

**THE OFFICE OF RAIL AND ROAD**  
**169<sup>th</sup> BOARD MEETING**  
**24 MARCH 2020, 09:00 – 13:20**  
**By Skype for Business**

**Non-executive members:** Declan Collier (Chair), Stephen Glaister, Anne Heal, Bob Holland, 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), Russell Grossman (Director of Communications), Freya Guinness (Director Corporate Operations), Juliet Lazarus (General Counsel), Tess Sanford (Board Secretary).

**Observer:** Madeleine Hallward (NED designate)

**Other ORR staff in attendance are shown in the text.**

**Item 1            WELCOME AND APOLOGIES FOR ABSENCE**

1. The chair welcomed everyone to this first video-conference meeting of the ORR Board.
2. He particularly welcomed Madeleine Hallward to the meeting as an observer. She would shortly be appointed as a non-executive member of the Board.

**Item 2            DECLARATIONS OF INTEREST**

3. No new relevant interests were declared.

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

4. There was an amendment to the circulated version of the minutes. Paragraph 52 was corrected to read:
  - *Justin McCracken reported on the most recent RIHSAC meeting which had discussed the main themes in RAIB's forthcoming annual report , a presentation from Phil Barrett of RDG on stranded trains and passenger evacuation, ORR's new draft Strategic Risk chapter on track risk, and ORR business planning as well as PACT interest in level crossing legislation.*
5. The minutes of the February meeting were agreed with this correction.
6. There were no overdue actions.
7. Although the work on reviewing charges and incentives had been paused for now, Non Executives were invited to register their interest in being interviewed for the study by contacting Dan Brown.
8. John Larkinson reported that the PMO had responded well to his letter on the impact of short formation trains on passenger experience and undertaken to step up their scrutiny to include this issue.

#### **Item 4 COVID 19 UPDATE**

9. Two papers had been circulated on Monday – an overview of the impact of Covid 19 on the industries and a note on ORR's business continuity response.
10. John Larkinson briefed the board on the overall situation on rail, the mood in the industry, ORR's approach, the impact on the industry and our role.
11. Passenger demand had collapsed and this had led to severe financial and contract issues and generated an urgent response by government to ensure that freight and essential passenger services kept running. Overall there was a remarkable spirit of cooperation across the industry and a lot of very effective cross-industry working. The reduced timetable introduced the previous day was put together very quickly and – apart from some local issues where the plans had not worked immediately and were now being reviewed - the change had broadly gone well. He detailed some ongoing issues for freight and open access operators. There were still unfinished issues for government and operators on finance.
12. ORR had asked industry how it could help them to maintain delivery, and then endeavoured to address those issues. All non-urgent demands (eg stakeholder surveys, consultations) had been paused proactively.
13. The board discussed reports of overcrowding on remaining services, options for shifting financial pressures, the importance of keeping the good cooperation going after the immediate crisis was over, intense pressure on key groups of NR and TOC staff (timetablers and planners) and the growing risk of high numbers of staff being off sick. The board heard how Trades Unions have been involved in discussions and plans for responding to the crisis. There were ongoing practical issues in relation to guidance on such things as cash handling, ticketing and passengers travelling with symptoms, on which TOCs needed to issue consistent advice and support to their front line staff.
14. The note issued included examples of areas where ORR had been able to have a real impact on reducing pressure (such as issuing updated guidance). There remained urgent issues that ORR was still working on such as a proposal to 'switch off' Schedule 8 payments and the financial options for Transport Scotland to support their services. Wherever possible, options were being offered that were within the existing framework, were simple to deliver, would be effective and would be clear. Changing the overall financial framework would be hard to do and take too much time.
15. In making pragmatic decisions, ORR had increased its tolerance to the risk of legal challenge except where it was felt that the risk of acting introduced even more uncertainty for the industry.
16. The board discussed refunds on tickets. While this was not a matter for the ORR, they noted that RDG were working to improve the clarity of messaging around what had changed, although some confusion had occurred.
17. The board noted that duty holders' statutory safety duties had not changed. This had been reiterated – with a slightly simpler process to follow to address risk where a departure from the existing procedures was needed. This had not been challenged by the industry.
18. On Roads, John Larkinson reported on a conversation with Jim O'Sullivan (CEO, HE) on how HE was addressing the challenge of prioritising freight and the supply chain on their network. HE had focused on ensuring key staff

availability and introduced home working widely. HE were looking at ways to take advantage of the reduced pressure on the network to advance construction. The board agreed this would be beneficial if it could be done efficiently and safely.

19. The board discussed the importance of understanding the actual financial impact of Covid-19 and the future challenge of determining how HE and NR should be held to account over this period. It would be important both to think about this in the short term and to plan how to migrate back to a normal regime.
20. John Larkinson elaborated on the note circulated on ORR's business continuity response to the pandemic. He thanked the staff for the very positive way they had undertaken a massive change to a new way of working. The overall message was simple: ORR would support staff, they should look after themselves and support each other. Staff were trusted to use their judgement to do the right thing and needed to be sensitive to their stakeholders and support the industry, most of whose employees were in a much more difficult situation than ORR was. Regular staff interactions such as team meetings and check-ins should continue or be more frequent and new links, (such as new meetings for colleagues who were based in regional offices but worked in different teams) had been set up.
21. Governance structures continued to function well and some internal processes had been adjusted to respond to remote working. While some work had been paused to reduce pressure on the industries, other work such as IT development was being accelerated. Some publications would be paused, but many regular ones would continue.
22. John described increased risks around IT security, and the high pressure on some groups of staff – such as our HR and IT teams, and some policy specialists. In other areas, work could be de-prioritised or deferred (eg H&S legal cases were likely to be deferred).
23. The directors were having regular calls and watching out for particularly vulnerable staff. One challenge was understanding what resource was actually available in terms of staff time. The closure of schools meant that some staff would be juggling child care and home schooling along with their regular jobs and it would be important to understand what the impact of that was. For example, in the finance team 30% had primary school age children. There was still work to do – ORR needed its people to work as effectively as possible - but it was accepted this might be under difficult circumstances. The Senior Leadership group would meet on Thursday and discuss emerging concerns and priorities.
24. The board welcomed this update and also thanked staff for their positive response.
25. The board discussed plans for the various offices, including a skeleton staff at 25CS made of staff who could get there without using public transport. Freya Guinness gave an update on the current health status of staff in relation to Covid 19 including the number of staff off sick with symptoms and those self

isolating either for their own protection or because of others in their households. Incoming external calls and correspondence were being managed.

26. On wider industry staffing issues: the safety inspectorate would discuss how to prioritise safety inspections at a meeting on Wednesday. The board noted that ORR had issued clear guidelines on driver licencing adjustments and changes to maintenance regimes etc to support the industry. Guidance on issues such as fatigue had not been relaxed – it was understood that services would be trimmed to fit the signaller workforce available. The normal major incident protocols remained in place – although in the event of a major incident the response would be appropriate to the Covid-19 risks. Ian Prosser reported a derailment the previous day and explained that this would be investigated.

## **Item 5 CHIEF INSPECTOR'S MONTHLY REPORT**

27. **Ian Prosser** reported on:
- a discussion at HSRC on track worker safety at NR – who needed to maintain focus on this important issue;
  - the successful prosecution on Newark which should be a landmark in fatigue management on the railway
  - *[bullet redacted as under investigation]*
  - Discussions on DCO continued and were approaching agreement which would result in an updated set of principles being issued
  - Preparations to authorise operators of last resort (which might not now be needed)
  - A likely further delay had now been accepted by both parties on the review of the Eleclink dossier
  - The probable severe financial impact of Covid 19 on the heritage sector
  - The resolution of the issue of interconnectors on Hitachi trains and plans to install the fix in line with normal maintenance schedules in order not to further reduce fleet availability. John Larkinson noted that the final cost of the interconnector 'fix' had not been confirmed by Hitachi.
  - ORR's report on RAIB's Sandilands recommendations would be included in RAIB's forthcoming annual report.
28. The board congratulated the RSD and legal teams on the Newark prosecution. They asked for clarification on the policy on 'tactile strips' on platforms and to see the final version of the revised DCO principles [Action: Ian Prosser]

29.

## **Item 6 CHIEF EXECUTIVE'S REPORT AND BOARD INFORMATION PACK**

30. John Larkinson introduced this new report. He highlighted the fact that the section on timetabling had been overtaken by events. He also reported on the various strands of work underway which made ORR's expertise on enhancements available to the sector through a number of channels (NIC, CAA, TS, DfT and NR). This was being well received and was building strong

- evidence in support of a future role in the oversight and assurance of such projects.
31. The board discussed the report, including government's stock take of safety on smart motorways and the marginal improvements in safety that could be anticipated from the significant further investment they had proposed.
  32. The Chair reported on his meeting with the Chair of HE, Colin Matthews, who would be standing down at the end of April. He had echoed Jim O'Sullivan's comments at the February board meeting that the relationship between ORR and HE was mature and constructive and noted the difference of view on provisions for fines in the new enforcement policy.
  33. The board noted that, following discussion at the Highways Committee the previous day, staff would be escalating concerns about the quality and speed of HE's data flows to ORR with their Chief Executive.
  34. The board discussed the report that NR was changing its approach to scorecards and queried whether this undermined the PR18 determination. There were a range of views on the degree to which the existing structure needed to be strictly maintained (after the end of the pandemic). A careful review was needed of where scorecards were a useful tool and where they were not working as originally designed. The board asked for a discussion at its next meeting in April, to review how ORR should take address the issue of scorecards in future. [Action]
  35. John Larkinson listed some of his other stakeholder meetings.
  36. Freya Guinness reported on the likely end dates of two strategy reviews (diversity & inclusion and pay & reward).
  37. The board noted that the board information pack would benefit from information about trends and, whether reported numerical results reflected good or poor performance.
  38. The board discussed the relevance of the NRPS and its statistical significance, continuing relevance and other sources of relevant data. The board proposed that it be discussed by the consumer expert panel at their next meeting. [Action]

#### **Item 7            ORR BUDGET 2020-21**

39. Freya Guinness reported that the proposed budget was largely in line with the plans reported at the February board - £33.8m overall. DfT had agreed a slightly higher roads budget than anticipated. No additional funding would be sought for the Williams work at this time. The Channel Tunnel funding was still to be resolved but would be sought later.
40. The board approved the budget as set out in the paper.
41. The board noted that the current situation would need the current budget and business plan to be kept under review.

#### **Item 8            HIGHWAYS ENGLAND – HOLDING TO ACCOUNT**

*Feras Alshaker and Sarah Robinson attended for this item*

42. Feras Alshaker introduced the item. The updated Monitoring framework and Enforcement policy had been issued for consultation and the responses were

outlined in the paper. Highways Committee had discussed the paper and commended it to the board for approval.

43. The board discussed the feedback from consultees and how it had been addressed and approved the document. It was important that when the document was published it was accompanied by messaging on implementation which was sensitive to the current situation.

## **Item 9 HIGHWAYS ENGLAND: RIS2 ANNOUNCEMENT**

*Feras Alshaker attended for this item.*

44. Feras Alshaker introduced the item and slides which had been circulated the previous day.
45. The overall sum for RIS2 was higher than expected, partly to address the PFI funding shortfall on the Lower Thames Crossing and A303 Stonehenge bypass. One of the main challenges for HE in this period would be the replacement of life-expired concrete motorways, where the technical solutions were still being developed. Much of the performance specification was familiar, although there would be new targets and some changed metrics. Because of the current situation, year 1 baselines would need to be reviewed.
46. The board asked how targets were set, for example, why was the 82% target on SRUS considered to be a good outcome, and were the targets achievable or considered to be heroic? Feras would follow up on the specific question on SRUS [Action]. Graham Richards said that targets were set by DfT on the basis of advice from ORR: it would be possible now to review the final RIS2 and ascertain the degree to which that advice had been taken on KPIs. [Action]
47. The board noted that HE would now need time to finish the delivery plan for year 1 and subsequent years before it began work. It would be important to understand whether there was capacity in the supply chain to deliver all the planned work, particularly in the light of government's wider focus on infrastructure.

## **Item 10 ORR COMMUNICATIONS UPDATE**

48. Russell Grossman introduced the six monthly report which covered the second half of 2019 (July-Dec) and reported a generally good picture. Work continued to develop a better website and intranet, and the staff conference in February had been very successful. NEDs who had attended the conference agreed that the content had been excellent and staff engagement very high. The data portal presentation had been particularly interesting.
49. The board noted that the ORR narrative should have more in it about ORR's role on roads and asked about FOIA processes. As with policy development, the stakeholder survey interviews had been curtailed, although they had been in their latter stage anyway, and other stakeholder engagement was moving to respond to the changed environment but would need to continue in appropriate form in order for ORR to maintain its voice and influence during this period, and for afterwards.
50. The board asked to see the emerging design for the website [Action: May]

**Item 11 WILLIAMS WHITE PAPER**

*Paragraphs 51 – 53 have been redacted as policy development*

**Item 12 PR18 LESSONS LEARNED**

*Carl Hetherington and Richard Gusanie joined the meeting for this item*

54. The board discussed the paper which concluded a substantial lessons learned exercise to inform ORR's approach to the next review.
55. The board welcomed an excellent piece of work. They commented on: the importance of having the right skills in-house, the need for more advance thinking on securing the right people for the process, the possibility of undertaking development work over a much longer rolling timescale, the possible re-ordering of parts of the review process to smooth the cycle and avoid cliff edges in terms of resource requirements.
56. The board discussed how plans to review NR's engagement with stakeholders so far had been deferred due to the pandemic and whether future work could look at how stakeholders wanted to be engaged with by NR. It was noted that if the next periodic review included enhancements then it would inevitably generate more interest in local stakeholders.
57. The board accepted the recommendations in the paper and noted that the timings proposed were likely to change.

**Item 14 FEEDBACK FROM BOARD COMMITTEES**

58. Stephen Glaister reported on Highways Committee the previous day. In addition to RIS2 and the enforcement policy the committee had discussed: concerns over data flows from HE, non-material delays to DfT's suite of governance documents on RIS2 and preparations for the annual assessment of performance, which would also reflect on progress since the beginning of RIS1.
59. HSRC - Justin McCracken reported on the committee's meeting. It had heard from LRSSB CEO that although much had been achieved, more remained to be done. In addition the committee discussed progress on trackworker safety at NR, which would be followed up with NR directly at the June meeting, two updated strategic risk chapters on track and lineside equipment and on occupational health and heard from Ian Prosser on the emerging themes for the Chief Inspector's annual report.

**Item 15 ANY OTHER BUSINESS**

60. The Chair reported that Stephen Glaister had been reappointed to the board for a further two years.
61. The Chair thanked participants for their engagement during this first videoconference meeting and invited them to send any comments or suggestions for the next meeting to himself or the Board Secretary.
62. The board noted the forward programme.

OFFICIAL – FOR PUBLICATION

[ends]