

**Office of Rail Regulation**  
**Railway Industry Health and Safety Advisory Committee (RIHSAC)**

**Minutes of the 92nd RIHSAC Meeting**  
**Tuesday 12 February 2013**  
**Rooms 1 & 2, One Kemble Street, London**

**Present:**

Mike Lloyd	Chair, ORR Non-Executive Director
Chris Angell	Department for Transport
Dave Bennett	ASLEF
John Cartledge	London Travel Watch/Passenger Focus
Steve Coe	TSSA
John Collins	Angel Trains (ROSCO representative)
Jill Collis	LUL
David Davies	PACTS
Colin Dennis	RSSB
Miles Flood	British Transport Police
Bill Hillier	HRA
Mike Lunan	Passenger representative
Colin Robey	CENTRO
Richard Sharp	Murphy (ISLG representative)
Allan Spence	Network Rail
Alastair Young	Transport Scotland
Ian Prosser	Director, Railway Safety, ORR; HM Chief Inspector of Railways
Dilip Sinha	ORR, RIAC secretary
Michael Beswick	ORR
John Gillespie	ORR
Alan Bell	ORR) item 3
Dawn Russell	ORR) Item 6

**Item 1: Welcome, introductions and apologies for absence**

1. Mike Lloyd welcomed everyone to the meeting. He reminded members that the Committee had, at the last meeting, agreed revised Terms of Reference and Rules of Procedure for RIHSAC. These were designed to make clear that the Committee's focus is specifically on health and safety.
2. Mike explained that the process of approval has now been completed. Accordingly, the new name, rules of procedure and terms of reference have now been adopted. The new name should be pronounced in the same way the previous one was, with the H and S treated as silent.
3. Mike Lloyd welcomed David Davies, Chris Angell and Richard Sharp, who are new members of the Committee, replacing previous delegates. RIHSAC agreed with John Cartledge that it would like to send a note to Rob Gifford, the former PACTS representative, thanking him for the good work he did while a member.

**Action: Secretariat to write to Rob Gifford as above**

4. Apologies for absence were recorded from Gareth Llewellyn of Network Rail; Mike Strzelecki of LUL; Louise Shaw of ATOC, and Garry McKenna of DRDNI.
5. RIHSAC reviewed the minutes of the 91st meeting (16 October 2012), which included amendments received by the secretariat after circulation of the original draft. Members agreed the minutes as a correct record.
6. Mike Lunan noted that while Alternates from LUL and Network Rail were present there was no-one present from ATOC. He reminded the Meeting that, in response to a general invitation in 2012 to review the membership of RIHSAC, he had recommended that instead of ATOC a selection of Owning Groups (or of individual TOCs) should be members. In the absence of an ATOC representative there was now no-one present who could speak for those actually providing rail services to passengers. He asked that this be revisited. The Chairman and Ian Prosser agreed to look at this issue again.
7. John Cartledge asked about the progress of the ROGS review, which had been discussed at the previous meeting. Alan Bell said it was nearing completion, and that details of the consultation responses received would be published together with ORR's conclusions on the way forward.

## **Item 2: Chief Inspector's Update**

8. Ian Prosser reported on developments since the last meeting. He said that ORR has recently launched a consultation on the content of its 2013-14 Business Plan. The consultation would end on 15 February, and ORR would welcome any input members wished to offer. There had been a workshop at Kemble Street last week to brief industry stakeholders on the Business Plan proposals, and this had been well attended.
9. ORR has begun the process of assessing Network Rail's Strategic Business Plan, as part of the Periodic Review process. The Plan had reached ORR in early January, and sets out what NR aims to deliver in Control Period 5 (2014-2018). ORR will work closely with NR to scrutinise the plan, in advance of publication of the PR13 Draft Determination in June 2013.
10. On 7 November 2012, ORR held an occupational health event at Kemble Street, attended by a wide range of human resources and health and safety representatives. Feedback from this event had been very positive.
11. Ian said that ORR is working on a regulatory management model to apply to itself. Members will be aware of the Management Maturity Model, which ORR uses to test the effectiveness of health and safety management in dutyholders. The new model would ensure that ORR worked to the same high standards, and has been shared with ERA. Members would want to be aware that the European audit of ORR (part of the audit of NSAs) has now been completed; the results will be published on our website soon along with an action plan.
12. Concluding his update, Ian told RIHSAC that Alan Price has now been appointed as ORR's Director of Railway Planning and Performance. Alan was previously Infrastructure Director for First Group, and has a wide range of experience on both the Underground and mainline railway, as well as in other organisations.

## **Item 3: European health and safety developments**

13. Alan Bell, Head of Railway Safety Policy, opened this presentation. He noted that members had received a Committee paper (RIHSAC/12/02) outlining developments in a number of policy areas. Unless members wanted to discuss anything, Alan proposed to treat that paper as read and give a presentation on the Fourth Railway Package.
14. Alan explained that the European Commission was proposing to introduce a fourth package because it believes that railway markets in Europe are stagnating or declining. It would like to take action, therefore, to encourage innovation and better railway services.
15. The proposals are quite wide ranging. They include a 'one-stop shop' for EU-wide authorisations and safety certificates; opening domestic passenger railway markets to new entrants from 2019; keeping track management separate from train operations; and protecting staff when public sector contracts transfer.
16. The European Commission's impact assessment has led it to believe that national interoperability and safety rules create barriers to access for operators, and that current procedures are too bureaucratic and costly. It wants to see a more harmonised system, and proposes a 'shared competence' model where responsibility is shared by ERA and National Safety Authorities (NSAs).
17. Alan explained the European proposals on safety and interoperability, noting that they aimed to achieve a 20% reduction in time to market for new railway undertakings, and the same percentage reduction in cost and duration of rolling stock acquisition.
18. Alan took the Committee through ERA's presentation slides relating to the proposed changes. He noted that a single authorisation is proposed for vehicles, which would be issued by ERA and valid in all states. This would reduce NSA's role in authorisation, though they may do work for ERA.
19. ERA is also proposing to revise the Safety Directive. This would result in: single safety certificates; removal of unnecessary national rules; and an extension of responsibilities to other rail sector actors.
20. Alan summed up by explaining what actions are likely to take place now (more Commission enforcement, more ERA information dissemination, reduction of national rules) and in the future (move towards single safety certificates and single vehicle authorisations). RIHSAC members were invited to consider whether the proposals would result in benefits for UK and would maintain safety levels.
21. Mike Lloyd thanked Alan Bell for his presentation. Discussion then followed, with points made including that:
  - The Heritage Railway Association believes that its current exemptions should be maintained, and would be concerned if trains which move on and off Network Rail infrastructure fall under the approval process. Alan Bell said he didn't believe HRA needed to be worried about this, as he understood changes to wording relating to heritage railways was simply to make drafting more consistent with the interoperability directive, rather than to extend the scope;
  - Members wondered about 'regulatory creep' possibility: is it right that Europe might be making its own rules and then enforcing them? Alan Bell noted that ERA has not done enforcement so far, and, under these proposals, if a problem arose with a safety certificate the issues could be reported to ERA, who could then withdraw it;

- Ian Prosser noted that the proposals are no more than that, and there is a lot to discuss before anything is implemented. ORR already has power to stop activity on the railway where needed by issue of enforcement notices;
- Some members wondered whether the proposals were dealing with issues that have actually arisen in the UK, or were really aimed at problems in other states – in which case, it was not obvious that their adoption would deliver any benefits here. The Rail Accident Investigation Branch is known to be unsympathetic to proposals to increase European competence in some areas of its work;
- Responding to the point above, Ian Prosser noted that, if the proposals went ahead, it is likely that NSAs will do a lot of the ground work on certification and authorisation rather than ERA. Member states would need to take appropriate decisions on whether to support the EC's proposals in due course;
- DfT is holding a workshop on the safety and interoperability aspects of the 4<sup>th</sup> railway package at One Kemble Street on 6 March;
- The Transport Select Committee has announced an inquiry into the 4<sup>th</sup> Railway Package. Attendees were encouraged to submit written evidence. It was noted that Simon Burns MP, Minister of State for Transport, had been called to a Committee hearing on 4<sup>th</sup> March; and
- ORR is happy to receive questions by email on any issues raised in the paper circulated to members.

**Action: Alan Bell to respond direct to any queries emailed to him by members**

#### **Item 4 – Stranded trains**

22. John Cartledge, Safety Policy Adviser for Passenger Focus and London TravelWatch, introduced this presentation. It arose from discussions at RIAC (as it then was) in 2012 concerning a RAIB's report on an event at Kentish Town, where passengers had detrained themselves when their train became stuck. RIAC had agreed to consider preparedness for incidents like this, and Passenger Focus and London TravelWatch (as well as ORR) had been working with TOCs over the last few months to ascertain what procedures they have in place.
23. John began by listing a series of train stranding incidents dating from 1995 to 2012, many of which had which raised concerns about information provided to passengers to keep them informed on what was going on as the incident progressed. Some of these incidents had subsequently led to complaints to Passenger Focus, and raised obvious concerns about potential safety issues arising from actions passengers may take if they were not confident in the accuracy of updates provided to them by the traincrew – particularly if this conflicted with information they obtained from social media.
24. John gave details of recommendations arising from some recent incident investigation reports. These confirmed the points already made about lack of attention to customer service during incidents.
25. RAIB's Kentish Town report had included a recommendation that TOCs should follow an ATOC good practice guide on meeting stranded passengers' needs during incidents. RAIB had also recommended that when reviewing their protocols for incident handling, TOCs should consider the views of passenger interest groups

(e.g. Passenger Focus and London TravelWatch), the first time RAIB had suggested this. Despite this, John said, not a single one of the 23 TOCs had approached Passenger Focus or London TravelWatch when following up the issue of this report. At ORR's suggestion he had therefore written to all TOCs with a set of 10 questions that the two groups felt they should take into account when drawing up a protocol.

26. The 10 questions were sent to TOCs in October, and a reminder sent to the majority of them in November. Most TOCs had now replied, but as of 3 February four TOCs had not replied at all. Passenger Focus has kept ORR briefed on its discussions with TOCs, so ORR would be aware of TOCs that were failing to act, and could take this into account in its own follow-up to the RAIB report.

27. After the Kentish Town incident, RAIB had recommended that when drawing up protocols for incident handling, TOCs should consider the views of passenger interest groups (e.g. Passenger Focus). Despite this, John said, not a single one of the 23 TOCs had approached Passenger Focus following the issue of this recommendation. He had therefore written to all TOCs with a set of 10 questions that they might take into account when drawing up a protocol.

28. Mike Lloyd thanked John Cartledge for the presentation. Several points were made in the ensuing discussion:

- TOCs must ensure that information provided to stranded passengers was as accurate and up-to-date as they could get from other sources (e.g. Twitter), to avoid them getting irate and taking things into their own hands;
- ORR has, in the past year, imposed a licence condition on TOCs relating to provision of accurate information to passengers during disruption of service. The effect of this is being monitored, and a review will take place at the appropriate time;
- Where there are infrastructure problems (e.g. in locating trains), is Network Rail working to solve these? If one TOC learns its own lessons internally following an incident, are these being shared with fellow TOCs to promote good practice?
- Allan Spence responded to the last points for Network Rail, saying it is learning lessons based on the Olympics experience, and is piloting dynamic risk assessment for front-line staff. Training was being provided, including explaining that longer delays in taking action meant that fewer options were available to resolve the problem;
- Not having PTS prevented many people who could play a useful part from having access to the trackside during incidents;
- LUL plans to complete a review of its procedures before the end of this year. It changed its procedures 18 months ago, to provide for a dynamic incident response. It has taken action to train staff so that they can identify their location using traditional methods if modern technology is not available.

#### **Item 5 – Fatalities on the railway: the British Transport Police Manual of Guidance**

29. Detective Superintendent Miles Flood, of the British Transport Police Territorial Policing and Crime Department, introduced this presentation. He noted that the presentation followed on well from the previous item, and said that John Cartledge had made a lot of good points that everybody involved should take into account when there are incidents with stranded trains.

30. For its part, BTP has also been looking at how it handles this type of issue. It used to have a very prescriptive Standard Operating Procedure (SOP), which had led to some perverse decisions being taken and unnecessary delays in taking action. This SOP had been reviewed after an administrative change in 2011, in the context of an increase in passengers stuck on trains; more unexplained fatalities; and a 57% increase in delay minutes due to fatalities.
31. BTP's review of the SOP identified various failures to act in as timely a manner as possible; failure to consider whether it was necessary to close all tracks rather than some; and excessive time taken in removing the body, facilitating re-opening of services. As a result, BTP's review team had engaged with staff at all levels throughout the force, coroners, the Home Office and others to discuss best practice and possible improvements.
32. BTP has now created new guidance on handling fatalities. It emphasises proper handling of the body; the need for professional investigation; working with partners to reduce delays on the railway; and making sure that an efficient decision making structure exists for fatality cases. The guidance provides clarity on roles and responsibilities, so that a decision can be made with the involvement of as few people as possible. Finally, it sets out procedures that should be carried out rapidly at the start of each case to enable the fatality to be classified according to BTP's system.
33. The classification system in use is designed to identify whether a case discloses a crime, or is non-suspicious, or whether further investigation is needed to determine the cause. Before deciding which classification to choose, an officer has a pre-classification procedure to go through, which requires searching; gathering evidence and witnesses; and getting information from relatives. Doing all this quickly may allow the death to be identified as non-suspicious, and can reduce the time taken to process cases. In one example, this time reduced from nearly two hours to less than 90 minutes. The average time to deal with incidents has now reduced from 116 to 84 minutes.
34. Finally, Miles explained BTP's strategy to reduce disruption to rail services. This included action to prevent suicides; meeting a train further down the line in cases of on-board disorder rather than holding it in a station; and minimising disruption by limiting the need to stop railway services while police are working on incidents.
35. Mike Lloyd thanked Miles Flood for the presentation. Several points were made in discussion:
  - BTP agrees that it can sometimes be faster to send for the local police if there is an incident, given the small and national nature of the Force. However, sometimes local police cannot get there faster than BTP as they are stretched too;
  - Asked if rail could learn from road transport, where it may take less time to deal with an incident and close the road, Miles said that a study had shown the contrary to be true – sometimes the railway handled incidents better than the traffic police.

#### **Item 6 – The 'Red Tape Challenge' and health and safety reform**

36. Dawn Russell, Senior Executive, Railway Safety Policy, introduced this presentation. She explained that she would give a brief outline of the Red Tape Challenge and how ORR is engaging with it, and then move on to talk about the health and safety reform agenda.

37. The Red Tape Challenge was launched by HM Government in 2011, and involved the public and interested organisations putting forward details of legislation they believed to be unnecessary or over burdensome. As part of this, rail transport and health and safety secondary legislation was reviewed last year.
38. The outcomes of the rail theme have been published on the Red Tape Challenge web site (at [www.redtapechallenge.cabinetoffice.gov.uk/2012/07/30-07-12-rail-transport-announcement](http://www.redtapechallenge.cabinetoffice.gov.uk/2012/07/30-07-12-rail-transport-announcement)). Dawn noted that the main safety related work for ORR involved reviewing the Railway Safety Regulations 1999, the Miscellaneous Amendments Regulations 2001, and the Miscellaneous Provisions Regulations 1997, with a view to removing requirements where they were no longer necessary, and consolidating requirements where possible.
39. Dawn told members that the policy aims of those regulations had been reviewed and discussed informally with stakeholders. ORR will issue a public consultation document around the end of March, with the aim of having one set of consolidated regulations in place by April 2014.
40. Other Governmental initiatives include a 'Review of the balance of competences', designed to look at what the EU does and how it affects the UK. Information on this programme is available from [www.gov.uk/review-of-the-balance-of-competences](http://www.gov.uk/review-of-the-balance-of-competences). The review includes a transport theme on which a Call for Evidence will be published for consultation shortly. In addition, a focus on enforcement initiative is looking how enforcement is applied in different sectors More information is available from BIS. There is also potential for a phase two of the Red Tape Challenge which is expected to look at primary legislation and the European regulation.
41. Finally, Dawn explained that the Health and Safety Executive is conducting work to implement the Lofstedt Review. This involves a major review of RIDDOR; proposals to revise various Approved Codes of Practice; and proposals to exempt the self-employed from health and safety law. ORR has responded to all three consultation exercises and is seeking, as part of this review, to keep selfemployed railway workers within the scope of HSWA..
42. ORR will continue to work closely with HSE as its reviews continue to ensure the railway's needs are properly considered, and encourages all railway stakeholders to respond to HSE if they can contribute.
43. Mike Lloyd thanked Dawn Russell for the presentation and a short discussion took place, noting that whilst there had been very little public response to the Red Tape Challenge in relation to railway safety issues, implying a lack of widespread concern, the review of railway safety legislation was an opportunity to tidy up any regulatory requirements which had become redundant.

### **Next meeting**

44. The next meeting will take place on 11 June 2013. The agenda will include a presentation on the current state of the Periodic Review process, under which ORR will issue its Draft Determination on 12 June; a report from Ian Prosser on safety priorities in ORR's 2013-14 business plan and the forthcoming annual health and safety report; and an item to be decided. Proposals members put forward included an update on the Law Commissions' Level Crossing Legislation review; track worker safety (where Network Rail offered to present); and the platform/train interface (though this item is likely to be in October).

**Next Meeting**

Tuesday 11 June 2013, from 1230-1600 at One Kemble Street.

Dilip Sinha

RIHSAC Secretary

February 2013