

**THE OFFICE OF RAIL AND ROAD
167th BOARD MEETING**

28 JANUARY 2020, 09:00 – 15:20

ORR London Office, 10th floor, 25 Cabot Square, London E14 4QZ

Non-executive members: Declan Collier (Chair), Stephen Glaister, Anne Heal, Michael Luger, Justin McCracken, Graham Mather

Executive members: John Larkinson (Chief Executive), Graham Richards (Director Railway Planning and Performance); Ian Prosser (Director Railway Safety).

In attendance: Dan Brown (Director, RME and Strategy), Freya Guinness (Director Corporate Operations), Juliet Lazarus (General Counsel), Tess Sanford (Board Secretary).

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The chair welcomed everyone to the meeting.
2. Bob Holland (NED) and Russell Grossman (Director of Communications) had sent apologies for the meeting.

Item 2 DECLARATIONS OF INTEREST

3. No new relevant interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The minutes of the meetings on 10 December and 2 January were agreed. The chair asked for some alterations to the presentation and would then sign them.
5. The meeting also noted the decision taken in correspondence on 18 December 2020.
6. A number of the actions and matters arising were addressed in the agenda. There were no overdue actions. Ian Prosser noted that he had written to Mick Cash of RMT following the discussion on safety at the last meeting.

Item 4 HEALTH AND SAFETY MONTHLY REPORT

Ben Watkins attended for this item.

7. **Ian Prosser** reported on two very serious injuries over the Christmas period at Kensal Green and Paddington both of which were under investigation. There had also been a fatality which fell outside the current reporting period. More detail would be supplied at the next update.
8. He gave an update on Margam and NR's investigation report. The trackworker safety task forces set up by NR appeared to be well led and resourced across the organisation. It would be some time before any safety impact of the reduction in red-zone working could be

- expected to be reflected in the data. It was noted that red-zone working was inefficient and costly as well as dangerous.
9. Ian reported on progress with the Sandilands investigation and against the RAIB recommendations. He also highlighted a report on the Norwich Road level crossing near miss, which appeared to point to adhesion issues which were unidentified during rolling stock testing.
 10. He reported on a new tool to show how often drivers see a red aspect signal which would help inform risk assessments. The increase in traffic on the network and the number of new drivers were both risk factors. However, Ian stressed that the SPAD risk is only 1/7 of its 1999 level and that there were other areas of risk such as earthworks which were higher.
 11. The board discussed how the safety impact of intensification was understood including how level crossing risk was affected by increased service frequency, and the impact of increasing tonnage on maintenance requirements. It was important that such issues were considered as changes to services were planned: this required a shared approach by DfT, NR and ORR.
 12. The board also discussed whether power supply interruptions were increasing, the ongoing resource required to maintain the current level crossing regime, a proposal to reduce the minimum age of train drivers, and the state of preparation for extreme weather events. The board was reminded that, as a result of intervention by ORR, NR had improved its planning to improve the asset condition of earthworks and received funding to address it. It was important that they delivered the planned work.
 13. The board discussed a tabled dashboard of safety information and a further iteration would be provided next month.

Item 5 BOARD INFORMATION PACK

14. Graham Richards reported on Transport Focus's recent assessment by the Office for Statistics Regulation (OSR) and what lessons ORR could learn from it. In summary, the OSR found weaknesses in the category of trustworthiness which has led to TF's National Rail Passenger Survey (NRPS) not gaining national statistics accreditation. Although this did not mean that the NRPS was statistically misleading, it did highlight the importance of maintaining discipline around our own statistical function so that we retain the respected accreditation and trustworthy reputation for our own releases.
15. The performance letter to NR had generated unexpectedly high press coverage.
16. The board discussed the information ORR had seen in relation to 'smart motorways' and noted the expectation of an announcement around the government's stocktake soon. Through the discussion it was noted that the relationship with the DG senior roads team was different than that with the DGs for rail (particularly in terms of frequency) and this should be addressed directly by the CEO [Action].

17. The board discussed the importance of evaluating the impact of the changes already introduced, public concern and questions about the level of public awareness that might be appropriate around major changes to the network. ORR's exchange of correspondence with HE on the safety issues was now in the public domain following an FOI request.
18. ORR's role was to monitor HE across a number of parameters and if government placed additional or different requirements on HE then ORR should monitor delivery against those new requirements. Staff should ensure that such activity was possible in the current framework [Action]. ORR could play an important part in re-establishing public trust in HE through its independent monitoring and reporting.
19. The board discussed the rail performance report and agreed that it would be recast to clearly distinguish between performance against ORR's main areas of interest and what NR was reporting about its own performance. The report should be forward looking to enable the board to assess the likelihood that NR would deliver on expectations and how regions were performing.
20. The board discussed the original intent in CP6 to use NR's scorecards for monitoring performance because they would reflect stakeholder concerns. The board noted that this had not proved true in most regions – Scotland being a notable exception. Because of this, ORR was monitoring against measures it had included as backstops in case the scorecard system did not work as planned.
21. A new board pack would be provided at the next meeting [Action].

Item 6 CHIEF EXECUTIVE'S REPORT

22. John Larkinson updated the board on work on communications, including plans for parliamentary engagement, business plan stakeholder engagement and internal communications including the staff conference in February. He reported on plans to engage with senior stakeholders to seek their views on how ORR should approach any change to its role proposed by government in the Williams White Paper.
23. Letters to the industry on passenger information during disruption and to HS2 on its future charging structure would be issued shortly. He had met the new CEO of HSE, Sarah Albon and the CEO of the BTP Authority, Hugh Ind.
24. Juliet Lazarus reported that the market study into signalling had now been launched and she would, with John, meet the CMA to ensure that appropriate engagement was supported.

Item 7 QUARTERLY BUSINESS REVIEW

25. Freya Guinness reported that, as anticipated, ORR would have a significant underspend in 2019-20, largely as a result of necessarily conservative forecasting around the London office move (delayed rental

payments, release of dilapidations etc). The year end underspend was expected to be about 4% but this was dependent on the delivery of consultancy to programme. An even tighter approach to staff planning would be adopted for 2020-21. She had just heard from Treasury that the £1.65m uplift on the current year's budget which was needed to address unavoidable cost increases (such as pensions and the pay settlement), had been approved. The business plan for 2020-21 could now be finalised. The board discussed briefly whether additional resources with specific technical skills needed to be added and this would be addressed as part of the 'think-pieces' being proposed under item 13.

Item 8 OTHER EXECUTIVE REPORTS

26. Dan Brown reported on the forthcoming publication for the first time of data on the impact of open access services on markets. The transfer of the Cardiff Valley Lines had not yet been triggered pending some issues outside ORR's control. There would be items on the February board agenda on open access. Early results of the new passenger assist scheme trial were positive.
27. On Europe, the bi-national committee had scrutinised the Eurotunnel safety statement and the Brexit Bill had now been passed.

Item 9 INDUSTRY PERFORMANCE

Catherine Williams attended for this item

28. Dan Brown reported that ORR had written to TPE about late passenger notifications and passenger information on unplanned cancellations in relation to the December timetable change and they had responded with evidence on staffing at stations, website, social media and other channels. The approach to pre-planned cancellations was well planned and delivered. On the day of the timetable change, TPE had suffered significant disruption due to staffing issues in some depots which it could not have reasonably predicted. It had published revised information for passengers in a reasonable timeframe but disruption to passengers was unavoidable in the circumstances.
29. This issue needed to feed into risk discussions around the May 2020 and December 2020 timetable changes. The board discussed whether the system introduced following ORR's investigation of May 2018 disruption was working appropriately in this context. It was clear that there remained a degree of optimism bias as the PMO had accepted the TOC's assessment that it had mitigated the growing risks around the timetable change, without adjusting the green RAG rating. It was not clear that immediate past performance or underlying staffing issues had been acknowledged or taken into account in discussing risk.
30. There was no evidence that either the TOC or the PMO withheld or restricted relevant information.

31. In future it would be important to improve current risk assessment and reporting to enable parties to better identify areas of real concern. A better shared understanding of individual risk appetites might support that outcome. It was important that the PMO fulfilled its role of taking a view of whole system risk and did not rely on TOC assurances and ORR should support that approach. This might require additional or different resources in the PMO. The board asked for these issues to be raised with NR and John Larkinson would consider where best to direct these concerns [Action]

Paragraph 32 has been redacted as commercially sensitive.

33. The board noted the report and the additional performance data circulated.

Item 10 and 11 NETWORK RAIL

Carl Hetherington and Gordon Cole attended for this item

Andrew Haines, CEO of Network Rail and Jeremy Westlake, CFO of NR joined the meeting.

34. The board noted the briefing it had received in advance of the presentation by Network Rail.
35. The board welcomed Andrew Haines, CEO of Network Rail and Jeremy Westlake, CFO of NR to the meeting.
36. John Larkinson explained the importance of NR becoming more efficient and the high level of engagement which was going on to deliver this. The message was positive on numbers and progress to date, but everyone acknowledged that the future challenge was still growing and the board had asked to hear about NR's plans to address it.
37. Andrew Haines described the 'efficiency contract' of £3.5bn which NR was committed to delivering over CP6. Targets had been set intelligently and robustly and NR was alert to the risk of these driving perverse outcomes, which may have happened in earlier settlements.
38. Jeremy Westlake gave a presentation setting out good progress in year 1 and plans for years 2-5 where the challenge would be greater. He highlighted changes in approach between CP5 and CP6. These included: focus on culture around value, regular reviews at regional level, plans rooted in and owned by the region, better management information, comparative reporting to spread best practice and highlight underperformance, good engagement with ORR to agree valuation methodologies, second line in-house assurance and support from ORR and reviewers, and national oversight reported to the board each period.
39. He also set out key challenges and risks to delivery of the efficiency contract, including: staff concerns, how to deliver unplanned efficiency (the extra efficiency required by ORR in PR18) whether plans would deliver as expected, and the potential need to spend to save. Key contracts were now in place so some efficiency was already secured for future years, but equally some costs had increased unexpectedly. He cited an unrecognised currency risk which had crystallised on some software licences.

40. He acknowledged the usefulness of the ORR-commissioned review by Nichols into efficiency in demonstrating focus of scrutiny in this area. He described other improvements being planned for years 3-5. Finally, he invited the board to examine the visualisation boards which had been set up outside the meeting room.
41. The board discussed with the visitors what investment NR was making on the infrastructure to deliver efficiency, noting the example of rail milling trains which could add 3-5 years to rail life. Lessons from previous inefficient spend on equipment were discussed: eg any new kit would now be standard and not bespoke. The board asked whether there were mechanisms in place to raise inefficient practice by TOCs and to what degree NR was taking into account the impact of densification of traffic on the network in its planning of maintenance. Jeremy Westlake gave an example that NR had a team of engineers looking at how the additional degradation of the rail by new rolling stock (which is more rigid than the stock it replaced) could be addressed. This was an area where TOCs and NR would have a different view of the economic cost/benefit of eg regular wheel re-profiling.
42. The board discussed the ongoing internal distraction around Putting Passengers first and the potential disruption which might follow the Williams White paper. NR acknowledged the risk, but reported that motivation remained high and the intent of introducing better accountability and scrutiny were recognised and accepted. The PPF programme was now in its final phase. There was no expectation that the White Paper would lead to a reduction in the focus on efficiency.
43. The meeting discussed potential market issues, including ORR's market study on signalling which had just been announced. NR were bringing some work in-house where it produced savings including on time taken to deliver. The likely demand pressure on infrastructure contractors if all the government's current plans went ahead was noted. It was important for NR to continue to be frank about what it had capacity to deliver in short time frames.
44. NR reported that following the progress on OM&R, DfT were increasing their focus on efficiency in enhancement delivery.

Lunch

Over lunch the board received a presentation from NR staff on the visualisation boards which are used by the Cost Control Room team to monitor and report on efficiency across the regions.

Item 12 AUTHORISATIONS – ORR APPROACH

Steve Fletcher joined the meeting for this item

45. Steve Fletcher explained the way the ORR's role in authorisations was being leveraged to drive better efficiency and reduce costs in projects and rolling stock introduction. He explained two opportunities for improvement. First the application of interoperability regulations should deliver less bespoke engineering (which was inevitably more costly than standard responses) and second that ORR's safety risk assessment approach could drive more thoughtful optioneering during the development of engineering solutions. He

described how the current overlapping layers of standards could lead clients specifying projects (eg NR) to take the lowest possible risk option. This would lead to them requiring adherence to best practice at every point (and inflating cost) instead of working through each design element and making decisions on the proportionate response. ORR highlighted best practice in its guidance, and this sometimes led to it being blamed for “setting ‘gold plated’ standards”, although this was not true.

46. Steve described the typical process for authorising a project, highlighting that early engagement with ORR on the right approach to authorisation could reduce risks of delay through the project. The board discussed the short timescales against which the team was often required to deliver authorisations, in spite of clear standards and expectations. It recognised the pressures which could emerge if such authorisations could not be issued. The board discussed recent examples including Worcestershire Parkway. ORR was pragmatic in adding conditions to some authorisations where there was no compromise to safety to avoid a significant negative impact on consumers. But it was absolute in refusing to authorise unsafe engineering.
47. The board noted the presentation on ‘gold plating’ which had been circulated below the line. It discussed the importance of improved understanding of ORR’s role in authorisations as well as the wider framework of safety standards. Better understanding would enable ORR’s staff to engage appropriately and at earlier stages to support better value decisions on engineering options.

Item 13 OUTCOME FROM THE BOARD STRATEGY DAY

48. The board discussed the short paper which set executive plans to take forward priorities discussed at the strategy day.
49. There were three areas of immediate action: review of train performance incentives and overall incentives on public bodies, ORR’s role in enhancements, and whole system cohesion including evolving regulation. John Larkinson described how work was already underway in these three areas.
50. There were two further areas where work would be put in hand to provide the board with a developed proposal on what might be attempted and how it could be delivered. These related first to ORR’s role in innovation and second its role in macro- and local environmental issues. This would include specifically decarbonisation and air quality. Reports on these issues would be brought to the board later in the year [forward programme].
51. Finally the paper set out areas of concern to the board that were not considered priorities to be taken forward at this time.
52. The board noted that work to improve whole-industry reporting from the point of view of the consumer was still desirable but would depend on the outcome of the Williams review. This should be considered again in the context of the White Paper [action].
53. The board noted that these proposals reflected government policy priorities: decarbonisation, rebalancing the national economy away from the south east, infrastructure investment and facilitating trade.

54. The board agreed the recommendation in the paper.

Item 14 White paper update

Paragraphs 55-62 have been redacted from the published version as policy under development

Item 15 FEEDBACK FROM BOARD COMMITTEES

63. HSRC - Justin McCracken reported on the committee's meeting in December. It had heard from RSSB's system safety risk group chair (and Crossrail MD, Steve Murphy) and discussed TOC issues including: SPADs, PTI and software). It had also had updates on lessons from Grenfell, progress with occupational health and the annual risk ranking exercise which informed RSD's business planning.
64. ARC – Michael Luger reported on the meeting which had received Mazars' regular reports, the London accommodation lessons learned report and the quarterly risk review (which was attached to the board papers below the line).
65. Renco – Michael Luger reported that the committee had met the consultants working on ORR's diversity and inclusion strategy and its pay and reward strategy. These were two areas of challenge in the staff survey results, an early set of which had also been discussed although more analysis would be done to look for underlying issues. The committee had noted the very high scores on flexible working and trust as well as the improved scores around leadership and managing change, which demonstrated that executive focus could move numbers on some issues. The committee had approved two in year awards to SCS members.

Item 16 ANY OTHER BUSINESS

66. The Chair reported on progress with the Board Effectiveness review, the report from which would be available by the board workshop in February. He also gave updates on NED recruitment (following interviews in September 2019) and plans for stakeholder engagement including progress on briefing information.
67. The board noted the items below the line, which were for information.
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