

**THE OFFICE OF RAIL AND ROAD
180th BOARD MEETING**

23 March 2021, 09:00 – 13:00

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)

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The Chair welcomed everyone to this twelfth video-conference meeting of the ORR Board and noted the first anniversary of the first virtual meeting. It was satisfying that the organisation and the board had continued to function effectively during lockdown and the enforced shift to remote working.
2. The board would mark the National Day of Reflection on the impact of the pandemic by joining the minute's silence held at noon.
3. This would be Freya Guinness' last board meeting before she moved to BEIS as their COO. The chair highlighted her excellent work in improving ORR's IT resilience, the move to Cabot Square and her work on articulating and upholding the values and culture of ORR. He thanked her on behalf of the board and wished her well.
4. There were no apologies.

Item 1A APPOINTMENT OF THE CHIEF EXECUTIVE

5. The Chair reported that, following the oral update at the February meeting, the paperwork in relation to the recruitment process held last year was now complete.
6. The Board formally confirmed John Larkinson's appointment as Chief Executive Officer from 1 March 2021.

Item 2 DECLARATIONS OF INTEREST

7. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

8. The board noted changes to the minutes proposed by the board secretary, removing para 3 of the draft and adding paras 46 and 47. The board approved the revised minutes.
9. The board noted that a change to the date of the consumer panel meant that there were no actions which were overdue.

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

10. Ian Prosser updated the board on the fatal derailment at Carmont, including expert reports published by NR and a letter sent to the NR CEO setting out ORR's expectations on management of earthworks and drainage assets, construction quality and assurance mechanisms (particularly around drainage), and operational decision making in severe weather. He would report back to the board on NR's response.
11. At HSRC the day before the committee had discussed culture in NR's frontline maintenance teams and first line assurance would be a focus of inspection work in the next year. He described how different regions were making progress towards the end of unassisted lookout working in red zones.
12. Crossrail would begin trial operations under ROGs on 26/3/21 and come fully under ORR's safety regulation as an operational railway.
13. Ian also mentioned work with TfL on asset management strategies where there was no immediate evidence that safety would be compromised in the short or medium term by the intense pressure on funds. This would be kept under careful review.
14. The board discussed the challenge of safely increasing the numbers of passengers as the pandemic eased and noted a forthcoming workshop with the industry on recovery and how to deal with crowding which caused breaches of social distancing guidance.
15. The board noted that delays on court cases were expected to increase as a result of the pandemic.
16. The board discussed the low statistical risk of catching Covid on public transport, the progress made by NR on asset management of earthworks although there was still more to do, and the improving situation on train driver licencing for those few operators who had experienced issues.
17. Ian would bring a report to the April board on the outcome of an inspection of EuroTunnel's safety leadership. The board noted continuing concerns about EuroTunnel's approach to safety management and welcomed a report of improved understanding between the British and French delegations to the CTSA which should lead to more consistent regulatory focus on this issue. The board noted that the Eleclink project was being run by a very small team given its scale and potential impact and that progress was inconsistent rather than sustained.
18. The board asked for a short summary of likely safety recommendations as the investigation into Carmont progressed [**Action 03/01: Ian Prosser**].

Item 5 CHIEF EXECUTIVE'S REPORT

19. John Larkinson updated the board on recent developments and took questions on the written report.

This report is redacted from the published version as time-sensitive and covering confidential issues.

Item 6 HIGHWAYS UPDATE

27. The report had been discussed in detail at Highways Committee the day before. Graham Richards reported on discussion on the SRUS, the resource

costs of Development Consent Orders, and HE's current year underspend. The board noted the report.

Item 7 ORR BUDGET AND BUSINESS PLANNING

Lucy Doubleday joined the meeting for this item.

28. Lucy Doubleday introduced the item, explaining that the budget would be kept under close review during the year. The increase agreed by Treasury was for new posts and recruitment was under way. She reported on risks including the forthcoming white paper and the ability of some operators to pay their levy. The next spending review would agree the budget for the following three years and would be conducted in the context of a very challenging fiscal environment.
29. The board discussed the increase in charges at Cabot Square, options for reducing spend if a budget cut was sought by Treasury in the next spending review period, and the degree of confidence around reallocating funds originally earmarked for pay increases (before the civil service pay freeze had been announced). The board asked to see how the safety levy was apportioned between railway enterprises to understand the risk of any failure to pay **[Action 03/02: Lucy Doubleday to share details of safety levy amounts and risks]**.
30. The board approved the budget and business plan as presented.

Item 8 INTER-DEPARTMENTAL MEMORANDA OF UNDERSTANDING

31. Freya Guinness explained that MOUs were reserved to the Board, but these documents enabled ORR to work effectively with other government departments and were clearly operational in nature. After discussion of some detailed questions, the board approved the three MOUs attached for signature (GSAC, NCSC and CSMS) and delegated to the CEO the signing of any future MOU with another government body which is required in order to take a shared service or for other purely operational matters, eg data sharing or provision of contracted services. The Chief Executive to report any such agreements in his written report to the board. **[Del21/03/01]**

Item 9 INTERNATIONAL STRATEGY

Martin Jones, Agnès Bonnet and Dominic Wall joined the meeting for this item.

32. Agnès Bonnet introduced the paper which set out the objectives for ORR's new international strategy and proposals on how to meet them. With a history of successful influencing while in the EU, the UK now had to adjust its relationships to address the new objectives. The objectives were to fulfil the UK's legal obligations, to continue to understand the regulatory framework in Europe and to support government and industry in exploiting any commercial opportunities that arose. The work programme included maintaining competence and knowledge, maintaining relationships within key multi-national institutions and working closely with government and the UK industry.
33. The board discussed the proposed strategy, including the changing regime around TSIs, the importance of good information about developments in Europe on issues such as sustainability, and the proposal that ORR lead the

forum on international safety and interoperability policy which had previously been led by RSSB.

34. The board welcomed the proposal and endorsed the approach.

Item 10 CONSUMERS – GUIDANCE ON COMPLAINT HANDLING PROCEDURES

Stephanie Tobyn, Marcus Clements and Sarah Robinson joined the meeting for this item

35. Sarah Robinson explained that the paper updated the board on the forthcoming review of CHP guidance and set out the issues around changing the timescale for access to the ombudsman. Both issues would be consulted on and the team were alert to increased challenge around any proposals that might increase industry costs.
36. The board discussed the level of assurance around operators' performance on meeting the current time limits and other data that was collected from operators and the ombudsman. Overall there was good evidence on which to base proposals for change. The team explained the concerns of TOCs in relation to potential costs increases if case numbers at the ombudsman increased.
37. After discussion the board agreed that the current limit of 40 days was felt to be too long and they encouraged the team to be more ambitious in driving TOCs to work to a much shorter timescale. Consumer expectations around speed of response to customer issues were changing as digital services increasingly enabled very fast responses.

Item 11 STRATEGY – WHITE PAPER

Catherine Williams joined the meeting for the next three agenda items.

38. The Chair briefed the board on discussions in government around rail reform. Publication of the white paper had been delayed for now because of the forthcoming local election purdah.
39. John Larkinson reported that ORR continued to engage at several levels with Treasury officials and with DfT teams. The latest text of the white paper was in line with his previous reports to the board – it remained a high level and broadly drafted document.

Item 12 PR23 APPROACH TO INTERACTIONS WITH RAIL REFORM

40. Following on from the discussion on the white paper, Dan Brown reiterated the importance of continuing with the statutory processes around the existing funding framework, including PR23. The team continued to engage constructively with DfT and NR on that programme.
41. Given the uncertainty around rail reform and the delay before it could be implemented, the team was focused on ensuring that NR's future funding

was money well-spent, with efficient delivery and good accountability. ORR would also need to be ready to transition into any new functions it acquired. Planning work for CP7 was in hand in NR's regions to plan a safe and efficient network and there was good engagement with funders and NR. Discussions with Transport Scotland were less well advanced, but were under way.

42. It was reported that NR's leadership understood the importance of engaging effectively with the PR23 process. ORR's understanding of the whole industry meant it was well positioned to lead key debates about implementation. Maintaining flexibility and agility would be important.
43. The board welcomed the update and asked for a short note to give them the 'elevator pitch' for why PR23 would be useful in relation to government's ambitions for rail reform. [Action 03/03: Catherine Williams]

Item 13 PR23 – REVIEW OF THE TRAIN PERFORMANCE REGIME – OPTIONS FOR REFORM

Pedro Abrantes, Will Holman and Rhys Harper joined the meeting for this item.

Redact this section as policy in development.

Item 14 ORAL UPDATES FROM ADVISORY PANELS, AND FEEDBACK FROM BOARD COMMITTEES

49. Justin McCracken briefed the board on discussions at HSRC with the Rail Wellbeing Alliance and on the challenge of changing safety culture in NR's frontline maintenance depots. The committee had also reviewed the headlines for the Chief Inspector's annual report.
50. Stephen Glaister reported on discussions at the Highways Committee on: HE's incident management, and their management of text signs. The committee had agreed that ORR should offer written evidence to the Transport Select Committee on All Lane Running motorways. The committee had noted continuing public concern on the safety of ALR and had agreed that a demonstrably independent review of the underpinning evidence might enable government to address those concerns. It was important to remember that ORR's role as Highways Monitor was narrowly focused and any intervention should be based on evidence and within that scope.

Item 15 ANY OTHER BUSINESS

51. The board noted the forward programme and the date of the next meeting. At this time it seemed likely that the government's Covid guidance would not allow an opportunity for a face to face meeting until June.

The non-executive directors held a short review of the meeting privately.