

THE OFFICE OF RAIL AND ROAD

198TH BOARD MEETING

Tuesday 24 January 2023, 09:00 – 14:00

At ORR, 25 Cabot Square, E14 4QZ 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),

On line Ian Prosser (Director, Railway Safety)

In attendance: Feras Alshaker (interim Director of Planning and Performance), Will Godfrey (Director of Economics, Finance and Markets), Russell Grossman (Director of Communications), Graham Richards (Director), Tess Sanford (Board Secretary) Elizabeth Thornhill (General Counsel), Stephanie Tobyn (Director, Strategy, Policy and Reform), *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.
2. Vinita Hill (Director, Corporate Operations) was off sick.
- 33.

Item 2 DECLARATIONS OF INTEREST

3. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The minutes of the November 2022 meeting were approved.
5. The board noted the oral update on actions outstanding.
6. The board discussed action 09/03 which was marked as closed – John Larkinson would ensure that the paper due in February covered all these points.
7. Two actions were not yet scheduled.

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

8. This was a slightly updated version of the quarterly report discussed at HSRC in December. Ian reported on the impact of very heavy rainfall on earthworks since the end of the year. He reported on discussions with NR's Weather Risk Taskforce noting slower than expected progress and disparity between the regions' performance on drainage. He would raise these issues at NR's SHE committee in February.
9. He had received a letter from the unions on safety issues during their 10 days' industrial action over the holiday period and specific incidents would be followed up by the inspectorate.
10. He reported on Network Rail's progress on plans to implement modernising maintenance and our ongoing involvement.

11. The board asked about asbestos management: IP said that NR had made progress in terms of an effective training programme across the regions. On heritage railways, he was confident that asbestos risks around rolling stock had been properly addressed. He would report back to the board on the level of risk of asbestos in Heritage railway buildings [Action 01/01: update in the next board report].
12. The board discussed issues around EuroTunnel's arrangements for passenger welfare in an evacuation and heard that CTSA and ET were working to improve planning and response for future incidents. A further report on discussions between CTSA and ET would be taken at HSRC in March [Action 01/02 – ensure this is on the HSRC agenda]
13. The board asked about trap and drag incidents on London Overground. IP reported that it appeared to be linked to a particular type of rolling stock and additional training of drivers had reduced incidences. The board noted that these were DCO routes and asked for further assurance around risk reduction. [Action 01/03 – note to the board in the next quarterly report].
14. The board discussed the slow pace of introduction of new technology for protection and warning to track workers. It was important to understand what had been delivered against the original plan and the reasons for any delay. [Action 01/04 – report on plan and delivery].
15. It was noted that industrial action would have disrupted this work as well as other planned maintenance and renewals and the board asked IP to make this point to the unions when responding to their latest letter on safety risks [Action 01/05: share copy letter to board members].
16. The board noted the continuing questions around NR's ability to roll out national initiatives to the front line. Better monitoring and reporting by ORR of progress against plan would be helpful for the board in understanding what priority and resources NR was dedicating to key safety programmes.
17. The board discussed the likely size and composition of a new Heritage Rail Safety Standards Board and whether this was a proportionate and efficient response to the recognised need.
18. The board heard from John Larkinson about RSSB's proposals for their quinquennial review and a request for ORR to carry out the review. The board would receive an update on ORR's response. [Action 01/06: send an update when our involvement/non-involvement has been agreed]
19. The board noted updates on meetings with Manchester Trams and latest sentencing hearings.

Item 5 CHIEF EXECUTIVE'S REPORT

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

Item 6 HIGHWAYS MONITOR

33. Feras Alshaker reported on DfT's commissioning of a second piece of consultancy work to inform their response to the TSC recommendation 1. The ORR team had raised concerns about the limited scope of this report.
34. He reported a new inquiry by TSC into RIS2 (ORR expected to give evidence).

35. FA reported on discussions with HMT and DfT around the likely settlement for RIS3. The emerging picture was of an extremely tight settlement which could have implications for the last years of RIS2 (eg whether to start large projects which were due to run through RIS3). Difficult choices would need to be made by government.
36. The latest data on 10 minute response times showed a 10.00 response time. This data was being carefully checked. DfT had asked ORR to include monitoring of the response time in its reporting for the rest of the control period and NH had committed to meet the target for that period. Further discussions with DfT and NH are now needed to understand the status of the target and the basis for ORR's role in enforcing it.
37. The board noted the challenge for government to reconcile new road programmes with a net zero target. Public debate seemed both to support net zero carbon and improved roads. NH has been reliant on the decarbonisation of the energy it draws from the national network to achieve its targets, having been given assumptions about this from government regarding the national network and these have proved to be incorrect in light of the changed circumstances of energy supply. ORR would aim to bring increasing transparency to this area through its reporting. The team had received some assurance on NH's reporting on the carbon KPI but had asked for more detail to understand the modelling better.
38. The board discussed the worsening picture on NH efficiency noticing that inflation rates and political delays which were known contributors were outside NH's control. A revised efficiency target would be produced by NH following the autumn statement and ORR would then test this target for deliverability and challenge before monitoring against it.
39. JL would meet the chair of the TSC in February and was also meeting new members of the committee.

Item 7 ORR PERFORMANCE

Lucy Doubleday joined for this item

40. Lucy reported an overall underspend of 6% against budget, with a forecast at the year end of 3%. In non-ringfenced budgets, the forecast underspend was 1.7%. Risks to the budget were discussed.
41. The board discussed the usefulness of accurate time recording in helping managers identify colleagues who were stretched. They noted the mixed take up of L&D across directorates and heard about work in hand to better understand the people survey results in this area. It was noted that completion rates for mandatory training were generally very high.
42. The board asked that the missed payments target become a real area of focus. Late payment of valid invoices was poor practice and should be avoided. The team would analyse the cause for each of the 5 missed items and would report to the board on how they could be avoided – which might include additional resources [Action 01/07 – look at what would stop the late payments].
- 43.

Item 8 DECISION: PR24

Howard Taylor and Debbie Daniels joined the meeting for this item.

44. Feras Alshaker explained how this decision followed on from a consultation in the autumn. It was a necessary step to trigger work by HS1 and its TOCs to

- agree the strategy and proposed plan for the next period. The changes outlined in the paper were relatively small and addressed consultation responses.
45. This was likely to be uncontroversial with the small number of relevant stakeholders and DfT were supportive of the approach.
 46. DfT were considering a change to the concession agreement around the way that funds were held in escrow, which was a matter for them and low risk to ORR. They had no plans to re-open the wider agreement, but their response to our consultation did not rule it out.
 47. It appeared that the charging implications of changing a signalling upgrade from a specified upgrade had not been clearly appreciated by stakeholders and this item was still being discussed, as it could increase costs in the short term.
 48. The board noted that there were a number of good levers available within the system which would help it reach a balanced settlement in due course.

Item 9 **DECISION: PR23 UPDATE**

Jennifer Genevieve and Lynn Armstrong joined the meeting for this item

This item redacted as policy development pending publication in June 2023

Item 10 **DISCUSSION: RAIL ENHANCEMENT FUNDING**

Howard Taylor and Nic Machado joined the meeting

52. Feras Alshaker introduced the paper which set out the areas where ORR continued to examine and comment on enhancements. ORR's interest was in assessing NR's capability to do this work effectively in England and Wales. In order to make an assessment, the team investigated some projects in significant detail and the outcome was fed into an overall assessment of capability. In Scotland, Transport Scotland welcomed the ORR's support around monitoring of efficient delivery of enhancements.
53. Feedback on assessments in England and Wales was passed on in private as it was not part of ORR's public reporting role. This was valuable work and helpful in keeping up pressure on NR to improve its capability.
54. DfT holds NR to account on cost and value of major enhancements, but there is only limited public reporting of issues.
55. The board endorsed the approach and suggested that written material to explain the detail of the process should be available internally.

Item 11 **DISCUSSION: REUL AND RAIL REFORM**

56. Liz Thornhill reported that one major risk around the REUL Bill impacting subordinate instruments such as train licences, had changed over night and was now likely to be addressed through an amendment. The board noted that other risks remained along with associated resource pressures. A regular status report on major risks would be added to the forward agenda. [Action 01/09 – status report design and delivery]

Item 13 **FEEDBACK FROM COMMITTEES**

57. Justin McCracken reported on HSRC in December, particularly a useful discussion with the LRSSB.

58. Madeleine Hallward reported on Highways committee including NH asset management, RIS3 and enhancements review.
59. Bob Holland reported on ARC the day before, particularly work going on to improve cybersecurity and dealing with risks around ORR's IT. The overall risk report had included the pCoding and ombudsman issues which had already been mentioned in the board.
60. Anne Heal reported on the Renco meeting which had discussed the implementation of the pay strategy, the results of the staff survey and plans for further work to understand those results, particularly the increase in reported feelings of discrimination and unwillingness to speak up.
61. Anne also reported on the consumer expert panel meeting in December. ORR was now recruiting new panel members.

Item 14 ANY OTHER BUSINESS

62. Declan Collier described recent meetings with Steve Montgomery (Chair RDG and MD First Rail), the expert panel of Active Travel England and meetings with the UKRN Chairs.
63. The board noted the items below the line.

Item 15 PR23 TEACH IN

After the formal meeting concluded, The board received a 'teach in' on how the PR23 team would evaluate NR's strategic business plan as part of PR23.