

**THE OFFICE OF RAIL AND ROAD**

**134<sup>th</sup> BOARD MEETING**

**09:00 -13:00 TUESDAY 28<sup>th</sup> MARCH 2017**

**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), John Larkinson (Director Railway Markets and Economics), Ian Prosser (Director Railway Safety), Graham Richards (Director Railway Planning and Performance).

**In attendance:** Russell Grossman (Director Communications), Juliet Lazarus (Director Legal Services and Competition), Tess Sanford (Board Secretary)

Peter Antolik (Director Highways) items 1-6 and 11

**Other ORR staff in attendance are shown in the text.**

**Item 1 WELCOME AND APOLOGIES FOR ABSENCE**

1. The Chair welcomed John Larkinson as a full member of the Board and congratulated him on his appointment.
2. There were no apologies for absence from members. Dan Brown was on leave.

**Item 2 DECLARATIONS OF INTEREST**

3. There were no declarations of interest in relation to the planned business.

**Item 3 APPROVAL OF PREVIOUS MINUTES**

4. The Board agreed the February minutes with one correction and noted updates on the action list.

**Item 4: MONTHLY HEADLINES**

5. Ian Prosser reported on:
  - The continuing investigations by BTP and RAIB of the multi fatality tram incident at Sandilands in Croydon.
  - The forthcoming publication of ORR's guiding principles on driver controller operation
  - Concerns about track geometry where twist track faults and the number of 'super reds'<sup>1</sup> have been rising. Track geometry has been on the regulatory escalator as a matter of concern for some time.
  - Earthworks failures, particularly those apparently caused by third party action outside the rail curtilage (eg Liverpool, Watford);
  - A freight train derailment in west Somerset which had caused significant damage and local disruption.

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<sup>1</sup> An eighth mile length of track with average alignment or level faults that exceed a maximum level

6. Graham Richards reported on:
  - DfT's planned publication of the Gibb report.
  - Positive end year performance results on London North West route for Virgin Trains West Coast and London Midland.
  - The contribution that our collection of complaints information could make to the evidence base on TOC performance;
  - Drainage issues on the regulatory escalator were now confined to London North East route.
7. John Larkinson reported on:
  - Continuing work on ticket vending machines where ten train operating companies (TOCs) now offer a price guarantee;
  - Plans to include complaints data in our *Measuring Up* report in the summer;
  - ORR's response to a number of initiatives under consideration by third parties for investment in UK rail;
  - The status of sale-and-leaseback proposals for infrastructure.
8. Juliet Lazarus gave an update on the HAL judicial review where there was no date for a judgement yet. Depending upon the outcome, the board would be asked in accordance with the board procedures whether ORR should make or contest any subsequent appeal.
9. Joanna Whittington updated the board on:
  - A new one year contract with our internal auditors, Grant Thornton;
  - Steady progress on the IT project,
  - NAO's report on Highways England (HE) and the Road Investment Strategy (RIS);
  - Two reviews ORR was undertaking on HE's work, where engagement was very positive;
  - Encouraging results from our roads stakeholder survey
  - Her appearance before the Transport Select Committee to talk about compensation;
  - Meetings with the Secretary of State, Rail Delivery Group, Network Rail and others where discussions about the system operator role are a regular topic.
10. Stephen Glaister reported that he had chaired a conference on road safety and the proposal for the creation of a road accident investigation branch.

## **Item 5      REGULAR REPORTS**

11. The Board noted the monthly report on rail safety, the NR CP5 Tracker and the regular update on the PR18 programme.
12. Ian Prosser noted the complexity of the indicator on worker safety where the number of serious injuries had increased this year although the number of fatalities had declined.

13. Graham Richards reported on some very positive NR route engagement meetings.

## **Item 6 HIGHWAYS ENGLAND LICENCE AND RIS ENFORCEMENT**

*Richard Coates joined the meeting.*

14. Richard Coates reported on the response of Highways England (HE) to ORR's investigations of their reporting of data around pavement condition and on the implications for their management of the network in line with the RIS.

*Paragraphs 15-18 have been redacted pending publication of ORR's annual review of HE's performance (due July 2017)*

19. The letter conveying these findings to HE would be copied to the DfT and would be published as part of ORR's annual report on HE's performance.

## **ITEM 7 HS2 ARBITRATION ROLE**

20. The board noted that ORR had been given a role as 'arbitrator of last resort' in the HS2 Phase 1 legislation<sup>2</sup>. This had not been notified to ORR in advance.
21. A proposal had been received to include the same provision in the legislation for phase two of HS2 and the Board's views had been sought.
22. The Board noted the apparent provision for the Secretary of State to intervene in any arbitration and asked for clarification that this would not compromise the independence of the arbitration process. [Action: Juliet Lazarus]

## **ITEM 8 2017-18 BUDGET ALLOCATIONS**

*Lucy Doubleday joined the meeting*

23. The board was asked to approve the budget allocations for the next business year. Lucy Doubleday explained that costs associated with the IT programme and possible costs arising from the next valuation of the British Rail section of the Railway Pension Scheme would be better understood in July, at which point a re-cast of the budget would be done in order to make best use of all available funds.
24. The board discussed the mechanisms by which the executive jointly manage the budget and contingency. In the current business year the underspend on rail is expected to be its lowest for many years (1-2%) so the current approach was broadly effective and would be continued.
25. The board approved the budget allocations.

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<sup>2</sup>High Speed Rail (London to West Midlands) Act 2017 (S.64.3)

## **ITEM 9 BOARD PROCEDURES**

26. Tess Sanford described the changes made to the draft board procedures following discussion at the previous meeting. Members had also suggested corrections for clarification.
27. The board agreed to adopt the amended board procedures from 1 April 2017.

## **ITEM 10 NETWORK RAIL SCORECARDS IN 2017-18**

*Nigel Fisher joined the meeting for this item.*

28. Graham Richards introduced the item. Route based scorecards had first been used in 2016-17 and the next iteration would be better as a result of that learning. Two key improvements were already apparent. First, that route level cards were supported by operational level scorecards so that the overall approach was joined up. Second, that TOCs were much more engaged in the development of the cards and as a result more diverse metrics were being employed which could reflect local need. The scorecard for freight and national passenger operators (FNPO) was in place, but no system operator scorecard had yet been agreed.
29. The board discussed:
  - a. the importance of having measures on each card which would be directly comparable across routes;
  - b. possible gaps in the current scorecards (eg no metric for cross border services in the proposed Scotrail card);
  - c. the impact of route devolution on local and national passenger bodies;
  - d. the importance of capturing and representing consumer views;
  - e. the risk of an increased reporting burden;
  - f. the need for wider sources of evidence to sit alongside scorecards to inform ORR's regulatory assessments.
30. The Board confirmed it was content with the proposed approach to using scorecards as part of the evidence for monitoring train performance in 2017-18.

*The board noted this was Nigel's last appearance at the Board pending his retirement and thanked him and wished him well.*

## **ITEM 11 DRAFT CONSULTATION ON NR's EFFICIENCY**

*Chris Hemsley and Mark Morris joined the meeting for this item*

*This item has been redacted until after publication of the consultation – expected in summer 2017*

## **ITEM 11 REGIONAL VISITS**

40. Tess Sanford reported on outline plans for a visit to the West Midlands in May.

## **FEEDBACK FROM COMMITTEES**

41. Justin McCracken reported on the Health and Safety Regulatory Committee which had discussed papers on:
  - a. Update on approach to electrical safety by NR;
  - b. Possible changes to our approach to regulating level crossings;
  - c. The need for a better evidence base on the safety implications of crowding on trains;
  - d. Strategic risk chapters.

## **ITEM 12 ANY OTHER BUSINESS**

42. Russell Grossman reported on work to improve navigation on the website and asked for any feedback or further comments.
43. The board noted the forward programme.

*Meeting closed at 13.05*