

THE OFFICE OF RAIL AND ROAD
201st BOARD MEETING
Tuesday 18 April 2023, 09:00 – 12:30
At ORR, 25 Cabot Square, London E14 4QZ

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)

In attendance: Jen Ablitt (Deputy Director RSD), Feras Alshaker (interim Director of Planning and Performance), Will Godfrey (Director of Economics, Finance and Markets), Russell Grossman (Director of Communications), Vinita Hill (Director, Corporate Operations), Graham Richards (Director, TfL Analysis), Tess Sanford (Board Secretary), Elizabeth Thornhill (General Counsel), Stephanie Tobyn (Director, Strategy, Policy and Reform).

Fiona Bywaters, who would take over as Board Secretary in May, attended as an observer.

Other ORR staff who attended are shown in the minutes.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The Chair welcomed everyone to the meeting.
2. Ian Prosser (Director, Railway Safety) had sent apologies. Jen Ablitt was attending to ensure the board had access to safety expertise.

Item 2 DECLARATIONS OF INTEREST

3. There were no new interests declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The minutes of the March 2023 meeting were approved with one clarification.
5. The board noted the actions update. Three actions were scheduled for future reporting and the rest were closed.

Item 4 HEALTH AND SAFETY MONTHLY REPORT

6. Jen Ablitt reported on work in hand to understand how the closure of Newnham viaduct had been triggered and historic risk management around the structure. The board discussed how the incident had highlighted wider concerns about NR inspection and management of structures.

7. The board discussed the way different coroners were applying the Norfolk ruling and the impact that could have on whether prosecutions were required to wait for inquests to be complete. There was a public and family interest in timely completion of investigations and judicial processes. The legal team were working with inspectors to ensure ORR's approach was consistent and coherent.
8. The board received an oral update on correspondence with WCR and TfGM's withdrawal of an appeal in relation to trams.
9. The board discussed the detailed update on work to remedy the risks related to interconnectors on GWR Class 800 rolling stock. The reports mentioned at para 41 of the report should be brought to HSRC for discussion when completed [Action – 04/07].
10. The board discussed again how the industry's work to reduce safety risks could be very slow and considered whether ORR's investigation and enforcement processes could generate more urgent and timely responses. It was explained that some delay came as a result of ORR's operational choices about priorities and resource distribution, but it was also acknowledged that there could be a stronger focus on timeliness and particularly in not allowing duty holders excessive time to implement improvements. The internal audit programme for this year included an audit of the Enforcement Management Model and the board agreed that the scope of this should be extended to include some detailed case studies to examine where happened and how they might have been minimised [Action 04/01: Vin Hill. This report would be discussed at ARC and could be shared more widely.]
11. The board noted the importance of swift action in maintaining ORR's credibility as a safety regulator: unreasonably slow responses by duty-holders prolonged the risk to the public and should not be tolerated.

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

12. Feras Alshaker reported on the unanticipated public announcement by government of their decision not to build new smart motorways, and National Highways' reaction.
13. The long term implications of this for capacity, congestion and future plans for the network and for ORR's monitoring were being assessed.
14. He updated the board on discussions with HMT and DfT on the likely size of RIS3 and noted that ORR would be providing advice on this.

Item 7 ORR REPORT AGAINST THE BUSINESS PLAN

Lucy Doubleday joined for this item.

15. Vinita Hill introduced the report and gave headline financial outcomes for ringfenced, and non-ringfenced funding. The overall underspend at year end was about 4.5% (£1.9m), although in non-ringfenced spending it was only 2.7% (£1.0m). This was an improvement on previous years, but it was recognised that there was still room for improvement to make sure that ORR did as much work as the funding allowed.
16. In-year processes were being improved, including earlier intervention to re-direct underspends more promptly. The board discussed how recruitment controls had prevented or delayed some spend and the other areas where spend had not been as planned (Ombudsman services and IT operational issues).
17. The board discussed the missed business plan deliverable, which had been delayed pending work by RSSB. It would now be re-cast and discussed at HSRC [Action 06/08]. The board congratulated the team on delivering the other 46 deliverables and welcomed the Plan for 2023-24.

**Item 8 DISCUSSION: STAKEHOLDER SURVEY RESULTS
[Item 10 in the agenda]**

Jennifer Webber (Head of External Engagement) and James Rentoul of Savanta joined the meeting.

18. Russell Grossman introduced the survey.
19. James Rentoul (JR) presented the results of the survey to the board [Action 04/03 slides to be added to the board portal].
20. Against a background of upheaval in the sector, ORR's overall performance continues to be strong but clear areas for improvement remain. Even in poorer performing areas, ORR is often level with or improved from last year. Stakeholders see several key priority areas for ORR in the future.
21. The overarching themes across both rail and road stakeholders are safety, long term strategic planning and sustainability.
22. A large majority of stakeholders think ORR performs well in its role as rail regulator, with the safety role particularly highly rated. Over half of road stakeholders think that ORR is successful in holding National Highways to account. Communications and engagement are rated highly.
23. Areas for improvement included: economic regulation of Network Rail, holding NR/GBR to account more effectively, ensuring National Highways delivers on RIS2 and monitoring the performance of smart motorways.
24. The board discussed the results of the survey and how scores had changed over time. Possible reasons for the low scores in relation to holding to account were discussed and the degree to which those reflected real

performance of ORR or were coloured by perceived success or failure of the industry. The board considered what good performance would look like for stakeholders and how successful interventions might be more visible. The board asked if it was possible to benchmark ORR's performance against other regulators. JR undertook to look at whether anything meaningful could be produced from the base data [Action 04/04]. Overall, the sense was that stakeholders valued ORR and wanted it to be more proactive.

25. The board noted the expectation around sustainability becoming a more significant part of ORR's work and discussed what stakeholders would know about ORR's role in this important area. JR undertook to consider whether there was a demonstrable knowledge gap for some stakeholders. [Action 04/05]
26. The board noted the report and thanked James for his insight.

Item 9 DISCUSSION: KEY MESSAGES FOR THE NR ANNUAL ASSESSMENT

Richard Coates and Liz McLeod joined for this item. This report is redacted from the published version as relating to a future publication.

**Item 10 PR23 REFLECTIONS
[Item 8 in the agenda]**

27. The board noted the very useful policy discussion the day before in relation to PR23 which had built on previous discussions and decisions and given clear direction on areas of focus and concern.
28. The board agreed to an additional board meeting to agree the draft determination on 15 May from 11-3pm. The board noted that additional time could be made available on 21/22 May if needed for any final decisions.

Item 11 COMMITTEE FEEDBACK

29. Bob Holland reported on the previous day's Audit and Risk Committee. There were no concerns to report but as a result of the risk discussion a new section on strategic risk would be added to the quarterly report. He asked for the internal audit programme for 2023-34 to be shared with the board [Action: secretariat]. Progress on the annual report and accounts was good. In terms of cyber security, the committee had heard from the new Head of Cyber that a combined remediation plan had been created and good progress made so far on what was a long-term plan.
30. The board reflected on a successful dinner with consumer stakeholders the previous evening. Guests had engaged in frank and informal debate and board members had enjoyed the opportunity to meet and discuss issues with an informed and interested audience. The board asked that RDG's CEO, Jacqueline Starr, be invited to attend a board meeting to describe the work they were doing [Action 04/06: Secretariat].

Item 12 ANY OTHER BUSINESS

31. The board noted the items below the line.
32. Declan Collier reported on a meeting with UKRN Chairs and mentioned a new network of smaller regulators being led by Marcial Boo of EHRC.
33. The May meetings were noted. The regional visit programme would be flexed as necessary to enable board focus on PR23 if necessary.
34. Approved by the board: 23 May 2023.