

**THE OFFICE OF RAIL AND ROAD**  
**204<sup>th</sup> BOARD MEETING**  
**Tuesday 27 June 2023, 09:00 – 14:00**  
**At ORR, 25 Cabot Square, London, E14 4QZ**

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

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

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

*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. There were no apologies for absence. Madeleine Hallward joined the meeting remotely.

**Item 2 DECLARATIONS OF INTEREST**

2. No new interests were declared.

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

3. The minutes of the 15 May 2023 meeting were approved, subject to an amendment of paragraph 21 to read as follows:  
*“The board heard that the proposal was supported by stakeholders and that even a relatively small sum could be effective as long as it was targeted at issues which catalysed performance improvements.”*
4. The minutes of the 23 May 2023 meeting were approved, and a brief update provided on actions arising and completed from that meeting.

**Item 4 CHIEF INSPECTOR’S QUARTERLY REPORT**

5. Ian Prosser (IP) introduced the report, highlighting a correction that Signals Passed at Danger (SPADs) ought to be described as stable.
6. Further to a note circulated to the Board ahead of the meeting, Elizabeth Thornhill (ET) provided an update regarding the outcome of the Sandilands prosecution where the defendant tram driver had been found not guilty. The case was described as difficult, but the view remained that it was right to bring

a prosecution based on application of the Code for Crown Prosecutors. Two corporate defendants had pleaded guilty. An appeal was unlikely to be made.

7. The Board queried whether a lessons learnt exercise would be undertaken at the appropriate time, which was confirmed. Reference was also made by IP to the ORR's Enforcement Policy Statement and Enforcement Management Model in support of the decision to prosecute.
8. IP provided an update regarding a prohibition notice recently served on West Coast Railways (WCR) as controls identified in their risk assessment for rolling stock fitted with secondary door locking had not been implemented as stated. The notice would be published after 21 days subject to no appeal being received. The publication timeline was a legal requirement under the Health and Safety at Work Act 1974.
9. It was explained that the services concerned had briefly desisted until the identified controls were in place. Prior to resumption, ORR Inspectors had met with WCR, and ongoing monitoring would take place. Should a failure to maintain controls be identified again, prosecution may be the next step as a breach of the prohibition notice, or, alternatively, a revocation of safety certificate. The Board encouraged full consideration of available enforcement options in such circumstances and requested further information regarding the prohibition notice issued, including the assurances received to continue operations and the associated legalities of such a notice **[Action 06/01]**.

*This paragraph (10) is redacted from the published version as time-sensitive and covering confidential issues.*

10. [...]
11. The Board further discussed the Network Rail (NR) national priority asbestos programme; interim risk management in the absence of tactile paving on some station platforms; drainage resource requirements; failure to call statistics; and a regional variation to redzone working, as outlined in the quarterly report. Consideration was also given to tram safety data and whether it could be presented with greater clarity to better identify serious incidents, which IP agreed to consider in future reports **[Action 06/03]**.
12. Proactive work was encouraged and welcomed regarding likely upcoming accessibility issues associated with proposed ticket office closures, as well as industrial action.

## Item 5 CHIEF EXECUTIVE'S REPORT

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

## Item 6 NATIONAL HIGHWAYS

19. Feras Alshaker (FA) introduced the report, addressing the three key themes: development of the third road investment strategy (RIS3); funding of National Highways (NH); and smart motorways. Workshops in respect of RIS3 had been set up in w/c 3 July 2023, to which the ORR were invited to participate in with DfT and Treasury, but funding was not expected to be confirmed prior to Parliamentary recess. Challenges included sufficient time for an efficiency review and the uncertainty of when a general election might be called, as well as the funding of NH at the end of the current RIS period.
20. The Board commented upon the length of time taken to sign a MoU between ORR and DfT in respect of ORR's highways role. However, this was confirmed as having no negative impact on work. Further discussion related to a recent letter from ORR to DfT on smart motorways, reflecting concerns about the robustness of the evidence base for recommendations.

## Item 7 RSSB REVIEW FINDINGS

*Anna Rossington (Deputy Director, Regulatory Strategy & Reform) joined the meeting for this item.*

21. Anna Rossington (AR) introduced the report, explaining that high level findings would be submitted to the Rail Safety and Standards Board (RSSB) Steering Group on 3 July, and a final report to the RSSB on 14 August.
22. The Board reflected on differences observed since the last review was undertaken in 2016, with mixed views as to the extent of progress made by the RSSB, and considered where ORR added value in undertaking such an exercise.
23. It was remarked upon that the last quinquennial review had taken place more than five years ago, with the reasons to be included in the final report.  
*This paragraph (24) is redacted from the published version as relating to a future publication:*
24. [...]
25. The Board had considered the high-level findings presented but requested that a one-page executive summary, including recommendations and outcomes of greater clarity, be provided prior to granting a delegation of authority for final sign-off of the final review report, which could be decided by correspondence **[Action 06/04]**.

## Item 8      **ORR ANNUAL REPORT AND ACCOUNTS**

*Lucy Doubleday (Associate Director, Finance & Governance) joined the meeting for this item.*

26. Lucy Doubleday (LD) introduced the item which had been discussed at the Audit and Risk Committee held on 23 June 2023. Comments had been received in advance of that meeting and incorporated into the report presented to the Board. The report of the National Audit office (NAO) was viewed as positive with the exception of two learning and development spend control breaches, and a further breach since identified (with regard to professional memberships) which had proactively been reported by the ORR.
27. Though the breaches were considered minor in value, it presented an issue in terms of process regularity and could impact on the audit opinion without certainty that no other breaches remained undetected. All learning and development spend in 2022/23 would therefore be checked and retrospective approval sought where necessary.
28. In response to Board questions, it was confirmed that this breach had occurred the year prior as well but that a process for retrospective approval did exist. The decentralised nature of learning and development spend in ORR was seen as a contributing factor.
29. John Larkinson (JL) explained that the NAO had required the elimination of risk in this area and whilst a solution was sought, all delegations around the commissioning of learning and development spend had been withdrawn to effectively introduce a centralised system. It was underlined that in the short term this meant a freeze on spend, and in the medium term, a reduced pace on commissioning learning and development. This action was supported by Bob Holland (BH) as the Chair of the Audit and Risk Committee.
30. The Board suggested that authority be explored with the Cabinet Office for a control spend exemption where the item was considered of low value **[Action 06/05]**.
31. Further Board discussion examined the prompt payment target, and it was suggested that commentary be added to the summary of financial performance regarding increased costs as a result of a broader scope of work being envisaged.

## Item 9      **TRAIN SERVICE PERFORMANCE**

*Steve Helfet (Deputy Director, Railway Operations) and Matt Durbin (Operations Manager) joined the meeting for this item.*

32. Steve Helfet (SH) introduced the item, highlighting analysis of current drivers of punctuality and reliability, and ORR's approach and work plan to address regional and national issues. The Board welcomed a stronger outward projection of ORR's presence.
33. The Board queried Figure 6 in the report, 'Correlating busyness and punctuality' and the potential impact of the pandemic on the relationship. SH explained that the negative correlation had been analysed but that it did not

have to remain as such, and greater resilience was required from timetables. Regarding Figure 2, 'NR & TOC cancellations', it was suggested that where P-Coding cancellations were not included it would be helpful to state that for clarity. In respect of Figure 4, 'Delay minutes by asset class', the Board requested further detail on the category 'network management other' and what it comprised [**Action 06/06**].

34. The Board explored how performance issues were reflected in the PR23 draft determination. SH explained that there was a section considering impact on whole-system delivery. NR's assessment of performance impact would be tested to inform the final determination. Finally, it was suggested that performance in other industries and countries be explored, where relevant, to further enhance analysis.

#### **Item 10 RAIL OMBUDSMAN SPONSORSHIP**

*Scott Hamilton (Head of Ombudsman Sponsorship) and Helen Evans (Senior Legal Adviser) joined the meeting for this item (via MS Teams).*

35. ST introduced the report and Scott Hamilton (SHa) provided an update regarding intellectual property matters. SHa spoke to the open competitive nature of the tender process, the benchmarking which had taken place against the previous contract and how experience of running the contract would inform any future tender process.
36. The Board questioned where the financial risk lay if case numbers were lower than estimated. It was explained that there would be a fixed fee to provide the service, charged to industry participants on a proportionate basis according to their size and volume of cases.

#### **Item 11 COMMUNICATIONS STRATEGY: 6-MONTHLY REPORT**

*Lisa O'Brien (Head of Media Relations, Campaigns and Digital Comms, via MS Teams), Jennifer Webber (Head of External Engagement) and Adele Potter (Head of Internal Communications and Engagement) joined the meeting for this item.*

37. Russell Grossman (RG) introduced the item and slides, highlighting excellent volume and sentiment in overall coverage and output, as well as recent parliamentary engagement and internal comms successes.
38. The Board questioned deadlines missed by the Public Correspondence Team, which were largely attributed to delays in receiving information from third parties. Performance had nonetheless improved overall and the contributions of the Public Correspondence Manager were recognised. The Board also noted an upwards trajectory on correspondence volumes and the customer / safety focus of the top ten enquiries and complaints. It was confirmed that correspondence statistics included contact via Twitter.

## **Item 12 PARLIAMENTARY SURVEY RESULTS**

*Jennifer Webber (Head of External Engagement) remained in the meeting for this item.*

39. Jennifer Webber (JW) introduced the item, presenting the YouGov survey which had polled 100 MPs on key questions relating to awareness and effectiveness of the ORR. Engagement was broadly seen as positive but some of those surveyed lacked awareness of the ORR's role and activities. John Larkinson had recently met with a number of MPs, including those on the TSC, to broaden engagement ahead of the next general election. In terms of upcoming activities, there would be a newsletter aimed at parliamentarians and a drop-in event at Portcullis House in November 2023, sponsored by a member of the TSC. It was clarified that party conferences were not attended, for reasons of neutrality.
40. In response to questions, JW expanded upon the tiered contact list mentioned in the report and application of resources, with a focus on Tier 1 contacts. An advert for a permanent Public Affairs Manager was expected to go live shortly.

## **Item 13 IMPLICATIONS OF THE NEXT GENERAL ELECTION**

*Martin Leggett (Senior Policy Advisor - Future of Regulation) joined the meeting for this item, via MS Teams.*

41. ST introduced the item which was intended to support a Board discussion on what different scenarios at the next election could mean for the ORR, and referred to the relevance of the previous item (Parliamentary Survey Results).
42. The Board supported contact with opposition MPs and suggested consideration of prospective parliamentary candidates (PPCs) as well as roadshows, particularly in critical constituencies. Board Members were encouraged to notify the Comms Team of any upcoming relevant activities and contact with parliamentarians. However, roadshows had been previously considered and were not deemed as effective for the resource required, compared to face-to-face activities at Westminster or online contact.
43. A question was raised with regard to resourcing such work and whether it cutting across both the policy and comms teams presented any challenges. Reassurance was provided that this blend of expertise had proven to work well to date.
44. The Board suggested that consideration be given to the impact on the ORR's activities of different timings for the general election, in order to be prepared for any eventuality. Questions were raised regarding relevant upcoming activities, which included policy briefings, and work on accessibility.

## **Item 14 REPORTS FROM COMMITTEES**

45. The meeting of the Audit and Risk Committee on 23 June was considered covered by Item 8 (ORR Annual Report and Accounts).

46. The meeting of the Remuneration and Nominations Committee would be covered later in the meeting under Item 16 (Renco report and SCS performance 2022-23).
47. AH reported on the meeting of the Consumer Expert Panel on 21 June. Key points raised included: a discussion on the equality duty and reporting of it by ORR; the experience of people with a disability in raising complaints and the process involved; and automated delay repay, noting the variation in approaches across TOCs.
48. Justin McCracken (JM) reported on the meeting of the Health and Safety Regulation Committee on 26 June. Guests had included Mike Putnam (NED) and Martin Frobisher (Group Safety and Engineering Director, Technical Authority) who provided an annual update on the key health and safety issues at NR. The discussion had covered a broad range of issues and there was a consensus that NR were moving in a positive direction in their management of safety issues, albeit concerns remained over the pace of implementation and regional variations in practice. A commitment had been made by NR to share data on structures, with thought to be given over a shared set of performance measures. Another item had looked at developing the ORR's Enforcement Management Model, to facilitate the work of inspectors.
49. JM also reported on the meeting of the Railway Industry Health and Safety Advisory Committee (RIHSAC) on 12 June. The Committee had considered three annual reports of the ORR Chief Inspector (Director of Railway Safety), the Rail Accident Investigation Branch (RAIB), and the RSSB. Updated guidance on fatigue management was anticipated from the Director of Railway Safety by the end of the year, whilst work on a case management system was expected to be completed by October.

#### **Item 15 ANY OTHER BUSINESS**

50. Declan Collier (DC) provided a brief update on a recent meeting with Lord Peter Hendy, Chair of NR, which had focussed on PR23, performance measures and Schedule 8. Discussion had also taken place regarding timetabling considerations and rail reform. The Board were updated on upcoming changes to the Autumn meeting schedule.
51. The Board noted the items below the line.

#### **Item 16 RENCO REPORT AND SCS PERFORMANCE 2022-23**

*This item was for Non-Executive Members of the Board only. Victoria Rosolia (Associate Director, HR & Organisational Development) joined the meeting for this item.*

52. AH introduced the item, referring to the recent meeting of the Remuneration and Nominations Committee which had considered: the equality impact of the ORR pay strategy; the people pack; impact of industrial relations; activities arising from the people survey; and the review of the diversity & inclusion strategy.
53. AH relayed the discussions of the Committee on SCS performance. NED Board members had received the summary paper submitted to Renco by JL

and found it helpful as a basis for considering performance rankings [*continued in restricted minutes*]. The Board examined the recommendations in depth, before making a final determination. Any decision on financial reward would be made following receipt of Cabinet office guidance which had not yet been issued.

Meeting end: 2.07pm

Approved: 25 July 2023