Department on an annual basis.
- 1.2 In accordance with DfT's requirements, the business plan includes financial projections for the three-year period up to 31 March 2013. This plan therefore covers the end of the first Review Period and the start of the second. The current Arbiter's term of office also expires during the period covered by this plan, at the end of 2010. Both these factors, and the current uncertainty about the role of the Arbiter in respect of the Metronet Infracos, makes longer term projections particularly uncertain.

2. Infraco performance in 2008-09

2.1 Although the two Metronet companies entered administration in 2007-08 and have subsequently transferred to the ownership of Transport for London (TfL), the PPP agreements remain in place. So at the end of 2008-09 the PPP contracts have been operating for 6 years. In that period all three Infracos have made significant improvements in Availability and Tube Lines in particular has delivered a significant proportion of the capital programme required under the contract in this Review Period.

(a) Tube Lines

2.2 Tube Lines' main areas of activity in the past year were:

- progressing the procurement process for the design and production of a new fleet of trains for the Piccadilly Line Upgrade;
- civils, depots and signalling installation works for the Northern Line Upgrade;
- signalling system and train integration and testing for the Jubilee Line Upgrade;
- track renewal and replacement and civils works; and
- continuation of the station modernisation and refurbishment programme including work on lifts and escalators, and in some locations, step-free access works.

2.3 The tendering process for the design and build of the new fleet of trains as part of the Piccadilly Line upgrade is nearing completion. The other aspects of the upgrade, for example track and civils works, and the implementation of the new transmission based train control signalling system are currently in the planning stages.

2.4 The upgrade of the Northern Line is progressing on schedule for completion by January 2012. Works completed in 2008-09 include the Morden Depot train and signal testing area (Depot Commissioning Area), significant progress on the construction and electrical fit-out of the 36 signalling equipment rooms and the configuration and testing of a train fitted with the prototype signalling system.

2.5 The Jubilee Line Upgrade scheduled for completion by 31 December 2009 is stated by Tube Lines to remain on schedule for this date although most of the contingency available has now been used and additional access has been agreed to complete trackside installations and for testing. The full fleet of existing trains have been fitted with transmission based signalling equipment and testing in passenger service, on a section of track fitted with both the new and old signalling systems has commenced. New train crew accommodation and training facilities are fully operational at the Stratford depot and driver training for the new signalling system is progressing to plan. Tube Lines have however experienced problems meeting major milestones in relation to signalling commissioning and testing.

- 2.6 In 2008-09 Tube Lines completed Tranche 4 (of 6 in the first Review Period) of the stations modernisation and refurbishment programme successfully and has since begun work at stations as part of the two large remaining tranches. At the end of 2008-09, 59 stations in total had been accepted by London Underground as delivered into service, with work under way at a further 13 stations. In accordance with their contractual obligations Tube Lines has also delivered step free access at 4 stations.
- 2.7 Performance against the contractual measure for service Availability¹ on the Jubilee Line was poorer in 2008-09 than in previous years, displaying performance that was sporadic and often worse than Benchmark levels of Lost Customer Hours. Tube Lines have attributed much of this to the knock-on effect of intensive work each night on the Jubilee Line Upgrade which includes work on the signalling system. In contrast service Availability Performance on the Northern and Piccadilly Lines was good, with both lines achieving a better than benchmark level of performance for most of the year.
- 2.8 Performance against the contractual measure for Ambience² by Tube Lines has been good in 2008-09. The best performing line by a considerable amount on this measure is the Jubilee Line which in each quarter achieved performance at better than Benchmark levels. The Northern and Piccadilly lines performance was broadly in line with the Benchmark.
- 2.9 Tube Lines has continued their good record with respect to their staff and contractor injury rate³, meeting their internal target throughout the year. In January 2009 their target was further tightened.

(b) Metronet

- 2.10 In the case of Metronet, significant effort has been put into aligning its plans and budgets with those of London Underground following the transfer into London Underground of Metronet staff. London Underground expects that this will generate significant cost savings.
- 2.11 The programme of work undertaken by Metronet has so far continued to be broadly in line with the obligations of the PPP agreements although some changes have been made, for example to the stations programme, to reflect the lack of progress delivered in the early years prior to administration. Further changes are expected, including significant deferrals of core PPP obligations such as the Bakerloo line upgrade as London Underground works towards a plan that is consistent with its budget.

¹ Measured in terms of Lost Customer Hours which is an indicator of the delays experienced by passengers both on, and waiting for, trains at stations.

² Measured by a score derived from a series of 'mystery shopper' inspections of stations premises and trains by an independent market research organisation over a financial quarter.

³ This is the Lost Time Injury (LTI) rate which is measured as the number of injuries that occur per 100,000 hours worked that result in subsequent time being taken off work.

- 2.12 Metronet's employee and contractor LTI rate has not noticeably improved over 2008-09. Numbers of Lost Time Injuries have been worse than target for most of 2008-09. However; the Arbiter understands that since last year's business plan, when Metronet was in Administration, the Office of Rail Regulation (the safety regulator for London Underground) has seen a significant improvement in Metronet's maintenance of safety critical assets.
- 2.13 The Victoria Line Upgrade programme, which includes the introduction of 47 new trains from 2010, is stated to remain on schedule for completion in 2013. In 2008-09 Metronet tested the new transmission based train control signalling system using three test trains. At the end of the year, however, the train testing programme had incurred several milestone delays which were also impacting on track and station renewals.
- 2.14 The Sub-Surface Lines (SSL) Upgrade is due to be completed in 2015 for the Northern section and 2018 for the Southern section. It includes a full fleet replacement and was in the planning and design stage in 2008-09. This included the production of a mock-up of a new design carriage to be introduced in 2015 which was presented to the public at the London Transport Museum. The trains will be air conditioned, longer and designed for passengers to walk between carriages. However, prior to its exit from administration, Metronet's contracts with suppliers for this upgrade were re-negotiated and this has caused delay to progress and necessitated some re-programming. London Underground reports that Metronet is still on schedule to meet the contractual dates for both stages of the upgrade although the signalling system is not yet procured.
- 2.15 The Metronet stations programme, after being reduced at the time of administration, has in 2008-09 included the sub-contracting of five large central London stations, where work is now under way. At the end of 2008-09 Metronet had delivered 53 stations to London Underground.
- 2.16 Metronet's performance against the contractual Availability measure was good for 2008-09, with both the BCV and SSL Infracos on aggregate achieving a better than Benchmark number of Lost Customer Hours in almost all but one period in the year. District Line performance fluctuated around the Benchmark level whilst the Metropolitan, Hammersmith and City and Circle lines consistently achieved a much better than Benchmark score. The Central and Bakerloo lines also performed better than the Benchmark. Victoria Line performance was around the Benchmark level and the Waterloo and City Line showed poor performance, often worse than Benchmark level.
- 2.17 Against the contractual Ambience measure, SSL performed better than the Benchmark in each quarter. This was due to very good performance on District Line trains and stations. The Metropolitan, Hammersmith and City and Circle lines on average also achieved a better than Benchmark score. The BCV performance worsened throughout the first three quarters, from better than Benchmark to worse than Benchmark, improving again in the last quarter.

(c) Implications for the Arbiter

- 2.18 Work on Tube Lines' Periodic Review, including in particular the Initial Ranges reference in the first half of the year, has been the focus of 2008-09 and will form the majority of the work programme for the forthcoming year. Significant issues are already emerging for example in relation to funding available to Transport for London for upgrades to the underground under the PPP. These issues have been highlighted by the outgoing Managing Director of London Underground. If affordability is an issue for the Periodic Review, requiring descoping of requirements at a late stage, this could have serious implications for timely completion of the review.
- 2.19 To mitigate this, and following consultation with the parties, the Arbiter decided to undertake a programme of preparatory work, building on that carried out for the Initial Ranges which will take account of Restated Terms, the progress that the Parties have made on agreeing a scope and London Underground's stated Affordability Constraints. This work is described in more detail in section 4. He has also consulted with the Transport Commissioner on his proposed work programme following Tube Lines' submission of its Response to Restated Terms.
- 2.20 As anticipated in last years plan, the Arbiter's involvement with the Metronet Infracos has been limited to reviewing the basis on which future plans for these businesses have been prepared, and in particular their relevance as a comparator for Tube Lines, and on liaison with the NAO which has been preparing a report on the lessons of the failure of Metronet and the cost to the taxpayer.
- 2.21 In line with London Underground's stated position, the Arbiter is currently not planning for references in respect of the Metronet Infracos. However, for the purposes of comparison with Tube Lines, he will continue to require access to Metronet data and costs and an understanding of the processes by which the information has been prepared. This work would also be of value if the Arbiter was asked to report on the value for money of Metronet as envisaged in the recent GLA Transport Committee report.
- 2.22 However, even obtaining useful comparator information from Metronet will not be easy. The Arbiter's Reporters completed, in May 2009, an initial review of London Underground's plans for the two Metronet Infracos and of Metronet data which indicates:
- that affordability has become the key driver of the business plan rather than meeting the whole-life asset management obligations of the PPP contract;
 - that separation of London Underground data and Metronet data, now that the organisations are effectively merged, will be complex and that it will take much of this financial year to put in place robust financial systems and processes to ensure robust Metronet cost information.

- 2.23 London Underground is however committed to providing robustly separable data and has appointed PwC to advise on the best way to achieve this. Thereafter Metronet's accounts will be migrated onto SAP which will provide greater transparency of data and better alignment with the Arbiter's DBS.
- 2.24 Pending the implementation of these new processes the Arbiter has concluded that Metronet data is not currently robustly separable, that as a consequence current and projected Metronet costs will be of limited value in the Tube Lines Periodic Review.

3. Review of 2008-09

(a) Work programme

- 3.1 The Arbiter's work in 2008-09 focussed on preparing for the Periodic Review of the Tube Lines PPP agreement. Key work streams were:
- the Initial Ranges reference which narrowed the gap between the Parties' views on costs for the second Review Period from about £3bn to £0.5bn;
 - reference follow up work that reviewed the Arbiter's approach and methodology; this review identified some areas where further preparatory work would be of value in improving the robustness of the analysis and benchmarks underpinning the Arbiter's analysis and in reducing further remaining areas of difference;
 - preparation and publication of the Procedural and Analytical Approach documents for Periodic Review which form part of the Arbiter's overall Procedural Framework; these documents provide greater transparency on the approach that the Arbiter is minded to adopt in any Periodic Review references and also set out the data that the Parties should supply to the Arbiter in both reference submissions and by Tube Lines in support of its Response to Restated Terms due at the end of June 2009;
 - completion of the first round of a significant international benchmarking study that will inform the Arbiter's view of costs for Review Period 2; and
 - commencement of work to update the Arbiter's view of the costs for Review Period 2 following issue by London Underground of its Restated Terms for the contract in the second Review Period in preparation for any Periodic Review references.
- 3.2 The international benchmarking study, which has been published on the Arbiter's website, covers track and signal opex and capex, rolling stock opex and civils costs. It highlighted significant differences between costs incurred by the London Underground Infracos compared with other metros which the Arbiter concluded merited further investigation. The report also provides a catalyst for dialogue with the PPP parties and other metros on good practice that might be transferred
- 3.3 In addition the Arbiter provided significant input into the report being prepared by the National Audit Office (NAO) on the failure of Metronet including providing to it the analysis of costs undertaken as part of the Extraordinary Review of Metronet BCV in 2007. This formed the start point for the NAO's analysis of the cost to the taxpayer of the failure of these companies.
- 3.4 As has been the case in previous years, the work programme has been challenging for the small OPPPA team but has been delivered broadly as planned. Amendments to the work programme set out in last year's plan have only been made where it was more effective in the circumstances to change the timing of delivery.

- 3.5 The remainder of this chapter describes the work delivered under each of the objectives that the Arbiter has set for his office.

Objective 1: Create and maintain an appropriate analytical and procedural framework

Key Tasks
Update Procedural Approach to Extraordinary review in light of lessons learned from the Metronet BCV Review
Complete development of Procedural Approach to Periodic Review and publish revised Procedural Framework
Further develop analytical Approach to Periodic Review

- 3.6 On 8 December, London Underground formally issued Restated Terms for Review Period 2 to Tube Lines. Preparatory work for the Periodic Review commenced well in advance of this, and included both the Initial Ranges reference, described under objective 3, and the development of the Arbiter's documents describing his procedural and analytical approach.
- 3.7 The Procedural and Analytical approach to Periodic Review documents were refreshed ahead of the Initial Ranges reference, as London Underground specifically requested that the Arbiter undertake the work as if he were doing so as part of a Periodic Review. In particular, the Arbiter clarified his intentions in respect of his own work programme preparatory to a reference being made, given his concerns about the limited time between the Response to Restated Terms and the start of the second Review Period. This preparatory work is described in more detail in section 4 of this plan.
- 3.8 Since completion of the reference, the documents have been reviewed again in consultation with the Parties. The Procedural Approach was little altered as part of this process with key changes relating to the timetable, the provision of an opportunity for London Underground to provide a submission to the Arbiter broadly simultaneous with the submission by Tube Lines of its Response to Restated Terms and the provision of an updated Data Breakdown Structure and associated submission requirements.
- 3.9 The Analytical Approach has been significantly updated to reflect the development of the Arbiter's analysis arising from work on the Initial Ranges reference and his review of methodology undertaken after the guidance was issued.
- 3.10 The Arbiter does not currently envisage making further changes to the documents until the Periodic Review process is complete.
- 3.11 An initial review of the Procedural Approach to Extraordinary Review was also carried out, which suggested that there was little need to make amendments at this stage. The document will be refreshed after the

Periodic Review as part of a comprehensive review of the Arbiter's Procedural Framework.

Objective 2: Define and develop information requirements and analysis

Key Tasks
Implement a refreshed routine information returns process and produce regular analysis as required for the team report etc.
Develop programme of work for Reporters and manage their delivery of it

- 3.12 The Arbiter undertook in 2007-08 a review of the routine information received from the PPP Parties each four-week period. The review resulted in a reduced number of documents being requested and replaced some out of date documents with up to date sources of information. The Parties have generally provided information in accordance with the new requirements.
- 3.13 Routine information requested from the two Metronet Infracos was again reviewed in March 2009, as part of the Infracos developing a new reporting structure to TfL. The aim of this was to receive as comparable a set of documents to the 2008-09 information as possible, whilst also capturing all of the relevant information stemming from the governance processes of London Underground and TfL.
- 3.14 The Arbiter appointed KPMG and Halcrow as Reporters in 2007 and the work this year has formed the second cycle of a three year commission. The Reporters review the Infracos' AAMP documents including projected costs for consistency with the data breakdown structure mandated by the Arbiter and to ensure that the process of population is supported by robust audit trails.
- 3.15 The work this year was hampered initially by changes of personnel within the reporting team and by changes of work scope arising from the change of ownership of Metronet. This led to some delay in producing the Tube Lines report which was published around a month later than expected and to the Arbiter's team spending more time than anticipated on the project. It also led to the preparation of a further report picking up specific issues arising from the Initial Ranges reference that were outside of the scope of the main Reporters instruction. However significant progress has been made on resolving issues and both the additional Tube Lines Report and the Metronet report are expected to be published in June.
- 3.16 The third component of the current reporting cycle is a review of Tube Lines' response to Restated Terms. Work has commenced but will be substantially undertaken in the new financial year.

Objective 3: Respond effectively to requests for guidance or direction

Key Tasks
Complete 'Initial Ranges' guidance to published timetable
Conduct any further references to the published timetable
Carry out further benchmarking and analytical work for Periodic Review
Work with the Parties to produce the base information necessary to support Periodic Review

- 3.17 The Arbiter's work programme for the first half of the year was dominated by London Underground's Initial Ranges reference which asked the Arbiter to estimate the costs to the Notional Infraco of meeting the existing obligations in the second Review Period.
- 3.18 In order to fit with the TfL business planning timetable the reference timescale was constrained. Reference submissions were received in early June and draft guidance issued to the Parties in August. The guidance was formally published in September 2008.
- 3.19 The Arbiter's previous work programme was re-prioritised to meet the requirements of the reference with benchmarking work, in particular, accelerated wherever possible to ensure that results could be used to support the reference programme. It was also recognised that data for some costs areas, such as Administration and Other costs, was limited and further work was undertaken following the reference to explore these issues more fully.
- 3.20 A key achievement in the year was to complete a significant international benchmarking exercise which compared data from the Infracos to eight peers around the world. The peer group comprised Hong Kong, Munich, Stockholm, Barcelona, Toronto, New York, Boston, and parts of Network Rail and the questionnaire covered track and signals opex and capex, rolling stock opex and civils costs. The study was undertaken by BSL which accelerated the production of interim results in order that data could be used in the reference
- 3.21 During the reference, it became apparent that there were very material differences of view between London Underground and Tube Lines on the scope of work required to meet the Infraco obligations. Subsequently, the Parties have been working together to try to understand these differences and where possible agree the volumes of work that will be required in Review Period 2. The Arbiter has been monitoring this process.
- 3.22 No references were received in the year other than that in respect of Initial Ranges.

Objective 4: Ensure proper understanding of the PPP Agreements and the Arbitrator's role, both within the organisation and externally

Key Tasks
Seek to ensure that the Parties have a shared understanding of the Periodic Review provisions
Continue to develop relationships with PPP Parties such that work can proceed on a cooperative basis
Ensure programme of meetings with external bodies is reflective of the needs of the work programme
Continue to develop relationships with ORR
Develop relationships with third parties that enable progress of OPPPA's programme of benchmarking work
Ensure that external stakeholders have access to the work programme and are updated on matters relevant to them

- 3.23 Routine bilateral meetings with the PPP Parties have continued over the course of the year. Periodic Review issues often require tripartite discussions, and a tripartite Periodic Review meeting was therefore established during the year, chaired by the Arbitrator. This has provided a focal point for discussions on matters relating to the Review and for reaching agreement on the approach to related areas of work, such as benchmarking.
- 3.24 A key part of preparing for a reference is to identify any differences of view on contract interpretation. In the case of Periodic Review, there are a number of such issues. These are the subject of ongoing discussion between OPPPA and the parties.
- 3.25 The Arbitrator proposes to consult on and publish an analytical approach to setting the ISC which will set out his position and will be agreed with the parties where possible. This is discussed further in chapter 4.
- 3.26 The Arbitrator and his team have continued to brief key stakeholders, in particular DfT, on progress and issues emerging from discussions with the Parties. The OPPPA team has continued to maintain liaison with ORR to share both information and lessons learned from formal exercise of functions. Regular meetings have also been held with London TravelWatch and with the European Investment Bank.
- 3.27 The Arbitrator gave evidence to the GLA Transport Committee in October 2008 as part of its inquiry into the PPP. The Committee published its report in March 2009.

Objective 5: Manage the Office effectively

Key Tasks
Consider long term options for structure of Office in light of emerging Metronet proposition
Ensure that staff development continues to facilitate succession planning
Complete all routine Office administration as required
Complete annual report and budget cycle
Review corporate governance
Maintain risk register

- 3.28 At the beginning of the year the Arbiter's risk register reflected his concern that public ownership of Metronet would result in his work load shrinking and adversely affect the viability of a free standing Office. As mitigation against a loss of key personnel the Arbiter added redundancy provisions to the OPPPA staff handbook. At the end of the year, there is still no certainty as to the ongoing role of the Arbiter and his Office. For the purposes of this plan, the Arbiter has assumed – in line with indications from London Underground – that any formal references to him are restricted to the Tube Lines PPP Agreement, but that he will continue to receive and review information from the Metronet Infracos for comparative purposes.
- 3.29 More generally, the risk register has continued to develop in the year with the mitigation plans in place for each risk identified being actively pursued and monitored.
- 3.30 In a period of uncertainty and given the current Arbiter's term of Office expires in 2010, thought has been given this year to the structure and development of the Arbiter's team. The Commercial Manager, Technical Analyst, Office Manager and PA are all developing their skills by obtaining further formal qualifications. This and the growing experience of the team have presented the office with opportunities for succession planning and the incumbent Technical Analyst and Commercial Manager were promoted as of 1 April to Technical Manager and Economic Adviser respectively.
- 3.31 Routine office administration has continued to function effectively although further thought is now being given to developing the current IT system, in particular to facilitate secure remote working by staff. The Arbiter appointed SCC in early March to develop an IT strategy for OPPPA which has suggested a change of technology and service provider. These proposals are now being implemented.

3.32 The Arbiter's accounts have again received clean audit opinions from both its internal (Baker Tilly) and external auditors (NAO).

3.33 Table 1 below summarises the 2008-09 work programme, and compares the original and revised budgets with the outturn for each objective.

Table 1: Work programme and budget for 2008-09

Office objective	Timing	Budget
Create and maintain an appropriate Analytical and Procedural Framework		
Update Procedural Approach to Extraordinary Review in light of lessons learned from the Metronet BCV Review and subsequent references	December 2008	Original Budget: £203,000 Revised Budget: £198,000 ⁴
Incorporate lessons learned into current version of Procedural and Analytical Approach documents for Periodic Review and publish	December 2008	Outturn: £194,000
Define and develop information requirements and analysis		
Implement a refreshed routine information returns process and produce regular analysis	Ongoing	Original Budget: £395,000 Revised Budget: £495,000
Develop programme of work for Reporters and manage delivery to agreed timetable	To timetable	Outturn: £494,000
Respond effectively to requests for guidance or direction		
Complete "Initial Ranges" reference to the published timetable	Complete	Original Budget: £2,137,000 Revised Budget: £2,427,000
Complete follow up work to Initial Ranges in preparation for Periodic Review/giving further guidance	Complete	Outturn: £2,413,000
Commence further Periodic Review preparation work programme	To timetable	
Conduct any further references to the published timetable	To timetable	
Carry out further benchmarking and analytical work for Periodic Review in particular consider the options for merging joint and international benchmarking and for collecting further data for Periodic Review	Complete	
Work with the Parties to produce the information necessary to support Periodic Review in particular to ensure that the DBS is finalised to facilitate the Response to Restated Terms	Complete	

⁴ As revised in January 2009.

Office objective	Timing	Budget
Ensure proper understanding of the PPP Agreements and the Arbiter's role, both within the organisation and externally		
Seek to ensure that the Parties have a shared understanding of the Periodic Review provisions in particular develop a common understanding on items raised by Initial Ranges	Complete	Original Budget: £45,000 Revised Budget: £44,000 Outturn ⁵ : £45,000
Develop understanding of Restated Terms	March 2009	
Continue to develop relationships with PPP Parties to facilitate cooperation	Ongoing	
Ensure meetings with external bodies are reflective of the needs of the work programme	Ongoing	
Continue to develop relationships with ORR	Ongoing	
Develop relationships with third parties that enable benchmarking work	Ongoing	
Ensure that external stakeholders can access work programme/are sighted on relevant matters	Ongoing	
Manage the Office effectively		
Consider long term options for structure of Office in light of emerging Metronet proposition	Ongoing	Original Budget: £520,000 Revised Budget: £492,000 Outturn: £471,000
Ensure that staff development continues to facilitate succession planning	Ongoing	
Complete all routine Office administration as required	Ongoing	
Complete Annual Report and Accounts and budget cycle	June 2009	
Review corporate governance	To timetable	
Maintain risk register	To timetable	
TOTAL		

(b) Financial and performance review

3.34 The Arbiter and his Office are entirely funded by Grant in Aid from the Department for Transport. This section outlines how grant was used during 2008-09. As is routinely the case, given OPPPA's uncertain workload, the budget was reviewed during the course of the year. Performance is reported in Figures 1 – 4 against both the original budget and the revised budget.

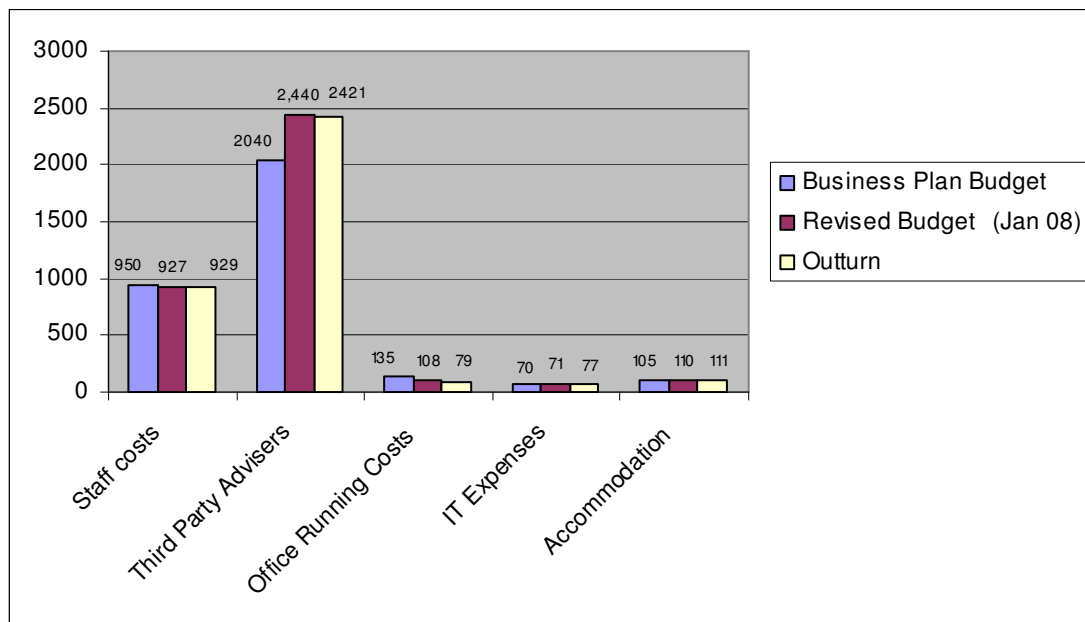
3.35 The original budget for 2008-09 was £3,300,000. Following an interim revision in October 2008, immediately following the Initial Ranges reference, the budget was further reviewed in January 2009 to take

⁵ Unless otherwise stated, outturn figures include work underway but not complete at the year end – see paragraph 3.45.

account of additional preparatory work for the Periodic Review. As described in chapter 3 this additional work is being undertaken in order to reduce the amount of time it will take to complete a full scale costs/ISC reference during 2009-10 should one be made. The revised budget of £3,656,000 was agreed by DfT in February 2009.

3.36 Figure 1 below shows that outturn costs were broadly in the line with the January budget estimate, taking account of work in hand, but not billed, at the year end.

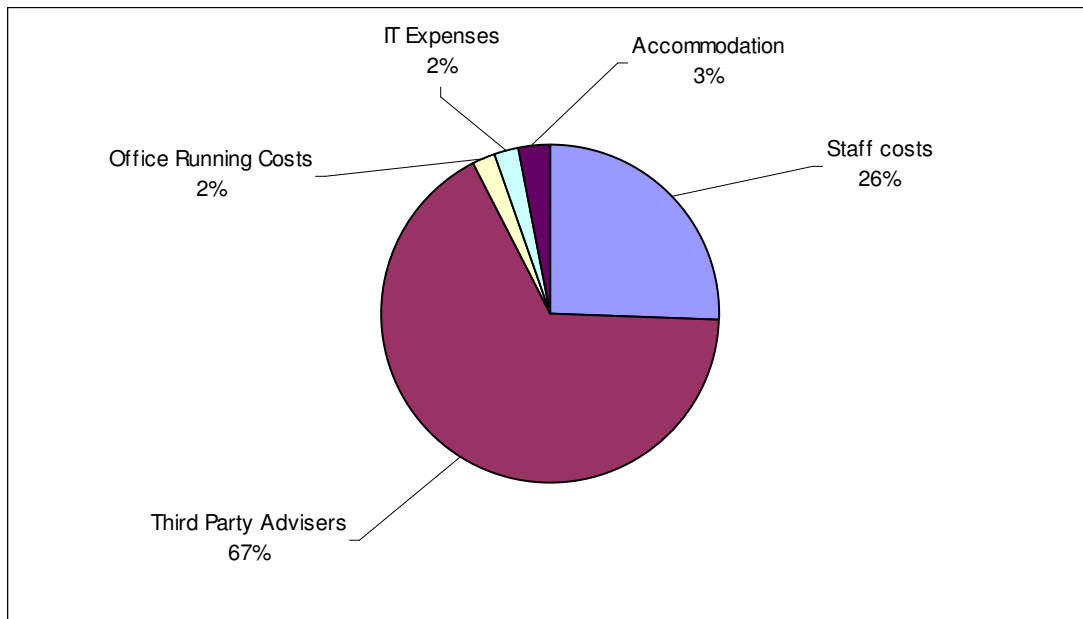
Figure 1: Budget versus outturn: (£'000 including VAT)



3.37 Costs in 2008-09 were predominantly focused on the ‘Initial Ranges’ reference and on work in preparation for the Periodic Review. These two workstreams account for 67% of overall expenditure.

3.38 As has been the case in previous years costs are dominated by work procured from external advisers and spend on internal staff. Administrative costs make up a very small percentage of overall spend and this year were largely comparable with 2007-08.

Figure 2: Percentage expenditure by category



3.39 Costs have also been analysed against the five Office objectives. In doing this, all the costs of support staff and of the Advisory Board, and a proportion of the time of the Arbiter, Director and Commercial Adviser are, as in previous years, allocated to objective 5, managing the Office effectively. This explains the relatively high proportion of staff costs reported under this objective.

3.40 Comparison with 2007-08 indicates that percentage spend by objective this year was broadly similar. Expenditure relating to objective 3, giving guidance and direction, accounted for the greatest spend both internally and externally reflecting the work undertaken as part of the Initial Ranges reference and further analytical work undertaken thereafter. The only material change in the basis of allocation this year relates to the allocation of Reporters costs by objective. Last year, when the work was primarily directed at developing the DBS for the Procedural Framework costs were attributed to objective one. This year when the work was focussed on assurance they are attributed to objective 2.

Figure 3: Percentage total expenditure by objective

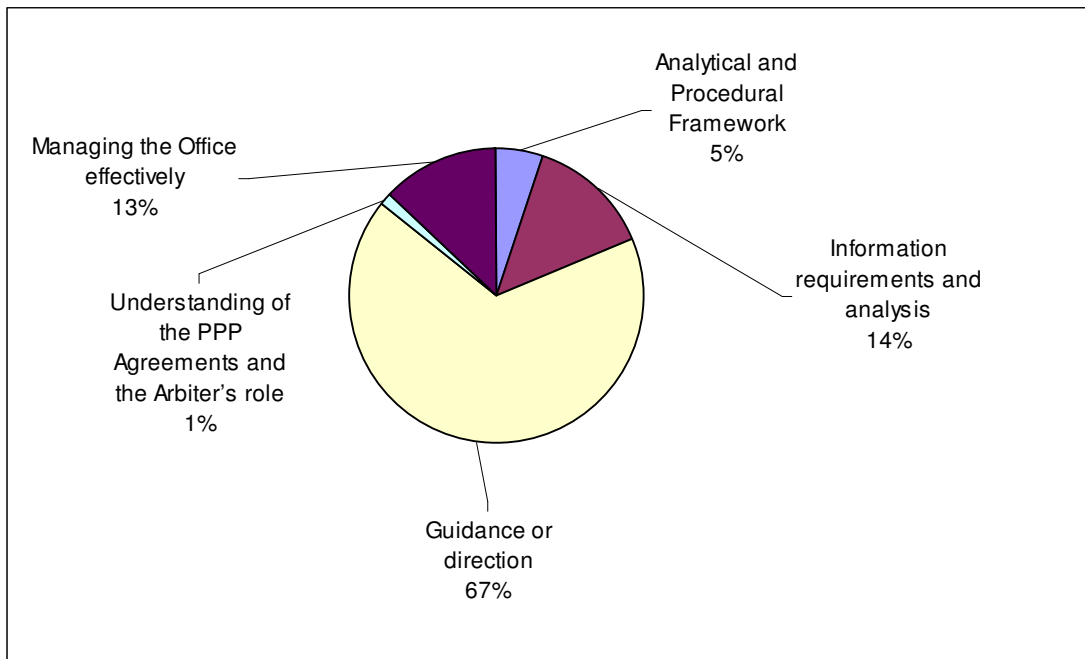
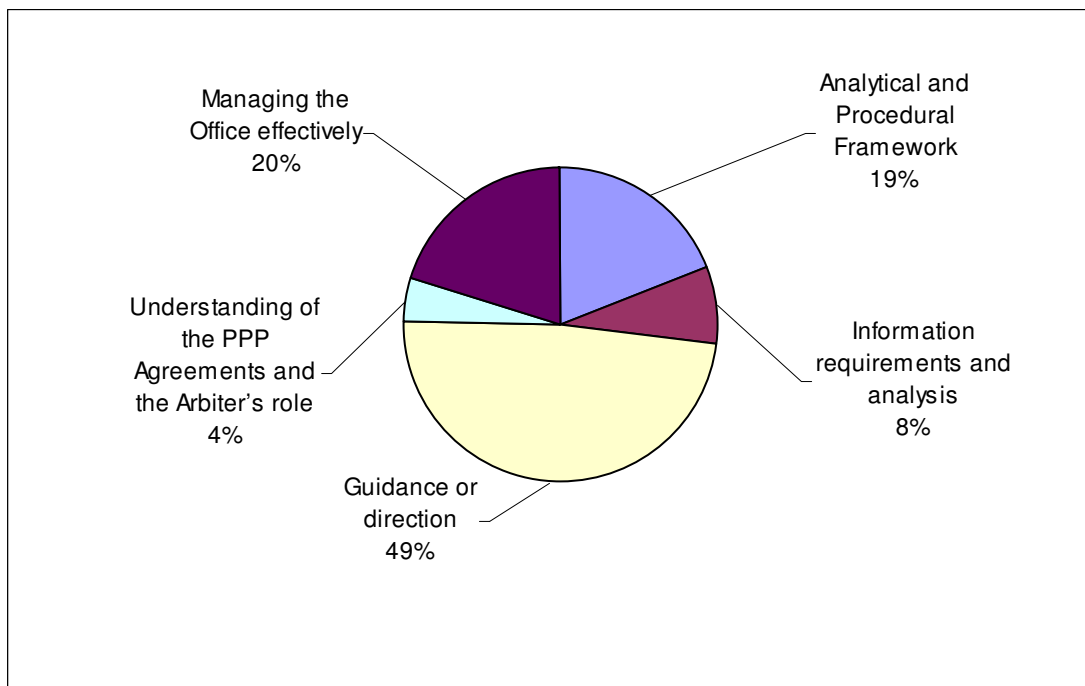


Figure 4: Percentage of staff costs by objective



3.41 Tables 2 and 3 provide a further breakdown of external expenditure.

Table 2: Suppliers under framework contracts

Framework Consultant	Used in 2008-09	Expenditure £'000
Halcrow	Yes	670
KPMG	Yes	622
Lloyds Register Rail	Yes	418
Serco Consulting	Yes	286
CEPA	Yes	245
Jim Tame Consulting Ltd	Yes	78
Steer Davis Gleave	Yes	20
Asset Management Consulting Ltd	No	n/a
Oxera	No	n/a
NERA	No	n/a
DeltaRail Group Limited	No	n/a
Europe Economics	No	n/a
Ernst & Young LLP	No	n/a

3.42 Spend with framework consultants in year clearly reflects the work programme with Halcrow, KPMG, Serco and CEPA appointed to support the Arbiter on the Initial Ranges reference and continuing to provide advice to the Arbiter on Periodic Review matters thereafter. Lloyds Register Rail and Jim Tame Consulting Ltd have undertaken much of the Arbiter's programme of benchmarking work this year and will continue to support this workstream in preparation for Periodic Review.

Table 3: Spend with other suppliers⁶ (£10,000 or more)

Supplier	Description	Contractual arrangement	Expenditure £'000
Office of Rail Regulation	Accommodation and IT Services	Charge reviewed annually	167
Shearman & Sterling	Legal Advice	Call-off arrangement, fees reviewed annually	88
Euro RSCG Riley	Recruitment Adviser	Separate agreement for each assignment	19
XM London	Website and Extranet Support	Contract to 31 March 2009	16
National Audit Office	External Audit	n/a	12
Baker Tilly	Internal Audit	To be retendered in 2010	10

3.43 As previously administrative costs remain low when compared to the costs of the Arbiter's substantive work programme. The most significant administrative cost is with the Office of Rail Regulation for accommodation and IT services which are currently provided to OPPPA under a lease and service level agreement. Fees to Shearman & Sterling represent both routine advice and support to the reference process/Periodic Review preparation.

3.44 Performance indicators were set in the business plan for 2008-09 and progress against each indicator is reported in tables 4 and 5 below.

⁶ Excludes training costs.

Table 4: Non financial indicators: performance against target

Metric		Target performance
Delivery of the work programme	Deliver work programme in full.	Target met
The delivery of guidance or direction following a reference	Delivery of guidance or direction to be as per the agreed and published timetables, and in accordance with the Procedural Framework.	Target met
Supplier performance <ul style="list-style-type: none"> • Framework contractors • Other significant suppliers 	<p>All instructions to be completed as per the contract terms.</p> <p>Ongoing monitoring to continue; further efficiency savings from co-location to be explored.</p>	<p>Target not met⁷</p> <p>Target met and future efficiency in IT costs expected as result of new strategy.</p>
Business Review	Review of general routine business procedures and performance.	Target met Some opportunities to streamline processes identified by data handling review and IT strategy

⁷ The target was met with the exception of the Halcrow Reporters instruction, where the Instruction was initially varied and then terminated due to resourcing issues.

Table 5: Financial indicators: Performance against target

Metric		Target performance
Cost v budget - quality of forecasting.	Year end retained earnings to be less than £30k.	Target met – see 3.45
	<u>% Variance from budget</u>	Target met
Staff costs	Less than 3%	In line with revised budget
Office running costs	Less than 3%	Target not met see 3.46 18% below revised budget
Third party advisers	Less than 5%	1% below revised budget
Financial performance of suppliers	All suppliers to charge for services within the agreed contract terms.	Target met
Percentage of invoices paid within 30 days	100% of agreed invoices to be paid within 30 days.	Target met

3.45 The Office had a year end cash balance of £94,000 of which £62,000 was attributable to work underway in relation to periodic review preparation but for which there was some minor slippage over the year end. Unless otherwise stated this work is included within this plan as a 2008-09 cost.

3.46 Office running costs were £29,000 under budget at the year end as a result of funds set aside for training not being fully utilised within the year.

4. Business plan for 2009-10

(a) Work programme

- 4.1 The business plan for 2009-10 has been developed on the basis that the focus will be on the Periodic Review for Tube Lines throughout the course of the year. Allowance is made within the budget for a full scale cost (and ISC) reference. To prepare for this, the Arbiter will continue to undertake his own analysis, to enable any reference to be completed quickly.
- 4.2 This preparatory work is already under way, with the aim of establishing by 30 June an initial view of the costs of a Notional Infraco in Review Period 2 and on the likely response of a Notional Infraco to the changes to the performance regime set out Restated Terms. In addition to the work commissioned from Halcrow, CEPA and SDG prior to the year end, the Arbiter has now commissioned from CEPA further work on risk and indexation.
- 4.3 While the Arbiter does not intend to share his numerical analysis with the Parties at this stage, some work – such as that on performance and differential inflation – will be shared as a contribution to the discussions between the parties aimed at narrowing areas of disagreement in advance of Tube Lines' submission of its Response to Restated Terms. Even if there is no reference, the Arbiter considers that this preparatory work will be helpful to the parties in understanding how he would handle a reference and in narrowing differences between them, and thereby increasing the chance of a negotiated settlement.
- 4.4 Preparatory work also has the advantage of reducing the time taken by the analytical phase of a reference. The Arbiter considers this to be an important contribution to meeting the already challenging timetable for the review, particularly when it appears that material affordability issues will have to be resolved.
- 4.5 In respect of Metronet, the Arbiter's workload remains unclear but the budget assumes that the Reporters will review the progress made by London Underground on producing stand alone plans and budgets for both Metronet Infracos in the autumn and that Arbiter will undertake and publish some comparative benchmarking analysis across the three Infracos in the final quarter of the year.
- 4.6 This chapter provides further details of the plan structured around the Arbiter's objectives:

Objective 1: Create and maintain an appropriate analytical and procedural framework

Key tasks
Develop analytical approach to setting the infrastructure service charge.

- 4.7 The Arbiter's Procedural Framework and associated documents are now substantially complete covering all of the main types of reference that might be made to him. In most cases the supporting Procedural Approach documents have been tested by references and found to be fit for purpose.
- 4.8 However, as indicated above, further work is being undertaken on the contractual basis for setting the ISC at Periodic Review. This has been the subject of ongoing discussions with the PPP Parties and the Arbiter intends to publish, after consultation, an Analytical Approach to ISC setting to add to the suite of documents that support the Arbiter's Procedural Framework. Given the timetable for the Periodic Review, the aim is to complete this as soon as practicable and work is scheduled to be complete in June.
- 4.9 This preparatory work will be followed by a further phase of work to compare the Arbiter's initial analysis with Tube Lines' Response to Restated Terms and to any material provided to him, at its discretion, by London Underground. If it appears that the parties are not resolving differences through negotiation, or have not made a reference, by about the end of September 2009, the Arbiter has indicated that he is minded to consult – as he is entitled to do by the further powers given to him under the GLA Act 1999 – in the form of an Initial Thoughts document on his emerging views on issues which remain in dispute. The Arbiter will consider nearer the time, after discussion with the parties, what the form and content of this consultation might be.
- 4.10 This further work will be undertaken in accordance with the Procedural Framework and relevant approach documents as if a full scale cost reference had been made. The budget provided in this plan accommodates this work but would be switched to a formal reference should one be made.
- 4.11 As part of the preparatory work for Periodic Review, a further round of international benchmarking is now under way with metros in the UK and around the world. The peer group is substantially the same as for the previous study, as is the coverage of the questionnaire although changes have been made particularly to the questionnaire to improve alignment with the Joint Benchmarking work undertaken by the Parties and to add detail in areas such as track and signalling. Results will be available in summer to support the Periodic Review. BSL has also completed an analysis of existing published data in comparison to the benchmarking results published in 2008. This work has generally been consistent with the previous findings, as has some limited data provided by CoMET⁸ to BSL as part of this robustness exercise.
- 4.12 In addition to the Arbiter's own programme of international benchmarking, the PPP Parties are continuing to develop joint benchmarking of Metronet and Tube Lines and a further years' data will be added to the existing dataset by the end of June. Also as part of joint

⁸ CoMET is a group of large international metros that cooperate on international benchmarking exercises. Work is coordinated by Imperial College.

benchmarking the emerging conclusions from the last round of international benchmarking are being considered through further detailed studies of costs and volumes of work undertaken on London Underground. The results of this work were shared in May.

- 4.13 The Arbiter envisages that these updates will form the last opportunity to obtain robust benchmarking information for use in the Periodic Review. A comprehensive review of the Procedural Framework and supporting documents will be undertaken after completion of the Periodic Review; this will therefore be part of the plan for 2010-11.

Objective 2: Define and develop information requirements and analysis

Key tasks
Continue to utilise routine returns, establish processes for ensuring consistency and variations from the AAMP/DBS
Deliver remaining components of Reporters current cycle and prepare for a formal review of Metronet and possibly Tube Lines AAMPs in the Autumn
Develop understanding of Metronet Restated Terms and each company's current performance
Explore potential to use CoMET for International Benchmarking

- 4.14 The Arbiter relies on routine information provided by the Parties to establish his work programme for example to support benchmarking and to give early warning of potential references, particularly references for Extraordinary Review.
- 4.15 Particularly important is the AAMP suite of documents and the associated financial projections provided in the agreed data breakdown structure. These documents provide a long term plan for Infraco and are currently updated annually. Following completion of the Periodic Review, the Arbiter will review again the routine information to improve further his ability to anticipate potential references in the second Review Period, not least given that the threshold for Extraordinary Review for Tube Lines reduces from £200 million to £50 million in the second Review Period.
- 4.16 In the first part of the year (up until June) the Reporters have been completing the current cycle of their work, in particular the review of Tube Lines' Response to Restated Terms.
- 4.17 The Reporters are also completing an initial report on the plans and processes in place and being established by London Underground to ensure that it can continue to report robustly in the progress of the two Metronet Infracos.
- 4.18 This report indicates that in the short term affordability is the key driver of plans rather than the obligations of the PPP Agreements. London Underground is setting significant efficiency targets and making material

deferrals of scope into future Review Periods. The PPP contract has now been modified to reflect these changes which we understand are incorporated into Restated Terms for each of the Metronet companies. The Arbiter's team will now undertake work to understand these changes and their impact, for example in making comparisons with Tube Lines.

- 4.19 The organisational changes under which all Metronet staff are now employed by London Underground, with the Metronet Infracos in place only as legal and accounting entities, present challenges for London Underground and the Arbiter in establishing robust benchmarks for comparing the cost of public sector provision by Metronet and private sector provision by Tube Lines.
- 4.20 The Arbiter intends to undertake work now to understand in more detail how Metronet's performance is being reported and will substantively revisit these issues in the autumn when London Underground has completed current work on establishing robust processes by which to separate Metronet costs from its own and has regularised the SSL and BCV PPP Agreements.
- 4.21 Over the course of 2007-08 the Arbiter's team have been exploring, with the help of London Underground, the potential to use CoMET as a means of obtaining International comparator data. Both CoMET and Nova⁹ have indicated a willingness to permit the Arbiter to work with them. The potential for this will be further explored in the first half of 2009-10.

Objective 3: Respond effectively to requests for guidance or direction

Key tasks
Continue preparations for Periodic Review including development of costs of Notional Infraco
Develop Notional Infraco cost and performance model
Respond to a formal request for guidance or directions related to Periodic Review to published timetable
Complete second phase of international benchmarking
Complete current joint benchmarking projects including the more detailed review of emerging findings from BSL and the refresh of the routinely collected data
Complete any other requests for guidance or direction to the published timetable
Consider whether there is value in undertaking further work on good industry practice

⁹ NOVA is a group of smaller international metros that conducts benchmarking work that is similar to that undertaken by CoMET. As with CoMET, work is coordinated by Imperial College.

- 4.22 Preparatory work for Periodic Review is intended to allow the Arbiter to deal quickly and robustly with any reference received during the year. The work programme is particularly directed at a possible cost/ISC reference and involves a complete refresh of the analysis undertaken for the Initial Ranges taking on board all work completed by the parties and Arbiter since then. It also involves undertaking further analysis of the first review period to establish the start point of the Notional Infraco at the beginning of RP2.
- 4.23 The PPP Agreements also envisage possible references to the Arbiter in respect of the form and structure of the Periodic Review, and in respect of financing issues. Such references are unlikely to be very resource intensive for the Arbiter's office, and would be handled in accordance with the Procedural Approach to Periodic Review.

Objective 4: Ensure proper understanding of the PPP Agreements and the Arbiter's role, both within the organisation and externally.

Key tasks
Continue to develop relationships with PPP Parties such that work can proceed on a cooperative basis
Ensure programme of meetings with external bodies is reflective of the needs of the work programme
Ensure that external stakeholders have access to the work programme and are updated on matters relevant to them
Continue to develop relationships with ORR
Develop relationships with third parties that enable progress of OPPPA's programme of benchmarking work

- 4.24 The Arbiter will continue to meet with the parties and external stakeholders particularly on matters related to Periodic Review. He will also maintain appropriate transparency of his work so that external parties can maintain an understanding of his work programme and the use being made of Grant in Aid from the Department for Transport.
- 4.25 However, a key issue to be resolved this year is whether the future scope of the Arbiter's work is restricted to Tube Lines or whether there is to be a broader remit to review in more detail the performance of the Metronet Infracos within London Underground. The work required to support this objective is particularly sensitive to this issue and the assumption underlying this year's budget is that other than as described under objective 2 no further work in relation to Metronet is undertaken in 2009-10.

Objective 5: Manage the Office effectively

Key Tasks
Ensure that staff development continues to facilitate succession planning
Refresh IT system
Complete all routine Office administration as required
Complete annual report and budget cycle
Review corporate governance
Maintain risk register
Continue to consider long term options for structure of Office in light of emerging Metronet proposition.

- 4.26 The Arbiter's office continues to seek to undertake its work as efficiently as possible and administrative costs are broadly in line with last year with the exception of IT where significant capital expenditure this year is expected to be offset by savings in running costs in future years. This work accounts for the majority of the increased budget under this objective.
- 4.27 During the first half of the year the Arbiter anticipates that the IT system will be refreshed with the objectives of providing greater flexibility, in particular to provide for secure remote working, ensuring the continued reliability of assets and to include the provision of a robust continuity option in the event of the office building being unavailable for a significant period of time. Costs can be kept to a reasonable level by utilising advances in technology that were not available to OPPPA three years ago when the organisation moved to its current location and the current IT system was put in place.
- 4.28 As indicated previously options for succession planning have been actively pursued recently with promotions within the team and with development plans in place for all staff. Training activities are expected to continue through 2009-10. However, the uncertainty as to the remit of the Arbiter in relation to Metronet and the term of the current Arbiter's appointment raise issues as to retention of the core team required for Periodic Review. The Arbiter intends to address these issues in the first half of the financial year.
- 4.29 Table 7 below provides a tabular version of the work programme for 2009-10 and the associated budget by objective.

(b) Key risks

- 4.30 In line with good practice, the Arbiter maintains a risk register for all of his activities and actions and mitigation plans are actively managed by staff and reviewed by the Audit Committee three times a year. At the start of 2009-10 the key risks facing the office relate to Periodic Review and the uncertainty of funding and the timetable impacts that this is now

likely to have. The Parties' guidance to the Arbiter is that they attach great weight to reaching the Review Date on time but the Arbiter can only direct the timetable if a reference is made.

- 4.31 In addition the Arbiter and his office face significant uncertainty as to their role and remit in future given that London Underground's position is that references will not be made by it or the Metronet Infracos in future. This has implications for staff retention through and beyond the Periodic Review and calls into question the ability to maintain a free standing office on an ongoing basis. The Arbiter has already updated staff terms and conditions to include provision for redundancy payments, on terms analogous to the civil service, in the event that a separate office is not maintained. The budget for 2010-11 also includes provision for possible performance-related bonuses in relation to successful completion of the Periodic Review.
- 4.32 The business plan is also required to include financial projections for the three years beyond the plan year. While the Arbiter remains confident in the ability of the current small OPPPA team to meet the significant challenges of the Periodic Review, making plans for the Office for the next two to three years is difficult given the uncertainties described above.
- 4.33 In light of the above two scenarios have been created:
- 'As is' where the Arbiter's role remains as now for Tube Lines and is restricted to reporting and limited comparative analysis for Metronet; and
 - 'Alternative' where the Arbiter retains his role in relation to Metronet/London Underground. The key difference between the two is that in the Alternative scenario the budget assumes a formal performance review of the Metronet Infracos and London Underground's management of them in a form akin to the Metronet Annual Report anticipated by the BCV and SSL PPP Agreements and future cost projections are provided on both bases.

Table 7: Tabular work programme and budget for 2009-10

Create and maintain an appropriate analytical and procedural framework	Budget
Develop analytical approach to setting the infrastructure service charge.	£149,000
Define and develop information requirements and analysis	
Continue to utilise routine returns, establish processes for ensuring consistency and variations from the AAMP/DBS.	£641,000
Deliver remaining components of Reporters current cycle and prepare for a formal review of Metronet and possibly Tube Lines AAMPs in the Autumn.	
Develop understanding of Metronet Restated Terms and current performance.	
Explore potential of CoMET for future benchmarking internationally.	
Respond effectively to requests for guidance or direction	
Continue preparations for Periodic Review including development of costs of Notional Infraco.	£2,523,000
Develop Notional Infraco cost and performance model.	
Respond to a formal request for guidance or directions related to Periodic Review to published timetable.	
Complete second phase of international benchmarking.	
Complete current joint benchmarking projects including the more detailed review of emerging findings from BSL and the refresh of the routinely collected data.	
Complete any other requests for guidance or direction to the published timetable.	
Ensure proper understanding of the PPP Agreements and the Arbiter's role, both within the organisation and externally	
Continue to develop relationships with PPP Parties such that work can proceed on a cooperative basis.	£48,000
Ensure programme of meetings with external bodies is reflective of the needs of the work programme.	
Ensure that external stakeholders have access to the work programme and are updated on matters relevant to them.	
Maintain relationships with ORR.	
Develop relationships with third parties that enable progress of OPPPA's programme of benchmarking work.	
Manage the Office effectively	
Continue to consider long term options for structure of Office in light of emerging Metronet proposition.	£630,000
Ensure that staff development continues to facilitate succession planning.	
Refresh IT system.	
Complete all routine Office administration as required.	
Complete annual report and budget cycle.	
Review corporate governance.	
Maintain risk register.	
Total	£3.9m

(c) Financial projections and performance targets

- 4.34 Annex 1 provides outturn figures for 2008-9 that is consistent with the data provided to the NAO for review. The audit is not yet complete.
- 4.35 Annex 2 provides a budget for 2009-10 consistent with the version provided to the Department in February. It provides for ongoing preparatory work for Periodic Review and a full cost/ISC reference within the year. Work in addition to this in the form of additional significant references or additional work related to the Metronet Infracos is provided for in the contingency line. Table 8 below sets out the grant in aid phasing for 2009-10 as agreed with DfT and consistent with the budget provided in annex 1.

Table 8: Grant in aid profile

Month	Amount £'000
April	425
May	475
June	415
July	500
August	300
September	160
October	225
November	360
December	360
January	300
February	240
March	140
Total	3,900

- 4.36 Annex 3 provides budget projections for the financial years 2011-12 to 2013-14, as required by DfT. The provision of two scenarios in this plan for the period after completion of the Periodic Review reflects the uncertainty about the extent of the future role of Arbiter. As described in section 3 the 'As is' and 'Alternative' scenarios are presented on the following basis:

- 'As is' where the Arbiter's role remains as now for Tube Lines and is restricted to reporting and limited comparative analysis for Metronet; and
- 'Alternative' where the Arbiter retains a role in relation to assessing the efficiency and economy of Metronet activities within London Underground.

The key difference between the two is that in the Alternative scenario the budget assumes a formal performance review of the Metronet Infracos and London Underground's management of them in a form akin to the Annual Metronet Report anticipated by the BCV and SSL PPP Agreements.

4.37 In addition the projections in annex 3 reflect the following assumptions:

- staff costs are assumed to rise at 2.5% per annum;
- all other costs are inflated at 3% per annum;
- provision is made for exceptional bonus/retention payments in 2010-11 reflecting the Arbiter's view that maintaining continuity at OPPPA in an uncertain environment is critical to the success of Periodic Review and the ongoing effectiveness of the Arbiter's role; and
- contingency amounts are projected at £1m per annum on the basis that this figures allows for a further broad based costs references e.g. Extraordinary Review, at any time.

4.38 In the 2008-09 plan, the Arbiter indicated that further work was to be undertaken to revise the key performance indicators that are set for the Office. The purpose of this exercise was to reflect more effectively the value that is added by the Arbiter and his team. Although work has been commenced it is not yet complete. Tables 9 and 10 therefore reflect the performance indicators and targets from 2008-09, although work now underway is expected to allow the targets to be revised ahead of the September 2009 budget refresh.

Table 9: Non financial indicators: Performance against target

Metric	
Delivery of the work programme	Deliver work programme in full.
The delivery of guidance or direction following a reference	Delivery of guidance or direction to be as per the agreed and published timetables, and in accordance with the Procedural Framework.
Supplier performance <ul style="list-style-type: none"> • Framework contractors • Other significant suppliers 	<p>All instructions to be completed as per the contract terms.</p> <p>Ongoing monitoring to continue; further efficiency savings from co-location to be explored.</p>
Business Review	Review of general routine business procedures and performance.

Table 10: Financial indicators: Performance against target

Metric	
Cost v budget - quality of forecasting.	Year end retained earnings to be less than £30k.
	<u>% Variance from budget</u>
Staff costs	Less than 3%
Office running costs	Less than 3%
Third Party Advisers	Less than 5%
Financial performance of suppliers	All suppliers to charge for services within the agreed contract terms.
Percentage of invoices paid within 30 days	100% of agreed invoices to be paid within 30 days.

Annex 1: 2008-09 outturn against revised budget

	Revised budget Jan 2009	Cash spent in the year	Adjustment for accruals	Adjustment for non-cash items	Outturn for year (on an accruals basis as per accounts)
Regular costs					
Salaries	927	929		20	950
Accommodation costs	110	111	0	0	111
Other Office running costs	108	79		0	79
Notional cost of capital and other finance costs		0	0	-8	-8
IT and website costs	71	77	0	0	77
IT and website depreciation		0	0	14	14
Legal costs	108	78	0	0	78
External advisers					
Reporters	419	407	0	0	407
Project and Benchmarking costs	482	495	0	0	495
Initial Ranges Guidance	1,185	1,155	0	0	1,155
Preparation for Periodic Review	260	277	0	0	277
Total Expenditure	3,656	3,608	0	26	3,634

Grant in Aid¹⁰

3650

¹⁰ OPPPA's annual budget is revised each year such that the Grant in Aid profile can be amended in line with revised spend forecasts to enable OPPPA to manage its cash balances to a level agreed with DfT. A revision was approved in October 2008. A further £100k Grant in Aid was received in March and reflected in the revised February 09 budget.

Annex 2: Budget for 2009-10

(£'000 including VAT)	Apr ¹¹	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar		Total
Regular costs														
Salaries	74	143	75	81	81	81	83	83	83	83	83	84		1,034
Accommodation costs	58						58							116
Other Office running costs	15	10	10	15	10	10	15	10	10	15	10	10		140
IT costs	1	1	115	4	4	4	4	4	4	4	4	4		153
Legal costs	10	10	10	10	10	10	10	10	10	10	10	10		120
External advisers														
Reporters	49	103	80	82				50	50	50	50	42		555
Benchmarking		16	10	180	65									271
Periodic Review Preparatory Work	7	197	290	198	5	5	5	5	5	5	5	10		738
Post Response work					50	175	50	50	175	175	100	90		865
Total expenditure	214	480	590	570	225	285	225	212	337	342	262	250		3,991
Of which funded by unanticipated b/fwd cash														62
	214	480	590	570	225	285	225	212	337	342	262	250		3,929
Grant in Aid	425	475	415	500	300	160	225	360	360	300	240	140		3,900
<i>Contingency</i>														<i>1,000</i>

¹¹ April figures include the £62K of work underway in March that slipped over the at the year end, here this is funded via the unanticipated brought forward cash elsewhere in this document these costs are included as part of the 2008-09 expenditure.

Annex 3a: Financial projections for 2010-11 to 2012-13 (“As is” scenario)

	2009-10	2010-11	2011-12	2012-2013	2010-11	2011-12	2012-2013
	Budget	Projection	Projection	Projection	Projection	Projection	Projection
		07-08 prices	07-08 prices	07-08 prices	cash	cash	cash
Regular costs							
Staff costs	1,034	1,266	1,035	1,035	1,298	1,087	1,115
Accommodation Costs	116	116	116	116	119	123	127
Other Office Costs	140	140	140	140	144	149	153
IT expenses	153	60	60	60	62	64	66
Legal Costs	120	120	120	120	124	127	131
External advisers							
Reporters	555	555	150	150	572	159	164
Benchmarking	271	275	275	275	283	292	300
Periodic Review preparatory work	738						
Post Response Work	865						
<i><u>"As is" scenario additions</u></i>							
Good Industry Practice		250	250	250	258	265	273
Metronet comparative report		250	250	250	258	265	273
Total (before contingency)	3,991	3,032	2,146	2,396	3,118	2,531	2,602
Grant in aid	3,900				3,118	2,531	2,602
<i>Contingency</i>	1,000				1,000	1,000	1,000
Total including contingency	4,900				4,118	3,531	3,602

Annex 3b: Financial projections for 2010-11 to 2012-13 (“Alternative” scenario)

	2009-10	2010-11	2011-12	2012-2013	2010-11	2011-12	2012-2013
	Budget	Projection	Projection	Projection	Projection	Projection	Projection
		09-10 prices	09-10 prices	09-10 prices	cash	cash	cash
Regular costs							
Staff costs	1,034	1,266	1,035	1,035	1,298	1,087	1,115
Accommodation Costs	116	116	116	116	119	123	127
Other Office Costs	140	140	140	140	144	149	153
IT expenses	153	60	60	60	62	64	66
Legal Costs	120	120	120	120	124	127	131
External advisers:							
Reporters	555	555	150	150	572	159	164
Benchmarking	271	275	275	275	283	292	300
Periodic Review Preparatory Work	738						
Post Response Work	865						
<i>"Alternate" scenario additions</i>							
Good industry practice		250	250	250	258	265	273
AMR equivalent		1,000	1,000	1,000	1,030	1,061	1,093
Total (before contingency)	3,991	3,782	3,146	3,146	3,890	3,327	3,422
Grant in aid	3,900				3,896	3,338	3,438
Contingency	1,000				1,000	1,000	1,000
Total including contingency	4,900				4,896	4,338	4,438