

THE OFFICE OF RAIL AND ROAD
205th BOARD MEETING
Tuesday 25 July 2023, 09:00 – 13:00
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, Catherine Waller.

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

In attendance: Feras Alshaker (Director of Planning and Performance), Jake Brown (Deputy Director, Legal Services), Fiona Bywaters (Board Secretary), Will Godfrey (Director of Economics, Finance and Markets), Russell Grossman (Director of Communications), Vinita Hill (Director, Corporate Operations), 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. Apologies for absence were received from Graham Richards (Director, TfL Analysis) and Elizabeth Thornhill (General Counsel), for whom Jake Brown (Deputy Director, Legal Services) was in attendance.

Item 2 DECLARATIONS OF INTEREST

2. Catherine Waller (CW, Non-Executive Director) declared, regarding open access airport services, that a close family member was linked to Stansted Airport though without dealings in rail services.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The minutes of the 27 June 2023 meeting were approved following minor non-substantive amendments to the restricted minutes (referring to Item 16 and SCS Performance).
4. A brief update was provided on actions arising and completed from that meeting. Further information was provided for outstanding actions attributed to Ian Prosser (IP), namely that: Action 06/01 [West Coast Railways] had been superseded and a verbal update would be provided under Item 4; Action 06/02 [Eurotunnel] was referred to in the report at Item 4; and Action 06/03 [tram safety data] would be considered in the next quarterly health and safety report (September).

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

5. IP introduced the report with an oral update on West Coast Railways (WCR) where, further to an unannounced inspection on 14 July, breaches of the prohibition noticed served on 14 June had been identified. WCR's exemption certificate had been revoked, and replaced with a certificate allowing steam charter services but not Jacobite services, up to the point of the judicial review. The action was seen as proportionate, and an inspection of the train service (without passengers) had been offered to take place on the 8 August.
6. Reference was made to Channel Tunnel matters, and that the position was broadly unchanged since the last meeting, with a temporary speed restriction still in place. The root cause of the suspension spring safety issue remained undetermined, however, in-depth testing was taking place and maintenance intervals had been reduced.
7. Regarding the fatality at Waterloo station in 2019, a prevention of future deaths report had been sent by the Coroner to DfT and ORR on 18 July. ORR had served an improvement notice in 2020, which was appealed and the Employment Tribunal had stayed the notice until 2024. Nonetheless, some changes had been made to improve a safe system of work. The ORR would now look to conclude its investigation. The Board remarked on the length of the process, some of which was attributed to the exploration of charges by BTP.
8. IP also updated the Board on a readjustment of priorities and resourcing following resignations within the directorate. Anne Heal (AH), as the Chair of the Remuneration and Nominations Committee, informed the Board that the Committee would be exploring data deep dives into directorate people matters, starting with RSD at its October meeting.
9. Further reference was made to Network Rail's (NR) Weather Risk Task Force, and weather forecasting services, for which an update would be provided at the next Board meeting.
10. The Board raised questions regarding industrial relations and the consultation on ticket office closures; Train Driving Licences and Certificates Regulations; the heritage sector; engagement with the Crown Office and Procurator Fiscal Service; and enforcement action and technological solutions to mitigate risk at footpath crossings in the North West and Central Region. IP indicated that consideration would be given to safety of dispatch on platforms, if closure of ticket offices went ahead and any staff roles adjusted, to ensure the relevant competency requirements were met.
11. Following the discussion, IP agreed to:
 - Explore whether DfT - in its review of Train Driving Licences and Certificates Regulations 2010 - would consider extension to tram drivers **[Action 07/01]**.

- Provide information regarding the status of Meerkat warning technology, following an issue with detection of trains and a false positive result in a trial following snow **[Action 07/02]**.
12. The Board welcomed the publication of the Annual Health and Safety Report, as well as the recent podcast focussing on Britain's heritage railways and improving safety in the sector.

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

Paragraphs 19-20 are redacted from the published version as development of policy which will be public in due course.

21. Further queries raised by the Board related to data. It was confirmed that data regarding road user satisfaction for April would be provided at the September meeting, and the time lag was correct in that information was provided by Transport Focus, not the ORR. Regarding the assertion at paragraph 7 of improvements to the methodology used by NH for stopped vehicle detection (SVD), it was suggested that this be tested by restating older figures. Consideration was given as to whether the 80% target for SVD was appropriate and what alternative options might be.

Item 7 ORR PERFORMANCE: Q1 2023-24 BUSINESS REVIEW

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

22. Vinita Hill (VH) introduced the report, providing a summary of ORR's financial position and progress against the business plan. An underspend of 7% (£0.7m) was reported at the end of Q1, of which 4% (£0.4m) was due to budget reprofiling with spend expected later in the year. A forecast year-end overspend of 1% was largely attributed to pay-related commitments which had arisen in-year. Lucy Doubleday reported on progress against the business plan, as well as a focus on prompt payment performance.
23. In response to questions, it was clarified that although the costs for the Glasgow office were over budget, they were less than in Birmingham or Manchester, and remained reasonable. The apprentice target was also confirmed to be amber, despite 17 apprentices in position, as it fell slightly below a London-based target when reflected regionally. Further explanation was also provided regarding the delayed commitment on the Train Driver Licensing Portal.

**Item 8 BETTER TIMETABLES FOR PASSENGERS AND FREIGHT:
INTRODUCTION**

Gareth Clancy (Head of Access & Licensing) joined the meeting for Items 8 to 10.

24. Stephanie Tobyn (ST) introduced the item, providing a brief history of Better Timetables for Passengers and Freight (BTPF) and the issues at hand. In response to questions, further explanation was given to interpretation of The Railways (Access, Management and Licensing Undertakings) Regulations 2016 regarding a December timetable change; a lack of cost/benefit and passenger impact analysis; and the absence of an Equality Impact Assessment.

**Item 9 BETTER TIMETABLES FOR PASSENGERS AND FREIGHT:
NETWORK RAIL**

25. The Chair welcomed the guests from Network Rail: Lord Peter Hendy CBE (Chair), Andrew Haines (Chief Executive) and Jake Kelly (Group Director, System Operator). The guests spoke briefly of the rigidity of the current timetable change process and the work undertaken in putting together a more flexible proposal which would help respond to consumer demand.
26. The Board questioned the level of engagement with passengers given the assertion that timetable change would be to their benefit. NR spoke of an ongoing failure against current timetabling requirements and that customers valued long-booking windows.
27. Consumer betterment was seen as the shared aim between the ORR and NR under the proposal. The Board suggested however, that further research was required to support any change being in the customer's benefit, which the NR representatives agreed to undertake. AH, as Chair of the Consumer Expert Panel, welcomed the opportunity for engagement and consumer research, and suggested that an Equality Impact Assessment also be conducted. Further discussion related to the contrasting legal positions of ORR and NR regarding the requirement for a December timetable change.
28. By way of conclusion, it was agreed Network Rail would undertake further work to explain the impact on passengers and further engagement would take place on options for complying with The Railways (Access, Management and Licensing Undertakings) Regulations 2016.

**Item 10 BETTER TIMETABLES FOR PASSENGERS AND FREIGHT:
NEXT STEPS**

29. The Board reflected on the discussions held under Item 9, including options for and implications of the final response regarding the proposed changes to Network Rail's network licence. Critical areas to consider as part of the executive decision and response were agreed to be the requirements of the relevant Regulations, evidence of consumer benefit and next steps. Potential collaboration with stakeholders by Network Rail and industry in addressing these issues was welcomed.

Item 11 HS1 ANNUAL PERFORMANCE REPORT

Debbie Daniels (Delivery Manager) and Howard Taylor (Head of Capital Investments) joined the meeting for this item.

30. FA introduced the report, outlining the context of the HS1 Periodic Review in 2024 (PR24). Howard Taylor (HT) invited the Board to consider the four key messages of the annual report and whether they reflected an appropriate tone. It was suggested that the Health and Safety title (in the draft executive summary) be reconsidered given that there had been no fatalities, and the missed target related to workforce injuries. A caution was raised regarding use of jargon and abbreviations, to be reviewed in the final report.
31. The Board considered performance against the previous year, suggesting this be reflected in an opening paragraph to the report, and welcomed the ongoing engagement with HS1. A clear position had been taken throughout the year, and in the report, regarding missed targets and their importance. The Board noted future options regarding enforcement, should any action be required; agreed with the proposal to share the report with HS1 ahead of its publication; and noted that the Director of Planning and Performance would have final sign-off of the report, before its submission to the Secretary of State and publication on the website.

Item 12 THE GROWTH OF THE ELECTRIC VEHICLE CHARGING NETWORK AND OPPORTUNITIES FOR ORR

Louise Butcher (Head of Highways Strategy) and Kate Barnes (Senior Policy Manager) joined the meeting for this item via MS Teams.

32. ST briefly introduced the report as a generative discussion item on the potential role ORR might play in the growth of the electric vehicle charging network on the strategic road network. Given that NH was anticipated to be announced as the delivery body, reassurance was given regarding their resourcing capacity to do so in response to Board questions. Similar assurances were given regarding the engagement and expectations of the Competition and Markets Authority (CMA) in this area.
33. The Board welcomed the exploration of this area though recognised there was no obvious role for the ORR to add value through independent oversight. This would be monitored, alongside ORR's principal interest in how delivery of the electric vehicle charging network might affect NH's performance against targets and commitments.

Item 13 REPORTS FROM COMMITTEES

34. Bob Holland (BH) reported on the meeting of the Audit and Risk Committee on 25 July. The Committee had considered, among other items:

- The Quarter 1 Risk Report (included below the line) and developments pertaining to West Coast Railways, as well as the end of internal industrial action short of a strike;
- A fresh perspective on RSD risks from Sarah Shore (Deputy Director, Railway Safety);
- Progress against the internal audit plan, including a report on communication (which had received a reasonable assurance opinion);
- An update on Learning & Development spend control breaches, where retrospective approval had been received and interim principles were in place under a centralised system (noting the impact on staff); and
- An update on IT and Security, which was seen to take a proactive approach and would continue to be monitored by the Committee.

Item 14 ANY OTHER BUSINESS

35. Declan Collier (DC) provided a brief update on recent meetings, including two with the Director General, Rail Strategy and Services Group, and one with other Chairs of regulators. Regarding the latter, cyber security and system vulnerability remained a shared concern.
36. DC also updated the Board on matters relating to his proposed reappointment as Chair, as well as considerations around the remuneration of Non-Executive Directors.
37. CW informed the Board of the publication of the review of the Civil Aviation Authority (CAA) on the 17 July, which the Board Secretary would circulate. DC thanked CW for representing the ORR as part of this review.
38. The Board noted the items below the line, including the provisional meeting schedule for 2024 which would see some revisions regarding Highways Committee.

Meeting end: 1.00pm
Approved: 26 September 2023