

THE OFFICE OF RAIL AND ROAD
175TH BOARD MEETING
20 October 2020, 09:00 – 13:30
By MS Teams

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

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

In attendance: Dan Brown (Director, Economics, Markets and Strategy), Russell Grossman (Director of Communications), Freya Guinness (Director, Corporate Operations), Juliet Lazarus (General Counsel), Tess Sanford (Board Secretary)

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The chair welcomed everyone to this seventh video-conference meeting of the ORR Board.
2. There were no apologies.

Item 2 DECLARATIONS OF INTEREST

3. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The board approved the minutes of the September meeting.
5. The board noted the updated action list.

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

6. Ian Prosser gave a brief update on the Carmont investigation and said that he would be attending NR's SHE committee the next day where he would be discussing some of the questions around risk and asset management that the incident had raised. He would follow up with a letter setting out current concerns.
7. Some work around preparations for the licencing of operators of last resort had proved unnecessary at this time as DfT had agreed ERMA's with all the TOCs.

Paragraphs 8-10 have been redacted as commercially sensitive

11. The board discussed Covid issues in the report including: German research on the negligible level of transmission between passengers on trains, levels of sickness absence related to Covid, the success of bubbles in delivering driver training and potential improvements in the testing system.
12. The board considered the medium and long term risks that might arise for safety regimes as a result of income loss for metropolitan tram and metro systems. The board had discussed funding pressures on London Underground before Covid and RSD were considering increasing inspectorate focus on that

system. This and the overall impact of Covid would be considered as part of their annual risk ranking exercise to inform business planning.

13. The board also discussed: work to consider how to speed up investigations, the report on driver expectation and the risk of SPADs, and the effective use of enforcement.
14. The board asked for a fuller report on Ian's industry engagement meeting on 9th October. [Action 10/02]. HSRC in December should receive an update on NRs promised programme of inspections of earthworks following Carmont. With winter weather approaching, it was important to keep focus on this issue [Action 10/03].

Item 5 CHIEF EXECUTIVE'S REPORT AND BOARD INFORMATION PACK

This report (paras 15-20) is redacted as including current and potentially sensitive material

Item 6 HIGHWAYS

21. Graham Richards reported on relationship building with the sub-national transport bodies, which was going well. Following September's Board discussion about concerns on access to data from Highways England, the planned discussions with Highways England at different levels had proved positive and productive. The latest set of safety statistics had now been published by HE and showed that, while they would meet their KPI, they were not as far ahead as they had expected. Transport Focus had agreed to start trialling the gathering of data on road use from online sources.
22. The board noted the report. Following recent coverage of smart motorway incidents, they asked for an update on HE's progress against its delivery plan for these. [Action 10/06]

Item 7 QUARTERLY BUSINESS REVIEW

23. Freya Guinness reported on a 14% underspend, mostly rooted in lower than anticipated business rates in 25CS, and low spend on travel and subsistence due to covid. She explained why two service standards (FOI and prompt payments) had been missed. The executive were considering the best way to re-budget, subject to adding value and achieving value for money.
24. The board asked about levels of productivity during lockdown and the impact of the new way of working on staff wellbeing and development. The executive reported that mental wellbeing remained an area of open discussion and support was available. They reported on positive impacts such as regional colleagues feeling more included in teams, good take up of staff briefings and less time used for travelling between offices and meetings. However there were negatives such as: a real risk of a loss of cohesion of teams over time as social capital was used up, junior staff could not benefit from the learning that comes just by being alongside experienced colleagues, and managing poor performance was very difficult. A structured, organisation wide conversation was underway to work out how to secure the benefits and to address the issues recognised internally.

25. It was also recognised that ORR’s ability to influence externally would diminish if its staff were not present ‘in the room’ when stakeholders met in person and that the inspectorate and engineering teams all benefited from site visits. Much of the industry had worked in their offices or on the network throughout lockdown. ORR staff had been given freedom to make their own judgements about whether to attend meetings and visits for now: but the executive was alert to the fact that there would be occasions where it would be more effective to attend in person.
26. The board congratulated the executive for the very strong results of the internal pulse survey on the covid response.

Item 8 COMPETITION – SIGNALLING MARKET STUDY

Tom Cole, Lisa Thurston and Steve Armitage joined for this item

This item (paras 27, 28) is redacted as potentially commercially sensitive

Item 9 CP6 – NR CONTRIBUTION TO TRAIN PERFORMANCE

Richard Coates, Matt Durbin, Jay Symonds and Sneha Patel joined for this item.

29. Richard Coates introduced the paper. As a result of Covid, performance was very good because passenger numbers were very low. The team were taking a more qualitative view of performance, looking at capability and how NR was learning from current issues and planning for the future. Delivery against plan was being closely watched, particularly in the North West and Central region (NW&C). NR needed to be prepared to manage risks to performance in the future as passenger and train numbers increased.
30. The board asked about progress in NW&C following ORR’s investigation given that current performance again looked poor. The team’s view had been that the NW&C pre-covid plans to recover had looked credible and their implementation was being monitored. Performance had been better during lockdown although there had been recent major signalling issues—response to these issues was being closely monitored. The pre-covid investigation had identified congestion and asset performance as major contributors to the poor performance. The plan to address this included capability improvements – which would take time – and addressing asset failures. The board were assured that although public reporting was six monthly, the team were in regular contact with relevant teams at NR. Data reports supplied by them were considered as part of a monthly review of escalation measures. For NW&C, the team received monthly updates against the programme plan and assessed whether they were delivering on commitments in the plan.
31. The board asked for a regular update on performance in NW&C and stressed the importance of robust scrutiny of whether it had delivered against its improvement plan for reporting at mid-year 2020-21. The overall tenor of the report was that NR were performing well although NW&C remained an area of concern.

32. The Board discussed the implications of DfT's new Emergency Recovery Measures Agreements (ERMAs) with previously franchised TOCs. Richard Coates explained that these agreements include provisions for Network Rail to report on the extent of TOC collaboration – potentially putting Network Rail in a powerful position – and ORR would need to provide balance by reporting on Network Rail's collaboration. He also highlighted the inclusion of cross-industry measures of train performance, providing additional justification for ORR focusing more on whole-industry outcomes. The implications of ERMAs will be discussed in more detail at the Board strategy away day.
33. The Board also noted the breadth of activities being undertaken by the system operator and highlighted the need for scrutiny to ensure there was suitable governance and objective decision making.

Item 10 ENVIRONMENT

Catherine Williams and Lynn Armstrong joined the meeting for this item.

34. Lynn Armstrong introduced the report which updated the board on progress against the plan reported to the May board meeting. The Arup/Eracura report and the accompanying workshops with staff on the legislative framework offered a valuable foundation for future plans. ORR proposed to focus resources on specific areas in line with governments' priorities over the next 12 months. The board noted the four areas of focus. They discussed the different levels of maturity in ORR's policy on climate change, decarbonisation and biodiversity.
35. The board queried the decision not to focus on air quality in the first year and heard that ORR currently plays a role at stations and depots with diesel rolling stock, where it becomes a local health and safety enforcement issue, but it is not seeking to apply economic regulatory tools to this issue in the next 12 months. One of RSSB's decarbonisation workstreams would look at incentives to reduce emissions which will also impact air quality.
36. The board noted the report.

Item 11 HS2

Catherine Williams and Nicolas Parea joined the meeting for this item.

37. Nicolas Parea introduced the report which drew together activity from a number of different departments. HS2 legislation did not exempt it from the current regulatory framework, so at this stage it was necessary to assume that it would be subject to the same access and licencing regime as the classic network. RSD was supporting HS2 in delivering an operational railway that would be safe by design. The impact of HS2's construction phase on NR and HE's supply chain and capital programmes was being kept under review.
38. Although HS2 was many years away from operation, there was one decision which would come to ORR's board soon, and which had already been

trailed. This was the question of whether an investment recovery charge could be permitted to enable the future owner of HS2 to levy charges to recover construction costs. Staff had been careful to explain to DfT what sort of evidence base would be needed to underpin such a request and the board had been informed on an exchange of letters on the subject in January 2020. The board noted that it would receive comprehensive advice on this issue to inform its decision, probably in the new year.

39. The board noted the potential access and competition issues at points where the classic network and HS2 would meet or overlap, including through the construction phase. They were encouraged to hear that there was already significant engagement with the HS2 team at DfT and that ORR was engaging by supplying advice and options wherever they were sought. Delivering HS2 was a key government priority and assistance should be offered wherever possible.
40. It was noted that ORR's work on PR23 would include thinking about funding impact for the wider system, and that it had the capability to offer assurance on efficiency and economy in key areas of the project. It would be important to remember the future needs of HS2 in discussions around the system operator as it was currently developing.

Item 12 COMMUNICATIONS UPDATE

Lisa O'Brien, Jennifer Webber and Adele Potter joined the meeting for this item.

41. Russell Grossman introduced the item which included a report on the previous 9 months of activity and a refreshed strategy for the next six months. The report showed good correlation between activity and impact. He highlighted the successful way that internal communications had supported staff to work effectively through the pandemic and the pleasing results of the staff pulse survey.
42. In terms of activity over the next six months, the top strategic priority remained to maintain and enhance perception of ORR's value in a changing environment.
43. The board welcomed the report and considered the questions posed in the presentation. Members suggested that ORR's independence should be referenced in the key messages. The existing cadre of advocates and senior staff were well placed to promote ORR's capability to contribute in a reformed rail environment by delivering the day job and maintaining good stakeholder relationships. It was also important that they should have briefing to actively promulgate our independent expert and assurance role and to robustly counter accusations of gold plating. Where appropriate references to 'regulation' should reflect oversight and assurance. The board discussed who were the 'future users' mentioned in our strapline.
44. The board were reassured that the project to review values was a light touch exercise to ensure that they aligned with the new D&I strategy, agreeing that this was not the right time to completely overhaul them.

Item 13 ORAL UPDATES FROM ADVISORY PANELS, AND FEEDBACK FROM BOARD COMMITTEES

45. Bob Holland reported on ARC's review of corporate risks and leading indicators, an audit report on business continuity had received substantial assurance and a good presentation on ORR's cyber security dashboard. NAO had outlined their brief for the coming year which included some technical changes but no significant problems were expected.
46. Michael Luger reported that Renco had received reports on pay implementation and the development of a joined up people strategy.
47. Justin McCracken reported on the second virtual RIHSAC meeting which had included a positive discussion on how the industry had responded to covid. There was also a presentation from ORR's consumer team on its review of guidance on complaint handling in the industry and how safety related complaints are handled by the industry, which drew on lessons learned from Grenfell.

Item 14 ANY OTHER BUSINESS

48. The board noted the items below the line.
49. The chair reported on his external meetings, including with the new chairs of Highways England and the CAA, the Go Ahead Group and RIA. He had also spoken at the Railfreight Group's conference.

All executive attendees except the Board Secretary left the meeting

Item 15 NON EXECUTIVE DISCUSSION

50. The non-executive members met privately to review the meeting.
51. They asked for some time to be set aside at the board strategy day to reflect on the content and structure of board papers.

[Ends]