

THE OFFICE OF RAIL AND ROAD

133rd BOARD MEETING

08:30 -14:00 TUESDAY 28th February 2017

Clayton Hotel, Cardiff, CF10 1GD

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), Graham Richards (Director Railway Planning and Performance)

Executive Directors: John Larkinson (Director Railway Markets and Economics)

In attendance: Peter Antolik (Director Highways Monitor), Dan Brown (Director Strategy and Policy), Juliet Lazarus (Director Legal Services and Competition), James Lobo (Private Secretary)

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. Apologies were received from Russell Grossman and Tess Sanford.

Item 2 DECLARATIONS OF INTEREST

2. David Franks reminded the board of his position with Irish Rail in relation to item 11.

Item 3 APPROVAL OF PREVIOUS MINUTES

3. The Board agreed the January minutes.

Item 4 LOCAL ISSUES

4. Stephen commented on a successful set of local visits, which were followed by a useful presentation and a good level of engagement at the dinner. There was a discussion about ORR's engagement in Wales.
5. It was noted that ORR had done an increasing amount of work in relation to Wales, and had significantly increased the level of engagement, including on PR18.
6. It was agreed that it was important to continue to do everything reasonably possible to meet the needs of stakeholders in Wales. It was considered that the best way to do this at present was to continue to operate from existing offices, as these allowed for the concentration of expertise required to operate effectively. It was noted that the geography of the network in Wales meant basing inspectors in existing offices was an effective way to serve Wales.
7. The board considered whether ORR should be more engaged with the media in Scotland and Wales, discussing local issues.

Item 5: MONTHLY HEADLINES

8. Ian reported on:
 - RAIB issuing another interim report relating to the Sandilands tram incident
 - Progress towards agreeing principles on DCO [item 7]
 - An incident involving derailment of a freight train at Lewisham
 - A fatality on the LUL network at Canning Town
 - NR progress on addressing drainage issues
9. Graham Richards reported on:
 - CP6 route stakeholder workshops
 - DfT's consideration of the report by Chris Gibb
 - Improvement in some routes on drainage plans
10. John reported on:
 - NR's financial position, and its ongoing discussions with DfT and HMT
 - ORR's ongoing work looking at NR efficiency
11. Joanna updated the board on:
 - Progress on the transition away from Capita for IT services
 - Publications, including reports on Ticket Vending Machines and HE's asset management, and an Opinion on Eurotunnel's Network Statement
 - External engagement, including attendance at the RDG conference, meeting with Transport for the North, and a series of regular catch-ups with other stakeholders
12. Juliet gave an overview of the recent HAL Judicial Review hearing.
13. Stephen welcomed Joanna as permanent CEO.

Item 6: REGULAR REPORTS

14. The board noted the monthly health and safety report, the NR CP5 tracker and the PR18 update.
15. The board discussed the section of the Health and Safety report relating to RAIB noting that whilst there did not appear to be any material cause for concern, updating the presentation of the section could make it easier to follow.
16. There was also a discussion on the statistical significance of the 9% increase in the moving annual average of the FWI. Ian advised that his team was looking at it, and agreed to return to the board with a response. [Action: Ian to provide a response]
17. Graham Richards explained that performance would be covered in detail in item 10.
18. The board agreed that the format of the PR18 update was useful, and agreed to receive a similar update at future meetings.
19. There was also a discussion about the presentation of programme risk. John agreed to look at ways in which clarity could be improved for future updates. [Action: John to review]

Item 7: RAIL SAFETY: Driver controlled operation

20. Ian gave an overview on the process that had been followed to arrive at the DCO principles. He emphasised that these were not standards. He noted that consultation was underway, following workshops which had involved RSSB, unions, RDG, DfT and operators.
21. The board discussed the links to the work being done on accessibility, and agreed that it was still important that accessibility was referenced in the principles.
22. It was agreed that given the levels of interest in the topic, efforts should be made to make the document suitable for general readers as well as the industry, and to make sure that it was understood by the non-specialist press (including understanding the issues around terminology).
23. It was also agreed that a record of engagement with stakeholders should be put together, to ensure that all had been given sufficient opportunity to comment before publication. [Action]
24. The board agreed to publication of the principles.

Item 8: BETTER REGULATION

Matt Durbin joined the meeting.

25. Dan outlined the proposed timescales for the work which had been commissioned by the board. Peter noted his support for the work.
26. The board agreed to the Terms of Reference. Dan agreed to return to the board with the conclusions of the work. [Action: Forward programme]

Item 9: ORR BUSINESS PLAN

27. Joanna introduced the item in Russell's absence. She reported that the previous year's change to the format had been received well by stakeholders, and that the document had become a useful tool for external engagement.
28. It was suggested that there should be more reference to the wider issues on the railway, even where outside ORR's influence, in order to demonstrate that their impact had been given appropriate consideration.
29. The board agreed to the publication of the ORR business plan in the form proposed.

Item 10: NETWORK RAIL

30. Graham Richards outlined the two parts to the item: An update on performance in 2016-17, and the potential approaches to using scorecards in 2017-18.
31. In the 2016-17 update, Graham highlighted the operator specific issues, and the systemic issues which the evidence suggested were the most significant problems. The board discussed the relative merits of different measures of operational performance, and the extent to which different issues were within NR's control.
32. There was a discussion on the level of oversight which ORR should apply to scorecards, and about how effective they had been in 2016-17. It was noted that positive conversations were happening around scorecards, with Route MDs

engaged, and that as a result they may prove more effective in future. There was also discussion about the involvement of DfT in agreeing scorecards for franchises nearing an end.

33. The board discussed sign-off of the scorecards by TOC MDs and RMDs. It was agreed that sign-off would be a positive sign that they were being taken seriously, but it was noted that ORR did not currently have grounds to mandate this. Graham agreed to check the planned process. [Action: Graham to check process for sign-off]
34. There was also a discussion about delay attribution problems. It was noted that it was primarily viewed as a resourcing issue by NR, but that there may be a more strategic approach that could be taken to analysing delay, particularly where interrelated problems made attribution difficult.
35. Graham noted that he would be returning to the board to discuss potential action in relation to recent performance, and to agree an approach for 2017/18.
36. The board also discussed the relevance to ORR of recommendations in the Gibb report.

Matt Durbin left the meeting.

Item 11: NORTHERN IRELAND UPDATE

37. John updated the board on ORR's planned work in NI and engagement with stakeholders. It was also noted that ORR's annual report on rail industry finances now covered the whole UK, and that the name had been changed accordingly.

Item 13: TRANSPORT SELECT COMMITTEE

Note: The order of this item and item 12 was reversed due to the timings of guests arriving

38. Joanna welcomed the TSC's recognition of the benefits offered by open access, and its reflection of ORR and CMA's evidence. She also noted that DfT had published a consultation on a PSO levy.
39. The board discussed the suggestion relating to giving franchising monitoring and enforcement powers to ORR or another independent body. Transparency was identified as one of the key benefits that ORR could offer. The board considered the distinctions between monitoring and enforcement, and between passenger facing obligations and other obligations.
40. It was agreed that ORR should respond to the committee welcoming the report, highlighting the role of government and parliament in deciding what functions ORR should have, and offering to contribute to any further consideration of the issues raised which government or parliament wished to undertake.

Item 12: HIGHWAYS MONITOR

Richard Coates joined the meeting.

41. Peter gave some context to the paper, including HE's response to ORR's update report on its asset management, and the report written by Peter Bucks on behalf of HE. The board agreed that if HE could substantiate the issues identified in the Peter Bucks report, ORR should consider these carefully. Tracey suggested that it would be worth ORR and DfT ensuring that each was clear on its role.
42. Richard outlined ORR's policy on enforcement, and the current investigations being carried out. The board agreed that it was now important to work within the established framework, and take action under that framework where appropriate. The paper was noted and it was agreed that Peter and Richard would bring a paper in March when the current investigations had finished reviewing the evidence. [Action: Forward programme]

Richard Coates left the meeting.

Item 14: BOARD PROCEDURES

43. Stephen introduced the item in Tess' absence. The board was largely content with the changes, though some members had outstanding queries or minor amendments to propose. It was agreed that in Tess' absence, final sign-off of the procedures should be delayed until those members had had chance to discuss these with Tess. [Action: Members to discuss with Tess]

Item 15: STAFF SURVEY

44. Joanna introduced the item and outlined the process which the executive had followed to obtain staff views. She noted that there would be further organisational development work in due course, but that it was important to respond to issues raised in the staff survey quickly. The board agreed with the proposed response to the survey.
45. Joanna also highlighted that the responses to the questions relating to bullying, harassment and discrimination were not as good as would be hoped. She outlined the proposed response to this. Michael suggested discussing the issue at RemCo, which was agreed [Action].

Item 16: AOB

46. There was no other business.

Meeting closed at 1.50pm

Minutes agreed on 28 March 2017

Signed *Stephen Glaister*