

**THE OFFICE OF RAIL AND ROAD
185TH BOARD MEETING**

Tuesday 21 September 2021, 09:00 – 12:30

At 25 Cabot Square, E14 and by MS Teams

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

Executive members: John Larkinson (Chief Executive)
Ian Prosser (Director, Railway Safety) online

In attendance: Tess Sanford (Board Secretary) and Laura Majithia (Director of Legal Services) and *(on line from item 5)* Dan Brown (Director, Economics, Markets and Strategy),

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 fourth face to face meeting of the ORR Board in 2021. Apologies had been received from: Michael Luger and Russell Grossman (Director of Communications and interim Director Corporate Operations)
2. With the full agreement of the Board, Graham Richards (Director, Planning and Performance) would be taking up a one year secondment to the Great British Railways Transformation Team (GBRTT) from October. In the light of this Graham had proposed recusing himself from Board business and the Chair had accepted this suggestion.

Item 2 DECLARATIONS OF INTEREST

3. No new interests were declared. Justin McCracken reminded the board of a previous declaration in relation to Ombudsman Services Limited and noted that his direct involvement with the organisation had ended about two years ago.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The board approved the minutes of the July 2021 meeting.
5. 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

6. Ian Prosser briefed the board on ORR's interim report on the Hitachi fleet issues. Work continued including plans to minimise disruption while the fleet was modified to address the cracking. **[Action 09/01: further detailed update in October]**. The final report would be delivered in December to cover root causes. Cooperation continued to be good from the manufacturer and operators.

7. HSRC had received a full report on progress on Eleclink and EuroTunnel's response to the safety culture report. Testing on Eleclink was progressing and a revised Safety Management System (SMS) was due in October with ET hoping for clearance by December (which would be a shorter time than our normal process and which we had not guaranteed to meet).
8. Laura Majithia reported on two [cases]. WH Malcolm have appealed their £6.5m sentence and this case was in progress.
redact para 9 as relating to pre-hearing activity
10. Ian also reported on early indications that the trackworker near-miss moving average is trending down – more detail would be provided next month in the quarterly report. He had moved some resources to increase focus on PTI management for trams in response to increased numbers of incidents.
11. The board also discussed: air pollution inside trains, risk around heritage rail operators restarting their operations, practical issues emerging during testing for the Elizabeth Line and work with LUL to assess asset integrity. The board asked for an update on progress of the replacement of interconnectors on the Hitachi 800s.
[Action 09/02]

Item 5 CHIEF EXECUTIVE'S REPORT

12. John Larkinson updated the board on recent developments and took questions on the written report.
Redact this report (paras 13-24) from the published version as time-sensitive and covering confidential issues.

Item 6 HIGHWAYS UPDATE

25. The board noted the report.

Item 7 DECISION – HIGHWAYS APPROACH TO RIS3

Feras Alshaker, Adam Spencer-Bickle and Steve Bussell joined the meeting for this item.

26. Feras Alshaker reported on the discussion of this paper at the Highways Committee the day before and the helpful suggestions made. One important aim of the consultation was to add transparency to the process of developing the RIS, which was much less public than the periodic review process for Network Rail.
27. The Board noted the paper and approved the proposed approach.

Item 8 DECISION – MOU WITH DFT ON CYBER SECURITY

Paul Appleton attended for this item

28. The board noted this MOU formalised an existing relationship and had practical implications for better risk management. Cyber security was an area of increasing threat and it was important that everything possible was done to improve protection across our own systems and the rail industry. It had been reported at HSRC the day before that RDG was not undertaking a cyber strategy and there was concern that there was therefore no coordinated industry response. The board discussed

the available resource in ORR and the need to address the risk of individuals being excluded through a lack of security clearance.

29. The board approved the MOU for signature.

Item 9 DECISION – CHANGES IN ORR POWERS

Grahame Horgan, Anna Saunders and Mariah Simms joined the meeting for this item.

30. The board noted that the new powers proposed were broader than previously expected and welcomed the proposals. The board discussed the importance of retaining concurrent powers as the sector regulator.
31. The board approved the proposed response.

Item 10 DECISION – INDEPENDENT MEMBER OF THE AUDIT AND RISK COMMITTEE

32. The board noted the conclusion of the recruitment process and approved the appointment of Nicholas Bateson to the role. Because Mr Bateson is a serving civil servant he had asked not to draw remuneration for the role.
33. The board noted the number of applicants and emphasised the importance of securing a diverse pool of recruits.

Item 11 DISCUSSION – COMPETITION – SIGNALLING MARKET STUDY PHASE 2

Grahame Horgan, Calum Glazier, Steve Armitage, Ben Watkins joined the meeting for this item

34. The team set out Phase 2 of the market study on signalling which included a set of proposed remedies.
Redact paras 35 to 41 of this item as regulatory action which will be followed by publication of a final decision.
42. A further paper for decision would be brought for the October meeting. [**Action 09/07**]

Item 12 DISCUSSION – CONSUMER ISSUES – RAIL OMBUDSMAN

Stephanie Tobyn and Marcus Clements joined the meeting for this item.

43. Stephanie Tobyn reported on recent meetings with RDG and DfT in relation to the proposal that ORR take on sponsorship of the Rail Ombudsman. Overall complainants were getting a good service, and relationships with the TOCs were positive. There were good arguments set out for ORR taking over sponsorship in the medium term and it was currently supplying the secretariat which ensured a high level of influence for now.
44. The board welcomed the report and endorsed the direction and pace of travel noting that there was significant work still to do.

Item 13 DISCUSSION – RAIL REFORM UPDATE

Catherine Williams joined the meeting for this item

45. John Larkinson had briefed the board on the revised timetable for the introduction of legislation to deliver rail reform (First Reading in July 2022) and explained the pressure on DfT to deliver reform at pace now that the white paper had been published. The proposals would need to be ready by the end of 2021 to enable legislative drafting to be done. This would argue for a simpler, less revolutionary approach to reform using as much of the current framework as possible. The content of a licence for GBR would also need to be ready at the same time.
46. The board noted the report.

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

47. Anne Heal reported on a meeting of the Consumer Panel which had discussed: the consumer team's work, the user experience of TOC websites including accessibility issues. Ian Prosser had also led a useful conversation on passenger wellbeing and perception of risk pre- and post-pandemic.
48. Stephen Glaister reported on the Highways Committee meeting including an appearance by Emma Ward, DG Roads in DfT. Following up a board action, the committee had asked about government thinking on funding for roads in the light of reducing incomes from fuel and vehicle tax. Emma Ward invited further discussion on this and particularly any areas where ORR could help inform policy makers.
49. Justin McCracken reported on the Health and Safety Regulatory Committee meeting including a presentation from Rail Safety and Standards Board (RSSB) Johnny Schute (Chief Operating Officer) and its contribution to rail reform. The committee had also discussed a report on the efficiency and timeliness of investigations. It was not yet clear how much delay was attributable to ORR's processes and this work continued. The committee agreed some non-substantive amendments to its terms of reference.

Item 15 ANY OTHER BUSINESS

50. Declan Collier updated the board on NED recruitment.

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