

THE OFFICE OF RAIL AND ROAD

129th BOARD MEETING

08:30-14:00 TUESDAY 25TH OCTOBER 2016

JURY'S INN HOTEL, JAMAICA STREET, GLASGOW

Non-executive members: Stephen Glaister (Chair), Tracey Barlow, Bob Holland, Michael Luger, Justin McCracken

Executive members: Joanna Whittington (Chief Executive), Ian Prosser (Director Railway Safety)

Executive Directors: John Larkinson (Director Railway Markets and Economics); Graham Richards (Director Railway Planning and Performance),

In attendance: Dan Brown (Director Strategy and Policy), Juliet Lazarus (Director Legal Services and Competition), Tess Sanford (Board Secretary)

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. David Franks, Anne Heal and Graham Mather had sent apologies because of commitments that had pre-existed their appointments to the Board as non-executives.
2. Russell Grossman who would normally attend was on leave.

Item 2 DECLARATIONS OF INTEREST

3. There were no relevant declarations of interest.

Item 3 APPROVAL OF PREVIOUS MINUTES

4. The Board agreed the September minutes subject to minor corrections.
5. Joanna Whittington briefed the board on progress on the MoU with the Department for Transport.
6. She also reported that ORR had not been called to the Public Accounts Committee hearing on Great Western electrification which was scheduled for December.

Item 4: MONTHLY HEADLINES

7. Ian Prosser reported on:
 - The first level crossing fatality of 2016/17.
 - A shift in frontline inspection resources to prioritise earthworks, particularly on London Midland and LNE.
 - The planned industry meeting on train dispatch which had been well attended.
 - A trial to reduce the quiet period for level crossings (ie the period overnight during which whistles are not used) to midnight - 6am (from 11pm-7am).

8. Graham Richards reported on:
 - A recent meeting of the Chris Gibb review project board (looking at performance on GTR), which had two new 'passenger members' nominated by local MPs.
 - Progress on Great Western electrification and how it was reported in ORR's regulatory escalator.
 - A cluster of performance issues relating to VTEC and asset maintenance on LNE which were on our regulatory escalator and in the CP5 tracker.
9. John Larkinson highlighted:
 - Welsh government's plans to combine its franchise with upgrade of the infrastructure, which would be a novel approach. Potential bidders were seeking meetings with ORR as regulator and John discussed our likely role.
 - A likely new open access application.
10. Juliet Lazarus updated the board on the HAL judicial review which had been given permission to proceed and had also been expedited.
11. Joanna Whittington updated the board on:
 - Progress on the two unexpected potential financial claims on ORR reported in September;
 - Discussions with Highways England on their data and performance;
 - A recent meeting of road safety stakeholders;
 - Forthcoming meetings of the freight panel and freight customers, where some NED presence would be helpful [*Action: Secretariat to circulate dates*];
 - The recent Transport Select committee report on the passenger experience;
 - A future agenda item on the channel tunnel and European issues.

Item 5 REGULAR REPORTS

12. The Board discussed monthly reports on rail safety, the NR CP5 Tracker and the Q2 report against the business plan.

SAFETY

13. The board noted that track condition indicators continued to improve.
14. The board discussed the safety risks associated with mobile phone use while driving or moving around the road and rail networks. This was an issue of public behaviour which was likely to be slow to change.
15. The board asked if there was any sign that safety was being compromised by industrial action on the rail network and were assured that IP had seen no evidence of this.

CP5 TRACKER

16. GR had been asked to consider the apparent disconnect between the improvement in the composite reliability index (CRI) and overall network performance (PPM) measures (in an action from the September meeting). This remained one of the areas where PPM was not a useful measure and the team were looking at time to incident, time to fix and time to recover (adding

up to delay minutes per incident) as a way of better understanding and attributing delays.

17. He reported that Chris Gibb's project board was also looking at whether incentives for TOCs and NR on delays were aligned.

ORR Q2 REPORT AGAINST BUSINESS PLAN

18. JW reported that two out of three of the overdue items for this quarter had been resolved at the HSRC meeting the day before.
19. The measure of time spent by inspectors on inspections was at our minimum standard of 50%, but this was seasonal and should increase over the remainder of the year.
20. The staff survey was under way.
21. The board noted an overall improvement in the report's usefulness and relevance.

ITEM 6 REFLECTIONS ON STAKEHOLDER DINNER AND STAFF SESSION

22. Non executive members had met staff in the Glasgow office and discussed local and national issues, including risks relating to asset maintenance and vegetation control and the impact these have on the service to passengers.
23. The board discussed our resources in Scotland and welcomed the growth of the Glasgow office to include more non-safety staff.
24. Board members agreed that they had found the opportunity to meet and listen to local stakeholders very useful in improving their understanding of Scottish issues. Staff would seek feedback from our guests to inform future events. A proposal as to the destination for the next regional meeting would be presented at the next Board. *[Action: Secretariat]*

James Osborn (Private Office assistant) joined the meeting

ITEM 7 ORR REVIEW OF RSSB

25. Stephen Glaister thanked the members of the working group who had supported this review and commended the work done by Johnny Schute, Ian Prosser and Justin McCracken to bring the review to this point.
26. Ian Prosser introduced the draft report which had been seen and broadly accepted by the RSSB board. The steering group was enthusiastic about this new settlement for RSSB.
27. The board approved the report subject to any minor corrections required and delegated sign off of the final text to Justin McCracken and Ian Prosser.
28. The report would be launched alongside RSSB's response at a joint event in November.
29. The board suggested that it would be useful if industry's views were taken in any report by RSSB of progress against the review's recommendations. *[Action: Ian Prosser]*

ITEM 8 NETWORK RAIL PERFORMANCE

Nigel Fisher joined the meeting for this item.

30. Graham Richards reported on the current position.
31. In Scotland, PPM was 1% below target at 91%. Following meetings since the paper had been written he reported that NR expected to be back on trajectory by the end of 2017/18 as a result of timetabling and other improvements. Scotrail had delivered to target for the last six weeks.
32. GR reported that the next Monitor publication would begin to include information around delay per incident (i.e. time to site, time to fix or recovery time) and unexplained delay, with a view to helping identify the underlying issues.
33. Nigel Fisher reported on work between NR and TOCs to develop route scorecards which both could agree. NR's ambition was to use these scorecards to capture NR's delivery commitment to its customers. Although it is early in the process and progress was variable, there was some promising work in hand.

ITEM 9 PR18 TIMETABLE

Richard Gusanie dialled into the meeting for this item

34. John Larkinson introduced the item. In September the board had asked him to return in October with an assessment of a draft written request from DfT to adjust the HLOS/SOFA process.
35. John reported on NR's and the Scottish and Welsh governments' positions.
36. The board discussed the options set out in the paper and agreed that ORR should continue to discuss timing of the HLOS/SoFA with the department. The timetable should allow Network Rail to plan properly to deliver an efficient and sustainable railway.
37. The board asked that any consultation document should be framed in a way that allowed ORR to assess the real impact on stakeholders to inform its decision on when to issue a notice for the HLOS/SoFA. The Chair and Chief Executive should sign off the consultation document.
38. The board would meet specifically to deal with this item on its committee day in December (12th December). *[Action: Secretariat]*

ITEM 10¹ PR18 FINANCIAL FRAMEWORK

Carl Hetherington and Paul Darby joined the meeting for this item

39. John Larkinson introduced the paper. It was important for the board to discuss the financial framework in broad terms because it underpinned wider issues around: Network Rail's financial risk and historically rising debt; the way the company's structure affects its operation; and its ambition to find ways to bring private finance into the business.

¹ Item 11 in the papers

40. John suggested a set of principles for ORR to apply in determining the financial framework. These principles could be consulted on. He suggested the framework should:
 - be internally coherent
 - be compatible with new external sources of finance
 - prevent perverse incentives
 - be transparent
 - support or drive financial sustainability *and* network sustainability.
41. The board discussed the draft structure of the document at Annex 2 and the appropriate tone.
42. ORR's consultation on the financial framework would aid transparency in this very complex area. In particular, we should aim to attract responses from a wider commercial audience. The board delegated to John Larkinson the agreement of the final consultation document.
43. The board noted that although ORR did not set NR's borrowing limit, our advice and analysis had been drawn on by DfT in setting the current limit.

ITEM 11² PR18: CHARGES AND INCENTIVES PAPER

Chris Hemsley and Paul Cornick joined the meeting for this item

44. At previous discussions, the board had agreed to limit potential changes in PR18 to the framework of charges and incentives.
45. The board discussed the way that changes to fixed cost charging for passenger operators, combined with DfT's new PSO levy, together could make a fairer environment for open access and franchise operators in terms of access to the network.
46. The board approved a number of proposals to consult on:
 - a routine recalibration of variable charges and a commitment to consider wider changes for the next review;
 - applying fixed cost charges to all passenger operators (ie including OAOs), subject to 'market can bear' tests;
 - greater transparency and an intention to undertake further analysis on the ability of different freight commodities to bear mark-ups;
47. The board approved an open consultation on:
 - Schedule 8 and passenger compensation issues;
 - uncapping or removing the capacity charge;
 - changes to or removing REBS³.
48. The board discussed Schedule 8 which was accepted as broadly effective by those inside the industry, but was very poorly understood outside. The consultation would set out the purpose and evidence for Schedule 8 clearly as context. Responses on this would also inform ORR's response to the final outstanding action on the super-complaint.
49. The board noted that the work on the capacity charge was likely to be particularly complex and discussed the various options that might emerge on REBS. John Larkinson alerted the board to some forthcoming payments under the current REBS.

² Item 10 in the papers

³ Route-level Efficiency Benefit Sharing mechanism

50. The Board delegated sign off of the consultation document to John Larkinson.

ITEM 12 BOARD EFFECTIVENESS REVIEW

51. Tess Sanford summarised work which would be undertaken in the light of the board effectiveness survey. These included:
- A refreshed forward programme for the board
 - Continuing work to improve papers
 - Ways to improve action tracking and reporting on the impact of previous board decisions.
52. At the first meeting of the new, expanded board in November the board would discuss:
- Any changes to committee memberships
 - Best ways to draw on all NEDs' skills
 - Ways to mitigate the risks of increased numbers to effectiveness.
53. The board discussed cross cutting themes which could underpin the executive's thinking about business planning for 2017/18 and beyond.
54. The board discussed ways that the non-executives contribute to ORR beyond the regular board and committee meetings and how this could be applied to PR18 in particular. It was agreed that an additional tier of PR18 scrutiny through a new committee would not be efficient so the board needed to find new ways to deal with this high level of business.
55. The board noted the report. The Executive would plan an appropriate programme for the November strategy day and a timetable for delivering the other pieces of work. [Action: Board Secretary]

ITEM 13 REPORTS FROM THE COMMITTEES

56. Justin McCracken reported on the previous day's HSRC. They had received a very good report on the hard statutory framework within which ORR operates and how cost of a life was calculated by government. This was an important piece of work that would give us the evidence to respond to any fresh attack on our overall approach. The committee had also considered strategic chapters on workforce safety, culture and leadership and health and safety management systems.

ITEM 16 ANY OTHER BUSINESS

57. There was no other business. The next meeting would be in November and include the annual strategy day. *Meeting closed 2.00 pm*

Agreed by the board on 22 November 2016