

THE OFFICE OF RAIL AND ROAD
137th BOARD MEETING
09:00 -14:45 TUESDAY 27TH JUNE 2017
ONE KEMBLE STREET, LONDON WC2B 4AN

Non-executive members: Stephen Glaister (Chair), Tracey Barlow, David Franks, Anne Heal, Bob Holland, Michael Luger, Justin McCracken, Graham Mather

Executive members: Joanna Whittington (Chief Executive), John Larkinson (Director Railway Markets and Economics), Ian Prosser (Director Railway Safety), Graham Richards (Director Railway Planning and Performance).

In attendance: Dan Brown (Director Strategy and Policy), Russell Grossman (Director Communications), Juliet Lazarus (Director Legal Services and Competition), Tess Sanford (Board Secretary); Freya Guinness (Director of Corporate Operations and Organisational Development)

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The chair welcomed everyone to the meeting. He congratulated Graham Mather on the award of a CBE in the Queen's Birthday Honours. He particularly welcomed Freya Guinness to the ORR.
2. There were no apologies for absence from members. Peter Antolik was on leave.

Item 2 DECLARATIONS OF INTEREST

3. There were no new declarations of interest in relation to the planned business. Justin McCracken reminded members of his pre-existing interest in Ombudsman Services Ltd.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The Board agreed the minutes subject to one note of clarification.
5. On matters arising Juliet Lazarus suggested that the action on HS2 legislation could not be progressed until the autumn and should be added to the board forward programme for that time. **[Action: forward programme]**

Item 4: GENERAL ELECTION OUTCOME

6. Dan Brown reported on
 - machinery of government changes including the new ministerial teams;
 - changes to the legislative programme and the timetable for new select committees; and
 - how ORR's business with government had progressed since the election.
7. Dan and John Larkinson described work in hand on the HLOS and SoFA and the collaborative approach ORR was taking to the process.
8. Government's role in the process was to set out what they expected NR to deliver and how much they were prepared to pay for it. It was currently unclear how much detail would be provided. It was important that clear planning assumptions were available to underpin NR's strategic business planning

process, and ORR may need to provide these, depending on the level of detail in the HLOS/SoFAs.

9. The Board noted the supportive role ORR was playing as an independent body. Directors confirmed that ORR's advice on assumptions would be public and as transparent as possible. In addition, the Monitor would be published in July and would again report NR's poor financial performance in CP5, highlighting the importance of proper planning for the beginning of CP6.
10. Juliet Lazarus reminded the Board that there was a complicated statutory process that would be triggered if ORR determined that governments' HLOSs could not be delivered within the funds it made available.
11. The Board welcomed the report that ORR's advice to DfT on the importance of funding renewals in CP6 had apparently been understood and accepted.

Item 5: HEADLINES AND REGULAR REPORTS

12. **Ian Prosser** updated the Board on ORR's investigations in relation to the multi-fatality tram incident at Croydon; progress on rolling stock authorisations; enforcement activity on NR which targeted national improvements; and likely prosecutions.
13. The Board noted with regret the report of two deaths, one at a level crossing and one a worker at a depot: ORR's investigations of each were in hand.
14. **Graham Richards** discussed the publication of the Gibb report by DfT and PPM performance in the first three months of the year. He reported that a correlation had been identified between the composite reliability index (asset reliability) and PPM, which evidenced how improved asset reliability supported improved performance. Justin McCracken asked that the IA team consider the latest developments in big data analysis, where it seemed likely that useful intelligence could be drawn from our existing data sources. [Action GR]
15. **John Larkinson** discussed the PR18 report and pressures on the programme timetable. He reported that Alliance had not been able to obtain the rolling stock on which their access rights to run a London/Blackpool direct service relied. Two new applications had been received for rights on this route.
16. John also reported on his recent round of meetings with TOC MDs.
17. **Joanna Whittington** reported on:
 - A meeting with Highways England's Board and HE's continuing work on their capital programme.
 - Progress and issues with the IS transformation programme.
18. **Juliet Lazarus** reported on the outcome of the HAL judicial review, which had found in favour of ORR. HAL had been granted leave to appeal the judgement. The outcome would not affect the appeal ORR was considering from TfL against HAL.

Freya Guinness left the meeting

Item 6 PR18 OVERALL FRAMEWORK CONSULTATION

Chris Hemsley and Emily Bulman joined the meeting for this item.

19. John Larkinson introduced the item. The aim was to join up all the existing publications and set the agenda for the next phase.
20. The Board discussed the content of the document and the degree to which it conveyed the key messages:

- How the overall parts of the settlement fitted together;
 - The anticipated benefits of route based regulation
 - The importance of the system operator in this model
 - The scale of change needed in NR and among operators to implement and deliver the benefits.
21. The Board discussed the ways in which scorecards, reputational incentives, public hearings, and licence enforcement might work in regulating NR routes and its system operation. How route managing directors' independence would work in practice was still being explored by NR.
22. The Board suggested some improvements to the document including strengthening references to passenger interests and delegated sign off to John Larkinson. [Action]

Item 7 NETWORK AVAILABILITY METRICS FOR CP5

Rebekah Paul joined the meeting for this item

23. Graham Richards introduced the paper. The objective of the network availability measure is to encourage NR to reduce the levels of disruption to passengers and freight customers caused by planned engineering work. PDI-P and PDI-F are regulated outputs in CP5.
24. NR had sought permission to change the metric to a less-complex set of measures (EWI) and to cease measuring PDI immediately. As the EWI measures had not been tested over time, the recommendation was to reject this request. Further work was in hand to consider the degree to which NR was successful in minimising planned disruption.
25. The Board acknowledged NR's argument that the existing measure was unwieldy and unused, and noted that the CP5 settlement had allowed for proposals for a new, robust, industry agreed measure to replace PDI during CP5. This opportunity remained open to NR, but while no robust meaningful alternative was available, the PDI reporting should continue.

Item 8 RAIL HEALTH AND SAFETY: CHIEF INSPECTOR'S ANNUAL REPORT

26. Ian Prosser introduced the latest draft of his report, setting out key themes from the evidence, what that said about ongoing challenges for the industry and his view of areas of highest risk. The final report would include all the evidence that informed risk-based operational decisions about where to focus the safety division's resources.
27. The Board discussed the importance of the report, the breadth of evidence that underpinned it, and the content.
28. The Board noted IP's advice that the lack of growth in NR's management maturity shown by RM3 and the stalled improvements in performance indicators gave the strongest illustration yet of the vulnerability of NR's improved safety management record of recent years.
29. IP referenced incidents where assets had been known to be vulnerable and under regular inspection by staff but had still failed – with potentially catastrophic consequences. This illustrated that increased reliance on human judgement or action added increased risk into the system.

30. The Board noted that risks around terrorism were outside ORR's responsibilities as a safety regulator.
31. The Board asked members of its HSRC committee to review the updated draft report pending publication on 19 July. [Action: J McCracken, D Franks, I Prosser]

Item 9 RSSB REVIEW - UPDATE

Johnny Schute joined the meeting for this item.

32. Johnny Schute introduced the paper which reported on RSSB's progress against the recommendations made in ORR's quinquennial review last year. The Board noted the report. The Chair and Chief Executive of RSSB have been invited to attend ORR's board meeting in July as part of the board's programme of stakeholder visitors.

lunch

Item 10 ORR'S INVESTIGATION INTO NR'S PERFORMANCE DELIVERY TO SOUTH EASTERN TRAINS

33. Graham Richards reminded the Board of the background and context to the investigation and the areas under scrutiny:
 - The planning, delivery and review of train performance improvement;
 - The management of infrastructure assets
 - The interaction between the Route and Infrastructure Projects, particularly the Thameslink Programme.
34. The paper set out the work the investigation team had done and Graham described what he and the team had seen on the route in terms of improved management behaviours and responses to inquiries. Overall, management were now doing much better in delivering the detail of running the route. The changes in behaviour and practice had delivered improved performance with targets being met for P1 and P3 and only just missed for P2 (which could be attributed to a single incident).
35. There were some lessons around the interface between the Infrastructure Projects and Route management, some of which had already been addressed. These lessons could be significant for future projects, including for example the forthcoming work at Euston to accommodate HS2.
36. Graham reported that his view was that NR was doing everything practicable to deliver its performance to South Eastern and he would not be issuing a 'case to answer' letter at this time. South Eastern and three other companies would remain under enhanced monitoring.
37. A report to this effect would be published alongside the summer Monitor.
38. The Board discussed the report and particularly the degree to which the reported improvements at South Eastern were being replicated in other routes. If changes were dependent on the new route MD then it was important they were supported by systemic improvement. It was important that NR centre fulfilled its role in sharing and embedding good practice across the network and that NR's Board understood the

implications of the investigation. JW confirmed that two NR executive board members had been present at the NR/ORR high level meeting where it had been discussed.

Item 11 ANNUAL RAIL CONSUMER REPORT

Stephanie Tobyn and Harriet Gamper joined the meeting for this item.

39. Stephanie Tobyn described how the report had been prepared, its audience and key messages. The team had found that the process of sharing and checking the content with TOCs had in some cases led to them altering their practice to align more closely with our view of good practice. She used sample tables from the report to demonstrate an overall improvement across all the TOCs (with one or two exceptions).
40. Stephanie described other improvements to the report's content and analysis.
41. The Board discussed the content they had seen and welcomed the reported improvement in TOC engagement with the content and with the ORR team. This was a major report and built on the baseline report issued last year.
42. The Board recognised that the key audience for the report was the industry, but asked how communications material could also be tailored for passengers.
43. Anne Heal congratulated Stephanie on the recruitment of a very strong consumer panel which she believed would be a valuable resource for ORR. Stephanie reported that the panel would be asked to undertake a reflection exercise on the report post-publication.

Item 12 FEEDBACK FROM COMMITTEES

44. The Highways Committee and Remuneration and Nominations Committees met on 26th June.
45. Stephen Glaister reported on the Highways Committee, particularly staff's decision not to supply early advice on RIS2 funding to DfT, which he supported.
46. The RENCO business would be discussed at the end of the meeting, without the executive directors.

Item 13 ANY OTHER BUSINESS

47. The Board noted the board forward programme and work in hand to secure NED attendees at route level meetings on NR's strategic business plan .

All SCS staff left the meeting. David Chapman joined the meeting.

The note of this part of the meeting was recorded in an addendum until after approval – at which point it has been added back into the final version and included in the published version.

27 June 2017 ORR Board minutes addendum – SCS performance

Item 14 SCS PERFORMANCE AND REWARD 2016-17

48. Michael Luger, reported on RENCO's discussions the previous day with the chief executive about performance rankings and potential bonuses for staff in grades SCS1, SCS2 and, separately, for the chief executive (SCS3).
49. He described the civil service and cabinet office constraints on the board's options for reward and the process of appraisal for the individuals in the cadre of 14 SCS members.
50. No guidance on SCS reward had been provided by cabinet office for 2016-17 but the HR assumption had been that it would be the same as that in all recent years. This year that would mean no more than four SCS members receiving top rankings and a pot for bonuses of 3.5% of the SCS salary bill. From that permitted pot, a sum would be set aside for in-year awards for exceptional delivery by SCS members.
51. The board's decision therefore was only a 'minded to' one at this stage.
52. David Chapman tabled a note setting out the ranking of the SCS individuals as recommended by the committee which identified which individuals were top performers.
53. The board reflected on the high quality of the executive team and the generally improved level of performance from individuals, including some star performers.
54. The board adopted RENCO's recommendations for the rankings and these would be notified through the chief executive. [Action: Michael Luger]
55. Any significant change in the policy when received would be discussed by RENCO and reported to the board.

Signed by Stephen Glaister
14 August 2017

