

**THE OFFICE OF RAIL AND ROAD**  
**222<sup>nd</sup> BOARD MEETING**  
**Tuesday 22<sup>nd</sup> October 2024, 09:00 – 12:40**  
**At ORR, 25 Cabot Square, London, E14 4QZ**

**Non-executive members:** Declan Collier (Chair), Justin McCracken (Deputy Chair), Xavier Brice, Madeleine Hallward, Anne Heal, Bob Holland, Daniel Ruiz.

**Executive members:** John Larkinson (Chief Executive), Richard Hines (Director of Railway Safety).

**In attendance:** Fiona Bywaters (Board Secretary), Will Godfrey (Director of Economics, Finance and Markets), Russell Grossman (Director of Communications), Vinita Hill (Director, Corporate Operations), Graham Richards (Director, TfL Analysis), Elizabeth Thornhill (General Counsel), Stephanie Tobyn (Director, Strategy, Policy and Reform).

*Other ORR staff who attended are shown in the minutes.*

**Item 1 WELCOME AND APOLOGIES FOR ABSENCE**

1. The Chair welcomed everyone to the meeting. Apologies for absence were received on behalf of Catherine Waller and Feras Alshaker (for whom Rachel Gittens attended as substitute in regard to Item 6).

**Item 2 DECLARATIONS OF INTEREST**

2. There were no declarations of interest.

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

3. The minutes of the meeting held on 24 September 2024 were approved. A brief update was provided on actions arising and completed from previous meetings. It was suggested that action 09/05 be considered superseded by latest developments on rail reform.

**Item 4 CHIEF INSPECTOR'S REPORT (MONTHLY)**

4. Richard Hines (RH) introduced the report and referred to a number of updates since its circulation, namely: the rail crash at Talerddig (21 October); a development in relation to the Audenshaw freight train derailment (6 September); and an issue reported with ElecLink in the Channel Tunnel.
5. With regard to the rail crash at Talerddig, RH had declared a major incident and informed the Chief Executive and Chair as appropriate. Inspectors were on site and would liaise with relevant authorities, whilst the Board would be updated of key developments. The Board expressed their condolences regarding the loss of life in the incident.
6. The Board queried whether there was any issue of adhesion as a causation factor. RH agreed to circulate a reminder of the outcomes of the Salisbury rail

crash, in the context of that at Talerddig – highlighting adhesion-related matters if relevant [**Action 10/01**].

7. With regard to the Audenshaw freight train derailment, RH updated the Board that the RAIB intended to issue an Urgent Safety Alert (USA) in relation to the adequacy of existing maintenance arrangements to detect the failure of rail baseplate chair screws on longitudinal timber systems. RH advised the Board that this issue appeared similar to that identified by RAIB following a freight train derailment incident at Sheffield station in 2020. Further engagement would take place with RAIB and Network Rail. The Board asked technical questions of clarification regarding the cause and impact of the risk.
8. With regard to the issue reported with ElecLink on the French terminal, it was confirmed that the Intergovernmental Commission (IGC) and Channel Tunnel Safety Authority (CTSA) had not been notified of the incident. The Chief Executive had met with his counterpart at Eurotunnel to express his concerns. RH stated that the Chair of the IGC would write to Eurotunnel as the appropriate regulatory authority for the infrastructure concerned. An independent report had been commissioned which would be reviewed by ORR and site visits would be conducted. The Board revisited concerns they had previously expressed over the safety culture at Eurotunnel (associated with not reporting safety incidents) and the specific ElecLink project.
9. Further update and discussion of the report related to:
  - Euston Station following a five-point plan to improve passenger experience: visits had taken place and a roundtable would be convened in partnership with colleagues focussed on consumer issues. The Board considered whether the same issues occurred at other London terminal stations or across the country, as well as whole-system factors and the impact of signalling, for example. ORR would participate in an upcoming workshop led by Network Rail (NR);
  - Recent instances where ORR had not been invited to input into media articles concerning railway safety, with reference to the updated communications strategy to respond to this;
  - Train driver licensing regulations and proposed amendments (which would require legislation). A paper would be presented at a future Health and Safety Regulation committee; and
  - Margam case developments, where Elizabeth Thornhill (LT) confirmed that a sentencing note had since been filed with the court by ORR, and that a sentencing hearing was scheduled for 14 February 2025.
10. Finally, RH referred to failed recruitment for a Deputy Director within the directorate, due to challenges of finding a combined skillset of leadership and safety expertise. Reflection would take place as to how to improve leadership capability within RSD during this vacancy period, with the assistance of Corporate Operations colleagues.

## **Item 5 CHIEF EXECUTIVE'S REPORT**

*This report is redacted from the published version as time-sensitive and covering confidential issues.*

11. [...]

## **Item 6 NATIONAL HIGHWAYS PERFORMANCE**

*Rachel Gittens (Deputy Director – Strategic Road Network) joined the meeting for Item 6.*

17. Rachel Gittens (RGi) introduced the report, referring principally to the complex messaging anticipated in the upcoming annual assessment of safety performance on the strategic road network and discussions with Department for Transport (DfT) regarding funding of roles (relating to work supporting recommendations of the Transport Select Committee). RGi further referred to a recent meeting with the Future of Roads Minister, also attended by the Chief Executive.
18. The Board explored Annex D, referring to National Highways' (NH) telephony networks shutdown. RGi provided assurance that NH had a plan in place, also remarking an increased tendency for people to use their mobiles to call for assistance – rather than the telephones provided on the network. The Board encouraged further consideration of the implications, with the support of the Communications Team.
19. The Board further discussed:
  - A missed commitment on the part of NH in delivering safety barriers;
  - A statement made by the Secretary of State regarding the upcoming annual assessment of safety performance;
  - Annex C of the report and the summary of variation between formal and informal position; and
  - Perceived lack of information (signage) on works associated with the NEAR programme.
20. Madeleine Hallward (MH), as Chair of the Highways Committee, reported on an informal meeting of the committee held the week prior to discuss the annual assessment of safety performance. Suggestions had been made to consider wider trends and international benchmarks, as well as the importance of communications and investment in infrastructure.
21. The Board noted the October 2024 strategic update in holding to account National Highways' performance and delivery.

*The meeting adjourned for a ten-minute break.*

**Item 7            QUARTERLY BUSINESS REVIEW 2024/25 – Q2**

*Lucy Doubleday (Associate Director – Finance and Governance) joined the meeting for Item 7.*

22. Vinita Hill (VH) introduced the report, referring to Treasury's approval of a 1.4% budget increase; a minor error in the report (there were 13 apprenticeships, not 9); and monitoring of workplace attendance.
23. Lucy Doubleday (LD) provided a financial overview, referring to forecasts against budget; a focus on accurate forecasting; reallocation of underspends; and progress on business planning commitments.
24. The Board discussion referred to:
  - Service standards (where a recent internal audit had received reasonable assurance);
  - The link between increased travel costs and workplace attendance;
  - The forecast overspend and wording of the accompanying narrative (which was suggested could be made clearer);
  - The proactive inspection target;
  - Funding of highways roles (relating to work supporting recommendations of the Transport Select Committee); and
  - The consequences of an overspend.
25. The Chief Executive, as Accounting Officer, confirmed he was content with the current budgetary position.
26. The Board also considered workplace attendance requirements, and whether the 60% target would be recommitted to by the Civil Service (noting ORR currently required 40%). Discussion focused on risks of non-compliance by individuals, capability of line management, and the mechanisms of oversight and escalation.
27. The Board noted the quarter 2 report and progress against the business plan.

**Item 8            GO-OP TRACK ACCESS APPLICATION: DECISION UNDER SECTION 17 OF THE RAILWAYS ACT 1993**

*Martin Jones (Deputy Director, Access & International) and Gareth Clancy (Head of Access & Licensing) joined the meeting for Item 8.*

28. Stephanie Tobyn (ST) introduced the report, referring to the novel character of the application as received from a regional co-operative operator. It was confirmed that DfT were supportive of the application. Paragraphs 71 and 72 of the report were highlighted in particular, regarding the conditions precedent. The Board welcomed the quality of the report.
29. The Board discussed the mitigations for risks associated with viability. Gareth Clancy (GC) confirmed that ORR intended to include conditions within the track access contract, if approved, requiring appropriate rolling stock to be secured and level crossing risk mitigations to be implemented by a specified

date. Completion of these conditions would have to be demonstrated by the operator promptly, or the awarded rights would lapse.

*The below paragraph is redacted from the published version due to legal privilege:*

30. [...]
31. Reference was made to paragraphs 8 and 9 of the report and the unpublished letter from the Secretary of State, received in July 2024. The report advised that the Board should consider Ministers' favourable views on Go-Op's application when contemplating the weight it places on the duty to have regard to the impact of this application on the funds available to the Secretary of State.
32. Reference was also made to paragraph 35 of the report, which outlined overall performance. A question was raised as to the specifics of stations and lines impacted by the application. GC confirmed that the modelled impact on operations was negligible to the regional performance of Western and Wales.
33. The Board further explored:
  - the governance and stability of Go-op in terms of risks to viability;
  - the business case appraisal (paragraph 62 of the report) and potential risks to ORR (which were deemed minimal in terms of reputational risk);
  - whether similar applications were anticipated to be submitted (which was thought unlikely given the challenges of commercial viability and complexity of railway operations); and
  - the length of time it would take to become profitable, including whether estimations were realistic and considerations of contract length. It was confirmed that the legal test for a contract exceeding 5 years had not been met, but there was a presumption in favour of the applicant retaining those rights at point of renewal.
34. **The Board resolved that the Go-op application be agreed, with strict conditions precedent and a contract term of 5 years.**

## **Item 9      COSTS AND BENEFITS OF SAFETY INTERVENTIONS – PROGRESS UPDATE**

*Jennifer Genevieve (Deputy Director, Periodic Reviews and Monitoring) and Dawn Russell (Senior Manager, Railway Safety Policy) joined the meeting for Item 9.*

35. Will Godfrey (WG) introduced the report, referring to the spectrum of maturity of approach and capability across duty holders to assess interventions. The next step would be to formulate recommendations, and it was expected to return to the Board in January, following discussion of emerging findings with DfT in December.
36. Richard Hines (RH) further introduced the report given its joint sponsorship, referring to the need to ensure close alignment with other health and safety regulators and avoid a 'made in rail' solution, the need for careful handling,

and ensuring that there was sufficient time for reflection to carefully think through the implications of any recommendations, whilst delivering at pace

37. The Board welcomed the work undertaken, but referred to the need for careful positioning and handling of the balance between health and safety and value for money. A comment was also made as to whether trade union engagement had been sufficient.
38. RH confirmed that the aim of the recommendations would be to provide insight, advice and guidance, not instruction, and that no recommendation would envisage a change in legislation or a fundamental change in approach to health and safety regulatory practice.
39. The Board also discussed the pace of the work, with an output desired in January 2025. The receipt and assessment of an independent reporter's report would be critical to this timeline.
40. The Board noted progress to date.

#### **Item 10 RAIL REFORM UPDATE**

*The following paragraph [text in square brackets] is partially redacted due to policy in development:*

41. Stephanie Tobyn (ST) provided an oral update on rail reform, following the additional board meeting held on 16 October 2024. [...]
42. It was confirmed that the date for public consultation was unknown, but that if legislation were foreseen for Summer 2025, it would need to be soon. The content of the public consultation document was perceived as key.
43. It was noted that the Chief Executive would be meeting with the new Chair of the Transport Select Committee shortly and other members. The Chair encouraged Board members to highlight the added-value of an independent regulatory voice in the sector.
44. The Board discussed the impact of ongoing uncertainty on ORR staff. JL responded that the current working assumption for business planning purposes was no loss of staff.

#### **Item 11 REPORTS FROM COMMITTEE**

45. Anne Heal (AH) reported on the meeting of the Consumer Expert Panel held on 2 October. The Panel had considered, among other items:
  - the Wales and Western investigation outcome;
  - timetable changes and progress on rail reform;
  - rail replacement buses and the passenger experience, as well as rail cards as consumer issues;
  - the Code of Practice on retail information for rail tickets and services, issued in 2015 and due for update; and
  - connections between safety and consumer issues.

46. AH also mentioned that the number of Consumer Expert Panel members was expected to reduce by two, due to budgetary constraints. The reduction was not ideal, but was preferable to panel abolition or a reduction in meeting frequency.
47. Justin McCracken (JM) reported on the meeting of the Railway Industry Health and Safety Advisory Committee held on 14 October. The Committee had considered, among other items:
  - development of technology around level crossings and footbridges;
  - weather-related risk management, with presentations from Network Rail, Transport for London and Channel Tunnel.
48. It was confirmed that no discussion had been held around the safety implications of rail reform, but would be in future. Discussions had also taken place around the costs and benefits of safety intervention work.
49. Bob Holland (BH) reported on the meeting of the Audit and Risk Committee held on 21 October. The Committee had considered, among other items:
  - the corporate risks 2024-25 quarter 2 update, including a discussion on rail reform risks;
  - horizon scanning and the strategic risk register (which would be presented to the Board in January 2025);
  - the quarterly IT and security update;
  - internal audit reports on internal communications and engagement; enforcement decisions follow-up; service standards; establishment control; and progress on internal audit recommendations; and
  - potential extension of the internal audit contract.
50. The Chair thanked BH for his service as committee chair, noting that the above had been his last meeting in that role.

## **Item 12 ANY OTHER BUSINESS**

51. The Board noted the dates of the next meetings and items below the line, namely: the board forward programme; committee minutes approved since the last meeting; and the corporate risks 2024-25 quarter 2 update.
52. The Chair provided a brief update on NED recruitment, and that once an appointment had been fully confirmed, a short CV would be circulated and induction programme commenced.
53. **The Chair confirmed that:**
  - **Justin McCracken's (Deputy Chair) term had been extended to the 31 March 2025 by the Secretary of State;**
  - **Daniel Ruiz becomes the Chair of the Audit and Risk Committee (and is no longer a member of the Health and Safety Regulation Committee); and**
  - **Anne Heal would become Deputy Chair at the end of Justin McCracken's Term.**

54. The Chair reminded the Board of the upcoming annual review of effectiveness (internal) and that NEDs would be contacted regarding their annual performance appraisals.
55. The Chair further mentioned meetings he had attended since the last board meeting, including with the Chairs of Transport Focus and National Highways, as well as DfT.

Meeting end: 12.50pm

Approved: 26 November 2024