

THE OFFICE OF RAIL AND ROAD

196TH BOARD MEETING

Tuesday 18 October 2022, 09:00 – 12:30

At Novotel York Centre, Fishergate, York
and by MS Teams

Non-executive members: Declan Collier (Chair), Xavier Brice, Madeleine Hallward, Anne Heal, Bob Holland, Justin McCracken, Daniel Ruiz and Catherine Waller

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

In attendance: Feras Alshaker (interim Director of Planning and Performance), Will Godfrey (Director of Economics, Finance and Markets), Tess Sanford (Board Secretary) Elizabeth Thornhill (General Counsel)

Vinita Hill (Director, Corporate Operations) *on line*

Other ORR staff who attended (remotely or in person) are shown in the minutes.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The Chair welcomed everyone to the meeting. Russell Grossman (Director of Communications) and Stephanie Tobyn (Director, Strategy, Policy and Reform) had sent apologies as they were on leave.

Item 2 DECLARATIONS OF INTEREST

2. No new interests were declared.
3. [During an oral update at item 5 of the agenda, Catherine Waller reminded colleagues of her declared interest as a Director of ITSO Ltd.]

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. Tess Sanford proposed some corrected text to para 19 of the minutes of the meeting in September 2022 to better reflect the board's concerns about passenger impact and transparency of performance reporting. *"The board noted that reporting timetable performance against a revised (reduced) timetable masked the overall reduction of network performance compared to the original planned timetables. ORR's review of Avanti's recent performance on customer information should compare performance not just to the reduced timetable introduced (without notice) in August, but also to the original timetable for the period that was in force until mid-August"*.
5. The board approved the minutes as amended.
6. The board noted the oral update on actions outstanding.
7. Feras Alshaker reported against action 09/03 that Network Rail did consider how many journeys were impacted when scheduling engineering closures. Sunday remained the lowest number of journeys, with Saturday next and Monday close to that. The industry faced critical financial challenges and these were necessarily driving decision making by funders and TOCs including frequency of service and

length of trains. Board members discussed the passenger impact of scheduled reductions in timetable and short-term cancellations, including the different impact and potential suppression of demand on commuter and leisure travel. The board asked if it was possible to understand the potential for increased income generation by considering how close to full passenger capacity the railway is on weekdays and weekends. [Action 10/01: Feras Alshaker]

8. All the other actions were completed or not yet scheduled.

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

9. This was the monthly report. Ian updated the board on Network Rail's progress with Modernising Maintenance, which had been significantly amended following union consultation. The programme would take at least another year to fully implement. There was particular focus on the scrutiny of local units' plans to implement Modernising Maintenance. The board discussed the challenge for Network Rail leadership of driving the cultural change needed at local level to support this programme to deliver real improvements.

10. Ian reported on current safety issues in the Heritage sector, including Heritage Rail Association's campaign for public funding for a Heritage Safety and Standards Board. He also described a very recent improvement notice on trams in Greater Manchester in relation to speed controls and alertness detection.

11. The board discussed again the challenges for tram operators of running through spaces shared with other vehicles and pedestrians, and the differences in risk tolerance between closed and open systems. The LRSSB had been invited to present to the HSRC in December and all board members (whether members of HSRC or not) would be invited to attend that meeting to explore the complex interlocking questions about regulation, responsibility and risk. [Action 10/02: Secretariat]

Item 5 CHIEF EXECUTIVE'S REPORT

Redact this report from the published version as time-sensitive and covering confidential issues.

Item 6 HIGHWAYS MONITOR

20. Feras Alshaker reported that the latest data on National Highways' (NH) response times on smart motorways was due the next day. This would show whether the 10 minute target had been met by September. The team had prepared a range of responses for engaging with stakeholders depending what the data showed. On their visit to the NH depot the day before, Board members had heard from managers about the important work they did to manage safety risks on other parts of the strategic road network. NH identified that safety risk is higher on all SRN roads than on smart motorways, but this was not what road users felt. The board welcomed the news that the road user satisfaction survey would be re-starting as it would provide helpful evidence to drive improvement.
21. The board discussed how NH was addressing the challenge of recruiting traffic officers, including improvements in their working conditions and the quality of depots, and noted the overall vacancy rate of about 12%.

Item 7 AGENCY AGREEMENT FOR APPROVAL

22. Ian Prosser asked the board to approve a new agency agreement between the ORR and the Department for Transport.
23. This was part of a programme of reviews and renewals of existing MOUs over the next few months.
24. The board approved the agreement for signature by John Larkinson.

Item 8 PR23 UPDATE – HLOS AND SOFA¹

Gordon Cole and Carl Hetherington joined the meeting for this item and the next. Siobhan Carty joined on line for this item.

25. Will Godfrey updated the board on plans by government to amend the timeline for the E&W HLOS and SOFA, extending it by up to four weeks, as a result of fiscal uncertainty. The team was making plans to meet this, without constraining ORR's time to scrutinise NR's Strategic Business Plan (SBP), by reducing the period of public consultation. This would have knock on effects for board dates to consider the determinations.
26. The board discussed the assumptions around the financial impact of workforce reform, cost reductions and decarbonisation. The change in funding compared to CP6 arising from current planning scenarios was also discussed. A waterfall diagram showing the changes between funding scenarios under consideration would be helpful for understanding the relative scale of different pressures. [Action 10/05: Will Godfrey]
27. The board discussed the sort of trade offs including savings and performance targets that might be made by DfT to achieve a deliverable HLOS within the available funding. The negative financial impact of delaying renewals and the risks around deferring work would all need to be understood and factored into discussions with DfT and HMT. It was noted that a cut in performance targets and the number of services would not reduce the fixed cost base.
28. The board noted the update.

Item 9 PR23 FINANCIAL FRAMEWORK CONSULTATION

29. Gordon Cole introduced the paper which set out plans to consult on the financial framework for PR23. He highlighted the areas of difference from PR18, especially the constrained funding situation and the possibility of rail reform.
30. The board asked about benchmarks for the cost of capital and discussed whether the current mechanism for government rebates set an appropriate level of challenge.
31. The board discussed the incentive/disincentive properties of charges on the network and noted that access charges had to be cost-reflective. ORR's role currently was to apply the legal framework which did not leave scope for radical change.
32. The board agreed that there should be a high bar to consider a re-opening of a final determination in the period – but this option should continue to be available.
33. The financial framework had been designed to allow for significant flex to respond to change (such as the creation of GBR) during the period. The team emphasised

¹ High Level Output Statement and Statement of Funds Available

the importance of securing and maintaining a five year funding settlement to enable proper planning and efficient spending.

34. The board discussed the performance and innovation funds, noting that a strong case needed to be made if funding was to be available for these in a constrained financial environment in PR23. Evidence of previous success would be helpful for government in weighing its funding priorities, but if funding was available the board felt it should argue the benefits of having funds with broad access.
35. The board noted the publication was planned for mid-December.

Item 10 NETWORK RAIL PERFORMANCE

Richard Coates and Steve Helfet joined the meeting with Liz McLeod and Matt Durbin on line.

36. Richard Coates introduced the paper which set out the headline messages of a planned mid-year letter to Network Rail on network performance, which was currently poor and deteriorating. He highlighted the very poor passenger and asset performance in Wales and Western, and the overall declining performance of freight.
37. The report set out some genuine contributory factors that were outside absolute NR's control, (industrial action, extreme weather, train crew issues following Covid) but Richard noted that these did not entirely account for the poor performance over the network. Some issues would continue into the autumn (track geometry, autumn leaf fall) and the overall risk of leadership distraction was increasing. But there are areas in NR's control where the company could make improvements now.
38. The board discussed the overall tone of the key messages and the importance of clarity and plain language. The board asked questions about Scotland's performance (their absolute delay is lowest of the regions but their targets are the highest so it looks worse), the reasons for freight's 18 month worse than expected downward trend, and asked for any evidence of leadership distraction (this was purely anecdotal at this stage).
39. The board noted that some of the challenges seemed to be common across industries in the current economy (asset issues from climate change and shortages of staff), and NR needed to address them robustly.

Item 11 RAIL REFORM UPDATE

40. John Larkinson briefed the board on what ORR was doing in response to changes to the legislative plan on rail reform. He emphasised a dual approach of working on existing planned legislation for reform (eg REUL) alongside exploring options for non-legislative changes to achieve similar outcomes. ORR had redirected legal resources in particular to support this shift in focus. The Chair reported on engagement with DfT in relation to reform.

Item 12 REFLECTIONS FROM SITE VISITS AND STAKEHOLDER DINNER

41. Board members had found the visits to the National Highways Depot at Malton and Network Rail's York ROC very informative. The Chair would write with their thanks.
42. Both visits had shown the difficulty of driving positive culture change from the centre in very large organisations. Local visibility of leadership was very important.
43. Board members shared what they had heard from a mixed group of stakeholders at the dinner. The conversation had been wide ranging, reflecting known concerns about the political and financial environment. Guests had been candid about

perceived threats and had generally welcomed ORR's work to bring transparency and consistency to complex industry processes.

Item 13 ANY OTHER BUSINESS

44. The board thanked the team for delivering a good visit and dinner and a very good, short, board pack. They noted the items below the line and dates of next meetings:
- Quarterly Committee meetings (ARC, Renco) would be held on 4 November in London
 - There will be a board strategy day on 21 November.
 - Next board meeting will be in London on 22 November.

Formal Meeting closed at 12.30 pm.

Following the meeting, non-executive board members held a short private meeting.