

**THE OFFICE OF RAIL AND ROAD
173rd BOARD MEETING**

28 July 2020, 09:00 – 13:00

By MS Teams

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

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

In attendance: Dan Brown (Director, Economics, Markets and Strategy), Russell Grossman (Director of Communications), 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 this fifth video-conference meeting of the ORR Board.

Item 2 DECLARATIONS OF INTEREST

2. Anne Heal reminded the Board of her previously declared interest as the chair of Volunteering Matters.
3. Stephen Glaister reported that, with the agreement of the Chair, he had joined a small advisory panel for the Mayor of London on options for the finance and governance of London Transport.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The minutes of the June meeting were agreed.
5. The board noted the updated action list.
6. Anne Heal reported that the consumer expert panel had heard about significant changes to the NRPS that were proposed by Transport Focus at their June meeting. This action could be closed.
7. The board agreed that the concerns around the level of SPADs continued and the completion of the specific action listed from June did not mean that this concern had reduced. The action should be retained to ensure reporting of progress on technological and other mitigations.

Item 4 COVID-19 UPDATE

8. John Larkinson reported on timetabling issues and an increase in service levels which was due in September: current projections included about 90% of pre-covid services from September. There would also be some changes permitted to the main timetable in December. The industry programme was called 'build back better' indicating an ambition to keep good levels of performance while returning to higher levels of activity. DfT would ultimately determine the balance of priorities between performance and capacity.

ORR's role in the process was to maintain oversight and assurance in relation to the operation of the PMO.

Item 5 CHIEF INSPECTOR'S QUARTERLY REPORT

9. Ian Prosser reported on progress on the safe resumption of driver training for traction conversion and new drivers. The final piece was route learning, proposals for which he expected would be accepted by Aslef later that day. Overall this would enable companies to reduce the risk to the timetable of a shortage of drivers later in the year. The board welcomed the news that the unions had engaged positively in this difficult challenge and congratulated Ian and the team for their work in delivering the guidance.
10. Ian noted the report of a serious SPAD which was being investigated. Work on in-cab vigilance devices was progressing with trade union support. The board asked whether enough was being done to make individual drivers aware of the issue and to encourage them to increase their own vigilance. Ian Prosser assured the board that train operators and unions would already be highlighting this risk for individuals. There was no evidence that there was a lack of training or general awareness for drivers. The board noted that good driver management was an important part of mitigating SPAD risk and suggested that RSSB could be asked to do more to promote the sharing of good practice in this area by operators.
11. The board noted the oral update on Eleclink where the decision on its risk assessment had now been delayed to October.
12. The board asked about specific incidents in the report and the safety issues of ageing infrastructure on some London Underground lines.
13. The board noted the receipt of a letter from a Coroner in relation to a fatality on the DLR and asked to see the response **[Action]**.
14. The board noted that the report seemed incorrect on enforcements numbers and Ian undertook to update and circulate the figures. **[Action]**. Overall, he thought enforcement numbers were as expected in the current year.

Item 6 CHIEF EXECUTIVE'S REPORT AND BOARD INFORMATION PACK

15. John Larkinson updated the board on several items including an overview of the external environment and rail reform, the forward agenda for the board, internal issues including plans for a partial return to office working and a cluster of legal challenges.

Paragraphs 16 – 17 have been redacted as relating to current policy development.

18. John also mentioned plans to make our offices Covid-secure by the end of August to allow staff to return to the office as they needed to. Desk capacity would be significantly reduced – to around 80 staff across the offices. It had become apparent that some staff's wellbeing had been significantly reduced by the extended period of homeworking and it was important that they were offered the opportunity to work from an office as soon as it was possible.
19. ORR had received notice of the forthcoming central spending review, but not yet received detailed guidance. The deadline for a response was in September and the board would be consulted on our submission.
20. Juliet Lazarus reported that, following the receipt of another letter before action, she had instigated a review with colleagues to check whether there

- was any suggestion that ORR's processes or approach were leaving it open to legal challenge. At this stage there was no evidence of this but she would be working with key teams to be raise awareness of potential triggers.
21. The board noted that DfT had sought ORR's advice on aspects of consumer law which was pleasing recognition of ORR's expertise.
 22. The board welcomed the appointment of the new chair of Highways England. ORR's Chair was seeking an introductory meeting.
 23. The board considered the board information pack. Performance during Covid had been very good overall but there were some operators with poorer results and the team were working to identify any underlying issues. The *build back better* programme would be supported by analysis of performance information during the pandemic compared with previous data.
 24. There were some areas where given the reduced congestion on the network one might intuitively anticipate better performance eg around punctuality, cancellations and planning and delivery of maintenance and improvements. ORR should seek views from TOCs on the performance of NR during the period to help identify any non-timetable issues. It would be important to recognise and celebrate positive improvements as well as any areas for further work.
 25. The board noted that data for 2020-21 would need to be contextualised in future years to ensure that any comparisons and reference points were sensible and meaningful.

Item 7 HIGHWAYS

26. Graham Richards introduced this new line item on the agenda which combined the regular reporting on HE from the board information pack with a short narrative piece on recent activity.
27. This had been a busy month – the annual assessment of HE performance had been published and been well received. The HE delivery plan had not yet been published – this was with DfT. At the request of HSRC the team had reviewed HE's risk assessment for the increase in speed limits through roadworks from 50mph to 60mph and were able to note that the assessment had been done well.
28. The board discussed the items on the escalator in the report.

Item 8 QUARTERLY BUSINESS REVIEW

29. Freya Guinness introduced the report. ORR was 9% underspent at the end of Q1, most of which was related to the underspend on travel and subsistence as a result of the lockdown. A re-budgeting exercise in June had identified additional activity that would support or enhance existing programmes of work and were in line with ORR and Government's spending priorities.
30. 8/10 of service standards had been met. The missed standards were as a result of the disruption caused by the sudden shift to homeworking while paper systems were still in use, and the pause in processes necessary to implement the new finance system.
31. The board noted the report.

Item 9 CONSUMERS – ATP NEXT STEPS

Stephanie Tobyn, Marcus Clements and David Kimball joined the meeting for this item

32. David Kimball described the responses received to the consultation and the approach now recommended which was the best that could be found given the complex picture of duties and legal powers. The new guidance required TOCs to use PSVAR compliant vehicles wherever possible as ORR recognised there was an insufficient supply of compliant vehicles to cover all rail replacement services, and ORR had no locus to drive change in supply. A new MOU with the DVSA should enable clear demarcation between our respective responsibilities. Should breaches be found by ORR they would be referred to DVSA. Staff understood that DVSA had increased their own resources in this area and reported that they had engaged constructively with the issue.
33. The board discussed the responses from different consultees and noted that the consultation process had been productive. All the various considerations had been balanced by the team and the proposal was pragmatic. Overall the approach seemed to be the best available and the board agreed to the publication of the guidance. It was noted that some consultees might still be disappointed with the final outcome.
34. The board discussed how the coach industry might be supported to modify existing fleets to make them fully accessible but noted the lack of financial incentives and that operators were also under pressure to reduce emissions. This issue should be mentioned in the letter to the Rail Minister which would accompany publication of the guidance.

Item 10 GOVERNANCE – HSRC TERMS OF REFERENCE

35. The Health and Safety Regulatory Committee had reviewed its terms of reference and proposed some minor changes.
36. The board adopted the proposed changes which would be embedded in the board procedures [Action].

Item 11 HS1 – ANNUAL REPORT ON PERFORMANCE

Matt Wikeley and Debbie Daniels joined the meeting for this item

37. The report set out how HS1 had delivered a good year, well within the standards of the concession agreement. The report was on 2019-20 and was encouraging, although it was recognised that there were considerably greater operational challenges in 2020-21.
38. The board approved the report for issue.

Item 12 NR – PR 18 – FIXED TRACK ACCESS CHARGES

Carl Hetherington, Will Holman, Pedro Abrantes and Jake Brown joined for this item

39. Pedro Abrantes summarised the paper. The introduction of fixed track access charges which were rooted in predicted volumes had become irrelevant for CP6 given the current situation.
40. The board discussed whether this was the right time to make a decision for the whole of the current control period or whether keeping the option open for another

year would offer more flexibility. On balance the team did not expect the situation to change enough within a year to lead them to a different recommendation. Acting now would bring clarity for the industry and would be a credible and sensible approach.

41. The board noted that the FTAC remained a potentially useful mechanism in the regulatory toolkit and anticipated that it could be a useful part of the next settlement. Any announcement should make this clear.
42. The board supported the proposal and noted the importance of engagement with all stakeholders in explaining the decision.

Item 13 PR23 PROGRAMME INTRODUCTION

Catherine Williams, Rob Cook, Siobhan Carty and Martin Leggett joined for this item.

43. Dan Brown described the regulatory strategy team, established in April this year. The team had worked on both the Williams Review and the evolving regulation programme (now PR23) so that they could pivot between the two as the policy environment developed. Both DfT and NR were interested in how PR23 might be used to deliver change in the industry.

Paragraphs 44-49 have been redacted from the published minutes as policy under development.

Item 14 ORAL UPDATES FROM ADVISORY PANELS, AND FEEDBACK FROM BOARD COMMITTEES

50. Bob Holland reported on the Audit and Risk Committee.
51. A difference of technical opinion between HMT and NAO had resulted in considerable delay to the signing of last year's accounts, but these had now been done.
52. An option to extend the internal audit contract by a year had been approved.
53. There had been a good discussion on risk, with no notable worsening of the position.
54. A presentation on ORR's cyber security had included a new dashboard on our current risk level including major threats. The advisor had been complimentary about how the IS team have managed ORR's systems through the shift to remote working.
55. Anne Heal reported on the Consumer Panel which had looked at the ATP guidance, and the new activity around Eurotunnel's communications with passengers. It had also discussed ideas to help ORR improve its intelligence around safety concerns raised by the public.

Item 17 ANY OTHER BUSINESS

56. The board noted the three items below the line.
57. The chair mentioned his recent meetings including Keith Williams, Roger Lowe, Peter Hendy, Andrew Haines, Bernadette Kelly and Ian Watmore.
58. There was no other business.

59. The next meeting would be 22nd September 2020. It was hoped that new board software would be implemented by that meeting. Plans for a face to face meeting of the board were being considered for October. Members were asked to let the Chair know their views.

Item 18 NON EXECUTIVE DISCUSSION

60. The non-executive members met privately to review the meeting.

Approved by the board on 22 September 2020