

THE OFFICE OF RAIL AND ROAD
158th BOARD MEETING
26 March 2019, 09:00 – 15:00
One Kemble Street, London, WC2B 4AN

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

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

In attendance: Dan Brown (Director Strategy and Policy), Russell Grossman (Director of Communications), Juliet Lazarus (General Counsel), Tess Sanford (Board Secretary), Carl Hetherington (Deputy Director Railway Markets and Economics)

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. There were no apologies.

Item 2 DECLARATIONS OF INTEREST

2. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The minutes needed some correction and clarification but were otherwise agreed. The chair would sign them once these changes had been made.
4. The Board noted the report on the action points which included:
 - clarification on a future agenda item on train service performance measurement [forward programme]
 - a reminder about the role of RENCO¹ in supporting NED recruitment.

Item 4: EXECUTIVE DIRECTORS' HEADLINES AND REGULAR REPORTS

5. **Ian Prosser** introduced the new format of monthly report to the Board. The board welcomed the move to a shorter and more focused report and asked for trends to be shown. The board also asked the quality of reproduction and size of the text to be taken into account when circulating papers. [Action – secretariat] Ian reported on: challenges resulting from new rolling stock – both particular types and the overall scale of change; IGC's work on the Eleclink project; industry workshops on alertness devices for drivers; toilet effluent discharge. The board asked about increasing rolling contact fatigue reports: because the risk is mitigated by speed restrictions, this had implications for performance as well as safety risk. HSRC² had discussed the unimproved performance on track worker safety with Chris Gibb (NR's non exec chair of their SHE committee) the day before.
6. **Graham Richards** reported on preparations for the start of CP6 including internal recruitment. The board discussed risk identification around the May 2019

¹ ORR's remuneration and nominations committee

² ORR's health and safety regulatory committee

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timetable change and related access arrangements, which staff expected to resolve in good time. TOCs had written to the Secretary of State about their own readiness. The board took some assurance from the publication of timetables for May, but were concerned that contingency arrangements should also have been considered by NR. The board asked JkL to write to NR seeking assurance on this issue. [Action: John Larkinson] Overall the executive felt that May '19 timetable was 'on track' but would continue to be vigilant in monitoring progress to launch day.

7. **Carl Hetherington** reported on potential issues with the introduction of the ombudsman condition to the TOC licences and asked the Board to note that the Scotland grant letter had not yet been finalised between Transport Scotland and NR.
8. **Dan Brown** reported on good progress towards arrangements for the continuation of services post-Brexit, particularly a 9 month extension on driver licence validity issued by the EU. The remaining risks were outside the control of ORR/DfT including customs arrangements and passport clearance at St Pancras. Graham Richards added that plans were in place and tested for highways disruption in Kent and other ports. He had discussed with Highways England the importance of their role in getting good information to customers during any disruption and particularly in responding dynamically to any emerging issue – drawing on the recent investigation into PIDD failures on rail.
9. **John Larkinson** reported on progress on the London office move, staff engagement through leadership roadshows, the announcement of the PIDD investigation outcome, feedback on the Manchester stakeholder dinner and other external engagement.

Item 5: 2019-20 BUDGET ALLOCATIONS AND STRATEGIC OBJECTIVES

Freya Guinness called in for this item

10. Freya Guinness introduced the item. Since their February meeting the board had been consulted on how to treat an increase in employer contributions to pensions, which would add nearly £1m to the overall budget. This would be passed on to the rail industry through the levy and sought from DfT for roads.
11. The board continued to be content with the changes proposed to the strategic objectives to better align the language to current priorities.
12. The board noted the service standards and suggested that each should also be reported on a quarterly basis.
13. The board approved the budget allocations and the revised strategic objectives.

Item 6: SAFETY REGULATION OF THE CHANNEL TUNNEL FOLLOWING A NO DEAL BREXIT AND PROPOSED MOU WITH EPSF

Martin Jones joined the meeting for this item

14. Martin Jones explained the changes made to the draft MOU since the papers had been circulated, none of which were substantive. The board noted the report and delegated the agreement and signing of the MOU to the Director of Railway Safety [action list].

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Items 7, 8 and 9 all related to NR but were slightly rearranged to reflect a more logical progression

Item 7 NR'S DELIVERY OF PERFORMANCE: COMPLIANCE WITH ORR'S PROVISIONAL ORDER

Dominic Bulcock joined the meeting for this item on the phone.

15. Graham Richards reported that the response from NR to the provisional order had been encouraging and the monitoring framework would now hold them to account to the plan offered. Close monitoring of Wessex, LNE and Scotland would continue and NR would produce a six month report (in September) on progress [forward programme].
16. The board was concerned about the quality of the plan to deliver improvements in performance and wished to see early evidence that changes were delivering improvement, given the lead times in some of the plans – so the September report should include concrete examples, however small. The board discussed the importance of identifying leading indicators that would show how passenger experience was changing, recognising the challenge this posed and the work already under way by NTF. While the adoption of a maturity model was encouraging, the timescales for change were disappointing. The board noted that well-made plans were only the starting point and delivery against the plan was more important.
17. The board agreed that NR had complied with the provisional order and asked for quarterly reports to demonstrate ongoing evidence of improvement in line with the plan. Jlk would write to NR [Action]

Item 9 NR'S CP6 PREPAREDNESS: EFFICIENCY PLANNING

Gordon Cole joined the meeting for this item

18. The board had concerns about NR's efficiency plans for CP6 and welcomed the paper which showed that the quality of underlying evidence from NR was insufficient to demonstrate their ability to deliver efficiently in CP6. Following ORR's intervention, NR had now understood ORR's real concerns. The board discussed the importance of fiscal accountability through route management. The executive were considering what evidence might lead to consideration of a licence breach in this regard.
19. John Larkinson would write to NR setting out the board's concerns and seeking assurance that they would outline concrete evidence of efficiency measures in place that could be assessed by ORR and that the roll out of the restructuring under the NR100 day plan will demonstrate that real improvements to financial management would be made. [Action]

Item 10 HS1 LTD – 5 YEAR ASSET MANAGEMENT STATEMENT AND PR19

Feras Alshaker joined the meeting for this item and the next.

Keith Ludeman (Chair) and Dyan Crowther (CEO) of HS1 joined the meeting

20. The chair welcomed the guests to this meeting.

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21. The guests tabled a presentation which covered the 5YAMS (5 year asset management statement), NRHS (Network Rail High Speed), engagement, the renewals annuity and next steps.
22. The board and visitors discussed the reasons underlying the projected increase in charges including: quicker than expected track deterioration, treatment of signalling, cost of the annuity, and operating costs for NRHS. HS1 set out the work it had done to manage its overall costs including NRHS's contract.
23. HS1 was working with its passenger and freight customers and stakeholders (including DfT and ORR) to explain the issues and seek solutions that were sustainable: it recognised the potential shock to customers of the projected charge increases. Ultimately it sought an affordable approach consistent with the Concession Agreement but this was proving difficult in spite of positive engagement by DfT and support from ORR's exec team.
24. The board thanked HS1 for their open discussion of the issues.

Lunch

Item 11 PERIODIC REVIEW OF HS1 LTD (PR19)

Chris Warburton and Debbie Daniels joined the meeting for this item

25. Feras Alshaker described the outcome of ORR's public consultation on Eurostar International Limited's (EIL) request for a suspension of the PR19 process because of the demands of Brexit on its business. The board reflected on the pressures on EIL and the possible delay before Brexit was resolved.
26. The paper set out four options including two which required a variation to the process set out in the Concession Agreement and therefore could not be implemented without HS1 and DfT agreement. HS1 had said they would not consent to the delay requested by EIL.
27. The board recognised the real issues presented by Brexit for EIL and the preference of HS1 for no change to the Concession Agreement process. However, the board agreed that option 1 offered a fair and pragmatic change which would not compromise the legitimacy of the process.
28. The board understood that it did not have powers to unilaterally change the process set out in the Concession Agreement as requested by EIL and therefore would allow EIL to make additional representations by mid-June and to allow HS1 to comment on those views. This would not vary the Periodic Review process set out in the Concession Agreement and could be implemented unilaterally by ORR.
29. GR would write to all the parties. All relevant correspondence with HS1, DfT and EIL would be put in the public domain. [Action: GR]

Item 8 NR'S 100 DAY REVIEW AND CP6 DELIVERY PLAN

Carl Hetherington and Pedro Abrantes joined the meeting for this item

30. DfT was due to publish NR's Delivery Plan for CP6 imminently. John Larkinson emphasised the need for the plan to be clearly reconcilable to the Final Determination before it was adjusted or changed by the 100 day review. The link was not yet sufficiently clear in all areas. The Board noted that the enhancement delivery plan would be published late because the DfT needed more time to consider it.
31. Further details of the 100 day plan were now emerging including some additional costs.

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32. The board discussed risks arising from the 100 day plan or increasing as a result of management distraction, blurring of accountability, insufficiently detailed plans, doubts about efficient cost management, and poor line of sight to the CP6 commitments.
33. The board had already expressed general support for the 100 day plan as long as it did not undermine the overall settlement and now discussed when it was likely to issue an opinion under the change management licence condition. ORR executive should make clear what it would expect to see and by when – allowing for the delay which arose while senior staffing questions were resolved.

ITEM 12 WILLIAMS REVIEW

Robert Cook joined the meeting for this item

34. Dan Brown updated the board on work with the Williams Review team since the last board meeting and plans for a board policy discussion on the issues that the Review had sought advice on as well as the wider issues it was considering. The board was content with the process outlined by DB and looked forward to a more detailed discussion at the proposed April Board workshop.[Action: secretariat]

ITEM 13 COMMITTEE REPORTS

35. Stephen Glaister reported on the Highways Committee the day before which had discussed: performance in RIS1 and preparations for RIS2, the SBP and efficiency review, and preparations for Brexit.
36. Justin McCracken reported on HSRC which (as already mentioned) had heard from Chris Gibb of NR, and also discussed how ORR should meet its duty to promote safety research, a strategic chapter on tram safety and CTSA as well as noting an updated version of ORR's RM3 safety management tool.

ITEM 15 ANY OTHER BUSINESS

37. The board noted the items circulated below the line including the forward programme.

Meeting closed at 2.55pm