

THE OFFICE OF RAIL AND ROAD

130th BOARD MEETING

09:00 -14:00 TUESDAY 22nd NOVEMBER 2016

ONE KEMBLE STREET, LONDON, WC2B 4AN

Non-executive members: Stephen Glaister (Chair), Tracey Barlow, David Franks, Anne Heal, Bob Holland, Michael Luger, Justin McCracken, Graham Mather

Executive members: Joanna Whittington (Chief Executive), Ian Prosser (Director Railway Safety)

Executive Directors: John Larkinson (Director Railway Markets and Economics); Graham Richards (Director Railway Planning and Performance),

In attendance: Dan Brown (Director Strategy and Policy), Russell Grossman (Director Communications), Juliet Lazarus (Director Legal Services and Competition), 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 the three new non-executive members, David Franks, Anne Heal and Graham Mather, to their first meeting.

Item 2 DECLARATIONS OF INTEREST

2. There were no relevant declarations of interest.

Item 3 APPROVAL OF PREVIOUS MINUTES

3. The Board agreed the October minutes, noting that these should not be published before the PR18 consultation document on incentives and charging which was due in December.

Item 4: MONTHLY HEADLINES

4. Before the other monthly updates, the chair asked Ian Prosser to talk to the board about the ORR's work following the tragic **Sandilands tram incident**.
5. Ian briefed the board about the incident and highlighted some relevant differences between tram and train operation and regulation. Ian explained that his team would conduct a review of ORR's previous interactions with the tram operator (which was already under way) and consider whether there were any lessons for our regulatory or operational approach to tram safety. This would be done alongside our support to BTP on the investigation itself and continue until our consideration of any RAIB recommendations. All this work would be discussed by the board's Health and Safety Regulatory Committee (HSRC) starting at its meeting in December. The board discussed what they had heard about the specific incident. They noted that BTP were leading the investigation. Board members asked for the current line-to-take and press team contacts to be circulated [*Action: Secretariat*]

6. The board noted that UKTram was a UK trade body for tram operators which enabled shared learning across Europe.
7. The board discussed the degree to which on-train or on-tram equipment provided evidence to support accident investigation.
8. The board considered that fuller information on driver behaviour might support better assessment and mitigation of risk and that this was for dutyholders to consider.
9. Ian Prosser also reported on his oral evidence to the Transport Select Committee (TSC) in relation to rail safety, level crossings and their interest in driver only operation (DOO). He had undertaken to consider whether ORR and RAIB should publish an independent report on DOO. Any report would be cleared through executive channels and signed off by Ian Prosser and Joanna Whittington. *[Action: Secretariat - Board members to receive copies of any report and letter to the TSC.]*
10. Graham Richards reported on:
 - Meetings of the Chris Gibb review project board (looking at performance on GTR) and their discussions around how to involve NR in funding delay repay payments to passengers, and developing better metrics for performance. A paper would be brought to the board in January *[forward programme]*.
 - The project board was exploring how to incentivise staff locally to deliver timetable performance.
 - ORR's charging and incentives consultation on PR18 would open on 15 December and cover some of these issues for CP6.
11. John Larkinson highlighted:
 - Publication of joint DfT/Transport Focus/ORR research on compensation¹.
 - Forthcoming meetings with freight customers and ORR's freight panel
 - DfT will publish the HLOS/SoFA in the spring, and ORR's input was being sought to inform DfT's work to establish sensible ranges of funding.
12. Juliet Lazarus updated the board on the HAL judicial review.
13. Joanna Whittington updated the board on:
 - Progress on the two unexpected potential financial claims on ORR reported in September and the projected budget outcome;
 - Meetings with the Secretary of State and Permanent Secretary;
 - A forthcoming publication which would set out our first set of data for HE's regions and some international benchmarking data.
 - Headline figures from the staff survey: follow up was being planned and a full report to the board would follow in February *[forward programme]*
 - ORR's first monthly stakeholder newsletter.
 - Highways England's mis-reporting of year end pavement condition data. This had raised concerns about their data assurance as well as questions about HE's plans to address the reported deterioration in pavement condition. ORR would report publicly on this issue in January 2017.

¹ <http://www.transportfocus.org.uk/research-publications/publications/rail-delays-compensation/>

Tom Taylor left the meeting

Item 5 REGULAR REPORTS

14. The Board noted the monthly reports on rail safety and the NR CP5 Tracker.

ITEM 6 CHANNEL TUNNEL REGULATION: APPROVAL OF AMENDMENTS TO THE CO-OPERATION AGREEMENT WITH THE FRENCH REGULATOR

Brian Kogan joined the meeting for this item

15. Dan Brown introduced this item: changes to agreements such as this are matters reserved to the board.
16. This was a highly complex area with low levels of activity, but likely to be increasingly important as Brexit proceeds. A full update on ORR's work on the Channel Tunnel is scheduled for January 2017 [*forward programme*]
17. The board agreed to the proposed changes and the chair would sign the revised documents.

ITEM 7 COMPETITION STRATEGY

Annette Egginton joined the meeting

18. Juliet Lazarus introduced the item. ORR has competition powers in rail which are concurrent with those of the Competition and Markets Authority. Although ORR takes relatively few full cases, the powers complement our regulatory powers and underpin light touch interventions across the sector.
19. All use of concurrent powers is reported annually to CMA through the concurrency report. Their use across all sectors will be reviewed by BAIS in 2019.
20. The board agreed with the case set out in the paper that our competition powers are a valuable complement to our regulatory toolkit and we should actively seek to retain them. The board agreed that the activities described seemed sensible and proportionate.

ITEM 8 PREPARATION FOR VISITORS

21. The board prepared for its visitors.

Dan Brown and Russell Grossman left the meeting

ITEM 9 RAIL DELIVERY GROUP

Paul Plummer – Chief Executive RDG, Elizabeth de Jong – Director of Policy RDG, Tim Shoveller – MD UK Rail Stagecoach and Jeremy Long, MTR joined the meeting.

22. Stephen Glaister welcomed the visitors.
23. RDG explained that their focus for this session was passenger train operators. Following a short presentation on the RDG's wider background and current work programme, the meeting discussed:

- Work already in hand on PR18;
- Network Rail's transformation into route based businesses and the challenges both for NR itself and for passenger operators;
- Potential benefits of route devolution both for TOCs as NR customers and their passengers;
- The degree of autonomy desirable for NR routes in planning and delivering work on their routes to support their customers' business needs;
- The importance of setting achievable and challenging targets in CP6 and for clear accountability among those responsible for delivering them;
- The importance of an effective system operator;
- The importance of funding headroom for innovation in exploring new financing options; and
- The regulator's ability to accept different route scorecards for each routes.

24. The chair thanked the RDG members for a very useful discussion.

ITEM 10 FORWARD PROGRAMME AND REGIONAL VISITS

25. The board noted the new format for the forward programme.
26. The board considered feedback from our guests at the Glasgow event and noted proposals to apply this feedback. It was important that invitees understood the purpose of our events and why they had been invited.

ITEM 11 FEEDBACK FROM COMMITTEES

27. Stephen Glaister reported on the previous day's Highways Committee. He highlighted:
- the benchmarking report: its content prompted interesting questions about comparability across the English regions as well as internationally.
 - the monitoring of the capital investment plan.

ITEM 12 ANY OTHER BUSINESS

28. There was no other business.

Meeting closed at 1.30pm

Minutes agreed on 22 November 2017

Signed Stephen Glaister