

Office of Rail Regulation

Approved minutes of the 72nd board meeting on 15 February 2011 (10:00-15:58) in One Kemble Street, London.

Board present:

Non-executive directors: Anna Walker (chair), Tracey Barlow, Peter Bucks, Chris Elliott, Richard Goldson, Mike Lloyd, Steve Walker.

Executive directors: Bill Emery (chief executive), Michael Beswick, Michael Lee, Ian Prosser, John Thomas.

In attendance, all items: Juliet Lazarus (legal adviser), Ken Young (director, external affairs items 1 – 5) Sam McClelland Hodgson (board secretary), Jane Gordon (assistant board secretary)

In attendance, specific items: Annette Egginton (item 4) Margaret Kellett, Brian Warrener & Gary Taylor (item 5), Lynda Rollason and David Chapman (item 6), Mike Strzelecki, Safety director, London Underground Limited (LUL).

Item 1: Welcome and apologies for absence

1. Anna Walker welcomed everyone to the meeting and noted there were no apologies. Anna highlighted the revised agenda which had been circulated which now incorporated two additional items for discussion (updates on Network Rail MIP proposals and passenger information during disruption). We also noted that there was no chair's report this month as discussion on recent key meetings would be covered under item 3.

Item 2: Declarations of interest

2. There were no interests to declare relevant to the agenda; however Peter Bucks, non executive highlighted to the board his declared interest relating to his work with Oxera consulting. He confirmed his involvement was restricted to the energy sector and he did not have a connection with any rail industry work Oxera was involved in.

Item 3: Update on industry structure and relationship

(This item has been redacted from the published minutes as it contains sensitive information)

Item 3a: Network Rail's management incentive plan update

(This item has been redacted from the published minutes as it contains sensitive information)

Item 3b: Passenger information during disruption (PIDD) - update

3. Michael Lee provided an update on the industry's progress on passenger information during disruption. The work was being overseen by the national task force (NTF). We noted the recent discussions with DfT about the impact on public transport as a result of the severe weather problems in late 2010 and its views on the problems passenger information during these disruptions.

4. *(Paragraph 4 has been redacted from the published minutes as it contains sensitive information).*

5. *(Paragraph 5 has been redacted from the published minutes as it contains sensitive information).*

6. *(Paragraph 6 has been redacted from the published minutes as it contains sensitive information).*

Item 4: Freight studies

7. We considered the findings and agreed the recommendations arising from our recent market study into freight sites.

8. *(Paragraph 8 has been redacted from the published minutes as it contains sensitive information).*

9. In parallel to the freight sites study, we noted the office had been reviewing the state of the freight market generally and briefing was provided in this month's office report.

10. We also noted that Network Rail owned sites with a potential for freight use was an area being considered as part of the rail Value for Money study and we would be delaying the publication of our findings until the study was published so any implications for our next steps could be taken into account.

Item 5: Business plan and resources 2011-12

11. We reviewed the draft business plan and resources for 2011-12 and approved the plan subject to the final drafting picking up the boards comments.
12. We noted the publication timetable (mid March) and that the objectives for our senior team would be aligned to the plan priorities for the coming year.
13. We agreed the resource budget for the 2011-12, noting that if there were to be any material changes to our regulatory role arising from the industry reform over the course of the year the executive would return to the board with any relevant recommendations.

Item 6: Non-SCS performance and reward (for 2010-11)

(This item has been redacted from the published minutes as it contains sensitive information)

Item 7: Chair's report (see paragraph 1)

Item 8: Chief executive's overview and office report

14. We considered the chief executive's overview and office report which provided us with an update on key industry performance, office and management issues of the past month and issues going forward.
15. We were updated on the **NAO study** on 'Office of Rail Regulation and Network Rail efficiency'. We had received the NAO's initial views and recommendations from its study and now its draft report.
16. We welcomed the opportunity to comment on the initial and final draft report and noted the key points set out by our chief executive. We also noted that following our chief executive's final agreement, the NAO was aiming to publish the report towards the end of March. We anticipated the Public Accounts Committee would be likely to hold a hearing on the report later in the year.
17. We noted that **RSSB** had published an independent report into the estimated 34% under-reporting of RIDDOR over 3-day injuries by Network Rail and its contractors. The report had been commissioned by Rick Haythornwaite, chairman, Network Rail. We were encouraged by the company's acceptance of the report findings and that it was acting to address them through a major culture change programme.
18. We noted the briefing on the recent **European commission** issues, as well as, the latest developments in relation to the **Project Evergreen 3**.
19. We noted progress against the action plan to improve our **website** and we discussed the **progress against our 2010-11 plan**. We noted that there were

a number of activities, including the data portal, which had encountered some slippage in their original timescales. However we were pleased that action was being taken to ensure these activities remained on track for the end of the year.

Item 9: Strategic theme 5 (efficient use of the capacity on the mainline network) update

20. We noted an update on the progress against our strategic theme 5. Our rapporteurs' paper highlighted that we were broadly on target to deliver our committed success measures and activities for 2010-11 and there was further work to be done on improving the industry's strategic planning capability and in ensuring the best use of the network capacity.

21. We agreed that any specific points on the report would be raised directly with the lead directors.

Item 10: Mike Strzelecki, safety director, London Underground Limited

22. We had an extended discussion with Mike Strzelecki, safety director, LUL, on the safety performance and progress of London Underground as well as details of its management change programme informed by a powerpoint presentation.

23. We noted that:

- LUL now had a better understanding of our audit based inspection approach and our strategic aims for health and safety across the sector. MS acknowledged LUL's failings following two incidents which had resulted in our enforcement action and it was working hard to learn from this and implement improvements to its systems.
- LUL was making progress in areas such as worker health, and in asset management following approval of further investment. LUL were looking to the utilities sector for potential benchmarking and standards.
- LUL saw safety as an integral part of the planning and implementation its challenging change programme. We noted its ongoing relations with the trade unions in relation to this change programme.
- We noted that LUL was actively looking across different industries for good practice and learning to improve its business model as well as benchmarking itself against a wide range of transport and non transport sectors to drive it towards world class performance.

24. We also discussed the risks of signals passed at danger (SPADs), noting that these incidences were more controlled in the underground environment than

on the mainline railway. LUL considered that there was little that could be done which was reasonably practicable to reduce this risk further, but the upgrade programme progressively introduces automated train systems which virtually eliminate SPADs.

Item 11: Board forward programme

25. We noted the latest board forward programme and the meeting set up between the chair and directors to discuss our programme for the rest of the year.

26. We agreed that at the board session on the evening of 14 March (see paragraph 9) we would also have an extended discussion on our approach to holding Network Rail to account.

Item 12: Approval of minutes of board meeting held on 18 January 2011

27. We approved the minutes of our 71st meeting held on 18 January 2011 subject to the deletion of paragraph 6 and review of the proposed redacted paragraphs in order to publish as much as possible of the formal minutes. We authorised our chair to sign them.

Item 13: Matters arising

28. We noted the progress being made against the outstanding actions, noting there was a number of actions still outstanding which we would look to close down as soon as possible.

Item 14: Feedback and updates from recent board committees

29. We noted feedback from the relevant committee chairs on the January safety regulation committee and February remuneration committee meetings, and noted the minutes of the January meetings of the periodic review and the remuneration committees. It was agreed that the speaking notes on our safety approach to Network Rail's standards would be circulated to all board members.

30. Our non-executives also provided feedback on the PR13 teach-in session which had been held earlier in the week. This had been a very useful and well-planned session and it was important for board members to be able to discuss complex issues outside of the board programme to prepare us for the decisions we would be making on PR13 later in the year.

Item 15: Any other business

31. **John Thomas, executive director:** We thanked John for his very valuable contribution to the board and the organisation over the past 10 years as he would be leaving ORR in early March to take up an opportunity overseas.

Item 16: Meeting review

32. We reviewed our meeting; we noted we had made changes to the agenda to accommodate discussion on a number of additional key issues. Regrettably this had led to our post board seminar being deferred to a separate board evening session on 14 March 2011.

Item 17: Date of next meeting

33. Our 73rd meeting would be held on 15 March 2011 at our offices at One Kemble Street, London.

Anna Walker

Chair

Minutes approved by the Board on 15 March 2011