

**THE OFFICE OF RAIL AND ROAD**  
**187<sup>TH</sup> BOARD MEETING**  
**Tuesday 23 November 2021, 09:00 – 13:00**  
**At 25 Cabot Square, E14 4QZ and by MS Teams**

**Non-executive members:** Declan Collier (Chair), Stephen Glaister, Madeleine Hallward, Bob Holland, Justin McCracken, Michael Luger, Anne Heal in Cabot Square and Graham Mather online.

**Executive members:** John Larkinson (Chief Executive) Ian Prosser (Director, Railway Safety)

**In attendance:** Vinita Hill (Director, Corporate Operations) Laura Majithia (Director of Legal Services) Feras Alshaker (Interim Director of Planning and Performance) Dan Brown (Director, Economics, Markets and Strategy), Tess Sanford (Board Secretary) Russell Grossman (Director of Communications)

Other ORR staff who attended on line and in person are shown in the minutes.

**Item 1 WELCOME AND APOLOGIES FOR ABSENCE**

1. The Chair welcomed everyone to the meeting of the ORR Board.

**Item 2 DECLARATIONS OF INTEREST**

2. No new interests were declared.

**Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING**

3. The board approved the minutes of the October 2021 meeting.
4. The board noted updates on the closure of the actions outstanding and the remaining issues. The board noted the decision in correspondence to delegate the appointment of the new internal auditors to the Audit and Risk Committee.

**Item 4 CHIEF INSPECTOR'S MONTHLY REPORT**

5. Ian Prosser briefed the board on progress with the investigation into the Salisbury incident.  
*Redact para 6 from the published report as a current investigation*
7. The board noted two reports of trolley strikes which indicated failures of process. Ian Prosser said there were some indications of the erosion of good practice and competence across the network during the pandemic, possibly engendered by lack of regular supervision or local oversight. Leading and lagging indicators were being closely watched to see if specific issues could be identified. The issues were across the industry on the front line and the board asked that these concerns should be shared with the industry to raise awareness of the higher level of risk. **[Action 11/01: IP to write to industry]**
8. The board noted that the Eastern Region structures inspections would be discussed by the Network Rail SHE committee after it had been included on the regulatory escalator and brought to their Board's attention. ORR's HSRC agenda in December

would include a discussion of the tracker of Network Rail's work on drainage, and a draft RAIB report on Llangennech .

9. Ian reported that Eurotunnel's ElecLink SMS application had been rejected by both the British and French sides and the team had now set out very clearly what Eurotunnel needed to do to achieve approval. The company had not yet secured UK licences for all its drivers and would now struggle to do so before the 31<sup>st</sup> January 'end of transition arrangements' hard deadline. This situation has the potential to affect services, and RSD colleagues are considering our enforcement position. John Larkinson had raised this risk at one of his regular meetings with the CEO and made clear ORR's readiness to work with Eurotunnel to solve this issue and make resources available as necessary to do so.
10. Ian also updated the Board on progress on the report on the causes of Class 800s cracking and took questions on incidents reported on Eurotunnel, Crossrail and the Enfield buffer incident. The board noted the successful prosecution of Amey and the substantial fine applied.

#### **Item 5 CHIEF EXECUTIVE'S REPORT**

11. John Larkinson updated the board on recent developments and took questions on the written report.  
*Redact this report (paras 12-14) from the published version as time-sensitive and covering confidential issues.*

#### **Item 6 HIGHWAYS MONITOR**

15. Feras Alshaker reported that National Highways was assessing the impact of £3.5bn reductions in the RIS2 settlement following the Comprehensive Spending Review. The RIS2 change control process required ORR to assure National Highways' revised plans and KPI targets. The ORR team would prioritise the high risk schemes and aimed to complete the change process in time for National Highways to start the new financial year with agreed plans in place.
16. The board discussed what reports of a 'pause' in the rollout of smart motorways meant in practice, the impact of the National Highways communications programme to educate drivers, and traffic officer recruitment. There was a further discussion item on the agenda.

#### **Item 7 CROSSRAIL**

*Martin Jones, Jake Brown, Justin Nsengiyumva, John Trippier joined remotely for this item.*

17. Dan Brown outlined the context of this issue.  
John Trippier introduced the paper. A charging framework must be in place before passenger services could begin on Crossrail. The paper proposed that an interim charging framework be put in place to allow the recovery of operating costs and the commencement of services.  
*The rest of paragraphs 18-20 to be redacted pending a future regulatory decision*

#### **Item 8 RAIL REFORM UPDATE – ORR'S STATUTORY DUTIES**

*Lynn Armstrong, Rob Cook joined for the item and Catherine Williams and Jake Brown joined remotely*

21. Dan Brown updated the board on discussions with DfT about the priority which a review of ORR's duties should be given. ORR had offered the view that the duties were currently functioning well but that there were some opportunities for improvement, short of a full review. The paper identified these light touch changes. A full review was felt to be inappropriate until the roles and responsibilities of ORR and GBR were settled so that the duties could address those.
22. The board discussed the paper. Board members noted that they had not found the list of current duties limiting in the past in reaching sensible, balanced decisions under the current regulatory regime. While the role and responsibilities of the future ORR in a reformed industry were still being finalised it would be premature and potentially distracting to undertake a full review of the duties.
23. Since DfT had asked the question, the light touch changes outlined would be offered to help update the language. The board felt strongly that the duties needed to be underpinned by statute, as currently so as not to undermine their independence. After discussion the board agreed that while the minor updates proposed were acceptable, any full review should be the subject of proper consultation and should therefore be deferred until the future industry framework was agreed.
24. The board noted that Catherine Williams was about to join DfT on secondment. They thanked her for her work to date on rail reform and the early stages of PR23 and wished her well on the challenging assignment.

#### **Item 9 HIGHWAYS – DEPARTMENT FOR TRANSPORT RESPONSE TO THE TRANSPORT SELECT COMMITTEE**

*Sneha Patel joined remotely for this item.*

25. Feras Alshaker introduced the item and apologised for the late circulation. The paper had been updated following a workshop with DfT the previous week. The Transport Select Committee report on Smart Motorways had made three recommendations to DfT about ORR's role as Highways Monitor and DfT had sought ORR's views on the recommendations.
26. The board agreed the response to Recommendations 4 and 6 which were incremental changes in approach within the existing framework.
27. The board discussed at length the huge scope of Recommendation 1 and the lack of ORR's powers or resources to undertake the work. They welcomed the suggestion that a review of the current regulatory framework should be undertaken. This was a strategic issue for government particularly given the emerging issues as technology in vehicles and on roads develops. ORR would welcome being asked to undertake such a review, but it would be a very significant project and could not be done without a step change in resources and funding. It would offer a good opportunity to bring additional skills into the team and to draw on relevant skills elsewhere in the office.
28. The board approved the draft response on recommendation 1.
29. The board noted the welcome confidence of TSC demonstrated by this report and discussed the importance of continuing to deliver reliable evidence based analysis.

#### **Item 10 REFLECTIONS ON THE STRATEGY DAY**

30. The board reflected on the key themes of the strategy day including the current and continuing uncertainty, the importance of building capability and capacity to meet the new wider role, the importance of hearing from stakeholders, and the opportunity offered by the stimulus of rail reform to further improve the organisational effectiveness. They expressed confidence in the executive's capability and willingness to address the challenges of change.

## **Item 11 ANY OTHER BUSINESS**

### **31. Delegation of technical MOUs**

32. The short paper which had been tabled sought a further delegation of technical MOUs to John Larkinson as a proportionate approach to these agreements. The board noted that contentious issues would be brought to the board and asked that a list of MOUs to be signed under the delegation should be shared in advance and those signed reported. [Action 11/02: share a list of the MOUs which are ready to be signed and a pro-forma agreement with the board before the first batch are signed].

33. Declan Collier updated the board on NED recruitment and described his recent meetings with RIA, Dipesh Shah, the UK Regulators Chairs' network and the Western Route Supervisory Board.

34. The date held for a possible meeting of the board in December would be released. If an urgent meeting was needed before the January date it would be held virtually.

35. The chair noted that this would therefore be the last meeting for Michael Luger (7 years) and Graham Mather (5 years), whose appointments run to the end of 2021. He thanked them both for their diligent work and thoughtful contributions to ORR as members and wished them well.