

THE OFFICE OF RAIL AND ROAD
226th BOARD MEETING
Tuesday 21 January 2025, 09:00 – 14:00
At ORR, 25 Cabot Square, London, E14 4QZ

Non-executive members: Declan Collier (Chair), Xavier Brice, Ian Dobbs (via MSTeams), Anne Heal, Justin McCracken, Daniel Ruiz, Catherine Waller (via MSTeams).

Executive members: John Larkinson (Chief Executive), Richard Hines (Director of Railway Safety).

In attendance: Feras Alshaker (Director of Planning and Performance), Fiona Bywaters (Board Secretary), Will Godfrey (Director of Economics, Finance and Markets), Russell Grossman (Director of Communications), Graham Richards (Director, TfL Analysis and Interim Director, Corporate Operations), 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. Apologies for absence were received on behalf of Madeleine Hallward.

Item 2 DECLARATIONS OF INTEREST

2. Ian Dobbs had recused himself from Items 6, 11 and 12 (onwards) in accordance with Board Procedure Rule B11.
3. There were no further declarations of interest.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The minutes of the meetings held on 26 November, 11 December and 27 December 2024 were approved.
5. A brief update was provided on actions arising and completed from previous meetings.

Item 4 CHIEF INSPECTOR'S QUARTERLY REPORT

6. Richard Hines (RH) introduced the report, referring to discussions at the meeting of the Health and Safety Regulation Committee (HSRC) in December which had provided feedback on the new report format.
7. An oral update was provided with regard to: upcoming sentencing hearings for prosecutions relating to track worker deaths at Margam and Surbiton (updates would be provided to the board as appropriate alongside a status overview of track worker safety commitments); and analysis of Network Rail regions'

recovery plans concerning the backlog of assessments and examinations for structures and operational property (with findings due to be communicated at Director level shortly). The Board requested that a short briefing on structures (outlining concerns, differences, previous actions, NR response(s), and percentage of risk assessments outstanding) be produced **[Action 01/01]**.

8. Further update and discussion related to:

The first bullet point is redacted from the published version as time-sensitive and covering confidential issues.

- [...];
- challenges with an ongoing trial of driver vigilance devices for the mainline railway and subsequent engagement with ASLEF and RSSB to overcome these;
- the Talerddig Prior Role Review due to report to the Health and Safety Regulation Committee (HSRC) in March;
- Statutory Safety Certificate assessment requirements associated with bringing train operating companies into public ownership; and
- a recent event hosted by ORR in Birmingham on protecting passengers during stranded train incidents (attended by Non-Executive Director Anne Heal on behalf of the Board).

9. Following a question from the Board, it was confirmed that there would be an update on the previously-reported springs issue (associated with freight trains in the Channel Tunnel) via the biannual update next due to HSRC in March. Consideration was also given to ElecLink's work to repair an interconnector cable; train driver licence reform; and whistleblowing data (as a prescribed person).

Item 5 CHIEF EXECUTIVE'S REPORT

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

Item 6 HOLDING TO ACCOUNT – QUARTERLY REPORT

13. Feras Alshaker (FA) introduced the quarterly report, referring to an item later on the agenda regarding the external guests from Network Rail (NR). Reflections were provided on asset performance and service-affected failures, as well as overall performance trends and a focus on time-to-fix by NR's maintenance teams. A letter was due to be sent regarding performance in the Eastern Region in particular, with further evidence sought.
14. The Board further discussed from the report:
- Performance in Scotland;
 - Trends in cancellations (noting the influence of availability of train crew) and p-coding;
 - The NR escalator summary;

- Performance over the Christmas and New Year periods; and
- Public perception of disruption caused by engineering works.

Item 7 NATIONAL HIGHWAYS PERFORMANCE

15. Feras Alshaker (FA) introduced the report, referring to updates since the meeting of the Highways Committee (HiCo) in December, namely:
 - The Interim Settlement advice (for which publication was expected by end March), noting that DfT had sought further information from National Highways (NH) on the renewals profile and its efficiency;
 - The Lower Thames Crossing and previous recommendations of ORR;
 - An Efficiency Review of the third Road Investment Strategy (RIS3) in the summer months; and
 - Proposals under the Spending Review modelled at flat cash and -2%, with possible implications on staffing and non-statutory work.
16. The Board requested an illustration of feasible highways work under budget scenarios of flat cash and -2% **[Action 01/02]**.
17. Further update and discussion related to progress of the NEAR programme, KSI data, and any input to the government's road safety strategy.

Item 8 QUARTERLY BUSINESS REVIEW 2024/25 – QUARTER 3

Lucy Doubleday (Associate Director, Finance and Governance) joined the meeting for item 8.

18. Lucy Doubleday (LD) introduced the report and provided a financial overview, referring to forecasts against budget; reallocation of underspends; assurance on internal controls; progress on business planning commitments; and workplace attendance data. Further to a question, Graham Richards (GR) confirmed that the sharing of premises with Transport Focus had begun smoothly.
19. As the Chair of the People Committee, Anne Heal (AH) advised the Board of relevant discussions at its meeting the day prior on workplace attendance, hours worked, and sickness absence.

Item 9 RAIL REFORM UPDATE

This report is redacted from the published version as its disclosure is thought likely to prejudice the effective conduct of ORR's affairs as it relates to uncompleted policy development.

Item 10 GOVERNMENT REVIEW OF REGULATORS

22. John Larkinson (JL) provided an oral update on the government review of regulators, referring to a recent meeting of regulators at the Treasury

convened by the Chancellor, further to a letter received on 24 December 2024 (and responded to on 16 January 2025).

**Item 11 COMPETING AND COMPLEX TRACK ACCESS APPLICATIONS
UPDATE**

Gareth Clancy (Head of Access and Licensing) and Martin Jones (Deputy Director – Access, Licensing and International) joined the meeting for item 11.

23. Stephanie Tobyn (ST) briefly introduced the item whilst the Chair made reference to the letter on open access recently received from the Secretary of State. Martin Jones (MJ) provided an oral update to the report, including recent engagement with Network Rail and freight operating companies. Gareth Clancy (GC) framed the report as preparation for an anticipated open access decision (by the Board) in March.

The following paragraph [text in square brackets] is partially redacted due to legal privilege:

24. The Board discussed the Secretary of State's letter – particularly in the context of a drive for growth from the Chancellor – and sought General Counsel's view on its effect. [...]
25. The Board further discussed from the report:
- The split of total applications between access and open access, as well as their prioritisation and which were considered reserved to the Board as novel or contentious;
 - Contingent rights and capacity on the West Coast Mainline (WCML) and East Coast Mainline (ECML);
 - Obtaining an impact update on Secretary of State funds following previously-approved open access applications; and
 - Applications for capacity in specific “high demand” geographies and/or which interact with other applications where sufficient information had yet to be provided by Network Rail (NR).
26. The Board noted that:
- **Decisions on routine applications will continue to be progressed (without Board involvement and under delegated authority) on routine applications where sufficient evidence has been received.**
 - **When ready, remaining applications will mostly be determined by the executive, but some will come to the Board (after March 2025) where considered novel or contentious.**
 - **It is intended to recommend at least one decision on open access on the West Coast Main Line at the March 2025 board meeting.**

The Board adjourned for lunch from 12:22 to 12:50.

Item 12a INTRODUCTION: EXTERNAL GUESTS

Steve Fletcher (Deputy Director, Engineering & AM) and Richard Connor (Head of Financial and Economic Modelling) joined the meeting for item 12.

27. Will Godfrey (WG) introduced the context and provided a brief overview of the CP7 funding gap. Subject to discussions, the recommendation was that a public letter be sent from the Chief Executive to his counterpart at Network Rail.

Item 12b EXTERNAL GUESTS: JEREMY WESTLAKE (CHIEF FINANCIAL OFFICER) AND PAUL MCMAHON (MANAGING DIRECTOR)

28. The Chair welcomed Jeremy Westlake (Chief Financial Officer) and Paul McMahon (Managing Director) from Network Rail and invited them to give their presentation on Network Rail's approach to managing the overlay within CP7 funding constraints.
29. The presentation referred to the context, current position and Network Rail's approach to managing the overlay in their CP7 plans, which included key messages, explanation of position, supporting information, and further detail of progress to-date and savings opportunities.
30. Further discussion considered the impact of increased employer National Insurance Contributions, train performance, but also Minimum Viable Product approaches, market-led savings, and the importance of managing long-term asset sustainability.
31. The Chair thanked the guests for their attendance and presentation and suggested that they be invited to return in a year's time **[Action 01/04]**.

Item 12c REFLECTION: EXTERNAL GUESTS

32. The Board briefly reflected on the guests' contributions.

Item 13 REPORTS FROM COMMITTEES

33. The Chair informed the Board that the meeting of the Highways Committee due to take place on 11 February 2025 was cancelled, given the recent regular informal meetings on the annual safety assessment. An update on highways work had been provided under Item 7.
34. Justin McCracken (JM) reported on the meeting of the Health and Safety Regulation Committee held on 16 December. The Committee had considered, among other items:
 - Presentation of external guests from the Light Rail Safety and Standards Board (which many non-committee members had attended)
 - Chief Inspector's quarterly report (as discussed under Item 4); and
 - An interim update on the Talerddig Prior Role Review.

35. Daniel Ruiz (DR) reported on the meeting of the Audit and Risk Committee held on 20 January. The Committee had considered, among other items:
- The internal audit progress report where it was advised that two final reports were received: data governance (minimal assurance, influenced by lack of clarity on data ownership) and payroll/expenses (substantial assurance).
 - Corporate Risks – Quarter 3 (included below the line on the board agenda).
 - IT & Security Update and the significant progress made over the previous two years.
 - National Audit Office planning report on the 2024-2025 audit, where challenge had been given to the increased fee.
 - Whistleblowing and ORR's role as a prescribed person, where assurance was provided to the Board of the fulfilment of statutory obligations under the Public Interest Disclosure Act 1998 ('PIDA'), The Public Interest Disclosure (Prescribed Persons) Order 2014 and The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017.
 - Risk appetite and tolerance, where it was suggested that the Board's views be sought on a proportionate approach. In response, it was suggested that the matter be discussed at the upcoming strategy day.
36. Anne Heal (AH) reported on the meeting of the Consumer Expert Panel held on 18 December. The Panel had considered, among other items:
- Work on stranded trains;
 - The revenue protection review, where it was felt important to include younger stakeholders, and consider proportionality and fairness; and
 - Benchmarking performance on passenger assistance due to high performance failure rates.
37. AH further reported on the meeting of the People Committee held on 20 January. The Committee had considered, among other items:
- Quarter 3 People Pack where it was advised that sickness absence was increasing (albeit remained lower than the Civil Service average) and may be considered a more realistic representation rather than presenteeism. Additionally, the Board were alerted that 35% of staff had more than 10 days leave remaining at the end of December 2024 and of concerns over the age profile of organisation, requiring further assurance of any potential vulnerability.
 - Culture Audit and People Survey: where it was advised that synergies between the two had been examined, with further opportunity to discuss as a Board at the upcoming strategy day.
 - Staff Council Terms of Reference: where it was advised that there were currently no appointed staff-side representatives, with the committee proposing that this option be kept open.

- Non-Executive Director Recruitment: where it was advised that two roles would be recruited to.
- Talent management and succession planning for SCS roles.

Item 14 ANY OTHER BUSINESS

38. The Board noted the dates of the next meetings and items below the line, namely: the Board forward programme and committee minutes approved since the last meeting, as well as the Quarter 3 risk report (presented to Audit and Risk Committee).
39. The Chair reported on a recent meeting with the Permanent Secretary of the Department for Transport and the chairs of other DfT bodies. Reference was also made to recently-circulated advice with regard to use of social media (shared with all Chairs of DfT bodies to convey to Board Members). The Chair had also recently met with the Chair of National Highways, where the improved relationships were recognised, ahead of an upcoming meeting between the Boards at the end of February.
40. It was also remarked that responses had been received to the questionnaire circulated in December regarding board effectiveness. An overview of results would be presented to the Board in February, as part of the strategy day and subsequent board meeting.
41. Finally, the Board noted the following committee membership change, that:
 - **Madeleine Hallward be appointed to the Health and Safety Regulation Committee, and stood down from Audit and Risk Committee.**

Meeting end: 2.10pm
Approved: 25 February 2025