

THE OFFICE OF RAIL AND ROAD
184TH BOARD MEETING
Tuesday 27 July 2021, 09:00 – 13:30
At 25 Cabot Square, E14 and by MS Teams

Non-executive members: Declan Collier (Chair), Stephen Glaister, Madeleine Hallward, Anne Heal, Bob Holland, Justin McCracken in Cabot Square with Michael Luger and Graham Mather online.

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

In attendance: Dan Brown (Director, Economics, Markets and Strategy), Russell Grossman (Director of Communications and interim Director, Corporate Operations), Tess Sanford (Board Secretary) and Laura Majithia (Director of Legal Services)

Other ORR staff attended on line and are shown in the minutes.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The Chair welcomed everyone to this third face to face meeting of the ORR Board in 2021.

Item 2 DECLARATIONS OF INTEREST

2. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The board approved the minutes of the June 2021 meeting.
4. The board noted updates on the outstanding actions which were not yet due and closure of the other items.

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

5. Ian Prosser briefed the board on the completion of the Coroner's inquest on Sandilands nearly five years after the incident. The ORR could now determine whether to take enforcement action and, given the time elapsed, the team would move as quickly as possible. Paul Appleton had set out in evidence how the approach to safety on trams and light rail had changed following the derailment. The narrative verdict of accidental death did not mention the ORR. The coroner has not yet said if she would make any 'prevention of future deaths' recommendations..
6. Ian updated the board on significant progress on the inspection and remediation programme underway on Class 800 rolling stock. The taskforce was being overseen by Nichols. Inspections continued and processes had been improved to help keep safe units in service. Inspections were also checking on potential fatigue and cracking issues elsewhere on the bogies. ORR's lessons learned exercise was on plan to report in September.
7. Eurotunnel had not yet submitted a sufficient revised Safety Management System for the Eleclink operational project. Work continued on this. A face to

- face meeting between Eurotunnel and the IGC was reported as delivering a positive outcome in terms of the company's acceptance of the inspection report on safety leadership and its expressed willingness to address the issues.
8. Ian reported on work to support rail industry removal of some covid protection measures following the lifting of most regulations. He noted the importance of continuing to apply risk assessment in any change in practice. Ian described how some parts of the industry were struggling with staff availability due to high numbers being required to self-isolate at home by the NHS Covid app.
 9. Finally, Ian reported on the verdict in the Daventry prosecution, where the prosecution had been against a body that was not a rail safety duty holder. Sentencing is scheduled on 30 July.
 10. In discussion with the Board, Ian commented on the welcome reduction in track worker near misses which was being driven by NR's response to ORR's improvement notice and its progress towards removing red-zone working entirely within two years of the notice.
 11. The board asked questions about the report's content on tram incidents, particularly Sheffield and Metrolink and checked that commentary in recent RAIB reports did not indicate anything of concern for the board.
 12. In response to a question about Highways England's decisions on infilling old rail bridges, the board were assured that the ORR had no remit at all in relation to the legacy rail estate either under its rail or its road duties.
 13. The board discussed the importance of ORR continuing to engage objectively, consistently and transparently on questions of safety in sensitive areas such as driverless trains and workforce reform.

Item 5 CHIEF EXECUTIVE'S REPORT

14. John Larkinson updated the board on recent developments and took questions on the written report.

Redact this report (paras 15-20) from the published version as time-sensitive and covering confidential issues.

15.

Item 6 HIGHWAYS UPDATE

21. Graham Richards noted that smart motorways continued to dominate Highways England's agenda and discussions with their senior management and board.

redact next para as containing legal advice

Item 7 QUARTERLY BUSINESS PLAN REVIEW

Lucy Doubleday joined the meeting for this item.

23. Lucy reported on the QBR highlighting the decision to increase recruitment and the continuing financial impact of the Secretary of State's intervention on non-SCS year end awards and the pay freeze. 12 new roles had been identified.
24. Overall progress against the plan was good particularly noting the unplanned work on the Class 800s.
25. The board discussed the robustness of plans to spend the consultancy budget and noted the high number of people reporting excess hours – which the executive thought was under-reported in some areas. This should improve with the addition of new roles.

26. The board noted the report.

Item 8 HS1 ANNUAL REPORT

Carl Hetherington and Debbie Daniels attended

27. Carl Hetherington introduced the report noting that the report indicated that HS1 had had a good year in 2020-21 in terms of performance and renewals and that efficiency had been good.
28. The company faced significant financial challenges in 2021-22 as a result of reduced income during the pandemic.
29. The Board noted the draft report and delegated final approval of the text to Graham Richards.

Item 9 VISITOR – JEREMY WESTLAKE, CFO NETWORK RAIL WITH PAUL MARSHALL, GROUP CONTROLLER

Mr Westlake and Mr Marshall joined the meeting in person

30. Mr Westlake and Mr Marshall gave a presentation setting out how NR had over-achieved on its efficiency targets in year 1 and 2 of the control period (CP6), noting that ORR's positive commentary in this regard had been very valuable. They set out how NR planned to deliver against even more stretching targets for the rest of the period by building on the recurring savings that had already been secured.
31. They discussed with the board how the context of CP6 had been changed by the pandemic with the increased demand on the public purse as a result of reduced passenger numbers, the increased operating costs in relation eg to PPE and cleaning, and the changed focus of spending on track worker safety following Margam.
32. The meeting discussed the lower than planned risk funds available for the rest of CP6. It was noted that some risks, such as climate change, had been under-planned but others, such as inflation, had not materialised. The ability to flex plans within regions had proved useful and it would be important to protect this flexibility by retaining the identified risk funds.
33. The meeting discussed the degree to which innovation had supported savings and whether it could make a bigger contribution. It was noted that technical innovations such as quicker electrical isolations which increased the length of time for an overnight shift, could take time to show benefit because, for example, planners were accustomed to plan for shorter shifts.
34. Mr Marshall described other initiatives that could generate more commercial income. ORR was being kept informed as these developed.
35. The board discussed the recent reported increase in headcount across NR, particularly in senior management and the planned reductions over the rest of the control period. Mr Westlake said that this was related to the regionalisation of the organisation which had required more senior staff to be hired to strengthen regional structures before central services began to be reduced. He offered to share an update on what roles had been recruited by type/function and location to demonstrate this [Action 07/03]. Changes in management were fully funded and planned for delivery soon. Other workforce reform was under discussion with the trades unions and would take longer to agree and deliver. It would be important for

NR to have a clear narrative which explained the overall changes in staffing around *putting passengers first (PPF)*.

36. The meeting discussed inflation risk and mitigations, particularly around materials, construction and wage inflation for the rest of CP6. It was noted that a stronger understanding of inflation risk was needed for CP7 given the likely high supply chain demand for workforce and materials in the period.
37. Mr Westlake commented that ORR's focus on efficiency had been useful in supporting internal initiatives in this area and efficiency was now a core concern for management. It was noted that improvements in governance and accountability which had delivered efficiency improvements needed to be replicated inside NR for 'headwinds' to improve understanding and discipline around these areas of cost.
38. The importance of achieving a stable, steady state delivery was noted as being more efficient than ad hoc planning and delivery. Both ORR and NR recognised the importance of a five year settlement in this context.
- Mr Westlake and Mr Marshall left the meeting.*
39. The board reflected on what it had heard, noting the importance of resolving the definition of headwinds and that ORR should continue to focus on detail and evidence in its public commentary. It asked for more clarity on the question of headcount. [Action].
40. There would be a further board discussion on NR's autumn submission to the spending review.

Item 10 PAM WARREN REPORT AND RESPONSE

41. The document before the board now reflected HSRC and executive comments and would be published alongside Pam Warren's report. The board offered final comments and otherwise approved the note for this purpose.

Item 11 ORR RAIL REFORM PROGRAMME

Catherine Williams joined the meeting for this item

42. Dan Brown updated the board on recent activity at both DfT and in GBR's Transformation Team (GBRTT). DfT were now better able to scope the work they needed to do and were reviewing their internal capacity and capability to deliver this. It was likely that the original, very ambitious timetable, would slip.
43. Catherine Williams described ORR's plans to manage its contribution on four main workstreams over two phases. Resource needs had been identified and recruitment was planned immediately for 9 additional posts.
44. The board discussed the scope of the rail reform programme and how long it might take. It would be important for ORR to stay focused on what government said it wanted to deliver and to apply its expert understanding of the legal framework to help identify the simplest and quickest ways to achieve those goals.

Item 12 PR23 – SCHEDULE 4 CONSULTATION

Catherine Williams and Joe Quill joined the meeting for this item.

45. Catherine Williams described this consultation in the context of the other PR23 reviews of Schedule 8 and charges. The consultation would continue ORR's pragmatic approach to delivering the statutory framework in a period of uncertainty. It would explore the option for some operators to opt out of Schedule 4.
46. ORR anticipated that there would continue to be a role for these regimes in any new industry model. It was noted that although current commercial incentives were weak, Treasury wanted to see potential for market based incentives in future to be secured.

Item 13 COMMUNICATIONS STRATEGY

47. Russell Grossman introduced this six monthly review of the current strategy which followed on from reports from the stakeholder survey and dashboard of results. No major shifts were proposed and priorities were sustained. Work would continue to engage the 2019 intake of MPs with the ORR's work.
48. The board welcomed the report and approved the continuation of the strategy.

Item 14 OPEN ACCESS

*David Reed, Joe Quill and Jake Brown joined the meeting for this item
Redact this item (paras 49-52) from the published minutes as relating to an application which is still in progress.*

Item 15 ORAL UPDATES FROM ADVISORY PANELS, AND FEEDBACK FROM BOARD COMMITTEES

53. Bob Holland reported on the ARC agenda which had included a report on assurance mapping, the current risk picture and a deep dive on climate change risk. The cyber update had prompted a discussion about the need for a policy on ransomware.

Item 16 ANY OTHER BUSINESS

54. Declan Collier noted that the board would be asked in correspondence to approve the appointment of a new independent member of the ARC.
55. He reported that, pending the completion of current NED recruitment, Michael Luger and Graham Mather had accepted short term reappointments until the end of the year. Interviews for NED recruits would be conducted in September.

The chair held a short discussion with the NEDs and Chief Executive.