

THE OFFICE OF RAIL AND ROAD
159th BOARD MEETING
30 APRIL 2019, 09:00 – 15:00
One Kemble Street, London, WC2B 4AN

Non-executive members: Declan Collier (Chair), Tracey Barlow, Stephen Glaister, Anne Heal, Bob Holland, Michael Luger, Justin McCracken

Executive members: John Larkinson (Chief Executive), Graham Richards (Director Railway Planning and Performance); Ian Prosser (Director Railway Safety).

In attendance: Daniel Brown (Director Strategy and Policy & Railway Markets and Economics), Russell Grossman (Director of Communications), Tess Sanford (Board Secretary), Freya Guinness (Director Corporate Operations), Liz Thornhill, (Director Legal Services)

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The chair welcomed everyone to the meeting. Graham Mather and Juliet Lazarus (General Counsel) had sent apologies. Daniel Brown had added RME to his existing responsibilities while John Larkinson was CEO.
2. The chair noted that this was Tracey Barlow's final meeting before her appointment ended. He offered the board's sincere gratitude and thanks for her substantial contribution over nearly ten years in the organisation and wished her well for the future.

Item 2 DECLARATIONS OF INTEREST

3. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. The minutes of the previous board meeting and the phone conference on 18 April were agreed.
5. The Board noted the report on the action points.

Item 4: HEALTH AND SAFETY QUARTERLY REPORT

6. **Ian Prosser** introduced the new format of quarterly report to the Board. He reported on workshops with 300 people to rollout the upgraded RM3 tool.
7. On Sandilands he reported on the lack of progress with any prosecutions by the CPS, the closure of recommendations 1 and 9 on RAIB's Sandilands report, and work to secure funding for the LRSSB beyond the initial 3 years.
8. He updated the board on progress bringing different classes of rolling stock (including: 800s, 710s, 195s) into service. A paper on rolling stock issues was on the agenda for the May board [**forward programme**].
9. On safety performance, he mentioned an overall lack of improvement in the PIM, and work to understand the volatility of SPAD numbers. He was also working to encourage the adoption of in-cab vigilance devices, where there was now evidence that these were beneficial to driver welfare and ALARP, including a presentation to the ASLEF annual conference.

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10. He also described a visit to Crossrail. As part of an update on the Eleclink project risk assessment by IGC he reported on their request for additional resources for the CTSA team, which was being considered.
11. The board discussed the RSSB work on SPADs and their wider industry safety risk leadership role. The potential read-across for driver vigilance devices to be adopted by commercial road users (hauliers and passenger transport) was an area to explore, possibly with HSE whose role with driver employers might be relevant.
12. The board asked that the charts in the new report needed to give some longer term context and trends. [action]

Item 5: EXECUTIVE DIRECTORS' HEADLINES AND REGULAR REPORTS

Lucy Doubleday joined the meeting for this item

13. **Graham Richards** thanked board members for their contributions to ORR's evidence to the TSC inquiry on road safety and reported on the start/stop of Operation Brock. On rail, he reported that the Easter works had broadly gone to plan and not generated much press comment.
14. **Dan Brown** reported that PR23 scoping discussions had begun to meet the need to be able to frontload advice to government. He reported on a new open access application (including a request to apply the economic equilibrium test for the first time), and discussions with government on HS2's regulatory framework. He noted that all possible preparation had been undertaken for a no-deal Brexit which was still a possibility: this would re-emerge as a live issue in the autumn.
15. **Freya Guinness and Lucy Doubleday** outlined the end of year position against the business plan. The board discussed where underspends were the result of vacancies and how the consultancy budget had been used to address these in-year. They noted the cost of the timetable inquiry had been found from within existing budgets and discussed the degree to which work had been deferred, re-scoped or re-planned as a result of pressure on key resources. 2019-20 plans included a number of additional staff to improve resilience. The board noted the risk of adverse impact on staff, including increased turnover, and discussed how it could be mitigated. Overall ORR had had a good year as a result of significant effort across the organisation and the board thanked staff for their hard work.
16. **Freya Guinness** reported on progress with the London relocation and work to engage staff on design and fit out. Discussions were ongoing with ORR's current landlord, and our tenant (LSB).
17. **Russell Grossman** reported on media coverage over recent months and activity with stakeholders including workshops to roll out the business plan. A new website would be developed for the middle of 2020. He looked ahead to likely areas of media interest in the next 3 months.
18. **John Larkinson** reported on discussions with Andrew Haines on the board's concerns about NR's readiness for CP6, and meetings with Parliamentarians. He sketched the work needed among the various parties involved in the transfer of the Welsh valleys line from NR to WAG and then to its new operator. ORR was supporting this where it accepted that it had a role and evidence to offer. He had also met with Keith Richards of DPTAC.
19. The board discussed the issues still to be resolved on the Welsh asset transfer, including liability for major failures. These were matters for government but might draw on evidence or advice from ORR officials. The board noted this was the first time parts of the NR-operated network were being handed over to a different owner and the issues raised were likely to offer relevant learning for any

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similar future change. ORR's work in Wales was coordinated between the three local offices: Bristol, Birmingham and Manchester.

Item 6: GTR PENALTY REPRESENTATIONS

Stephanie Tobyn, Sam McClelland-Hodgson and Ruth Luxford joined the meeting for this item

20. Stephanie Tobyn introduced the item and briefed the board on the two representation letters received following the penalty announcement. Analysis of the contents was set out in the board pack. There had been no further contact with GTR and there was little new information in their representation letter.
21. The board discussed the representations and noted GTR did not accept that it was in breach of licence Condition 4. In addition GTR argued that its agreement with DfT on the £15m Passenger Benefits Fund addressed all its liabilities for the service failure. The board noted that the agreement with DfT was in relation to the franchise and could not relate to the licence and that the ORR was not a party to the agreement. The board did not feel that the quantum of that settlement or the other costs of the disruption to GTR (including eg enhanced compensation) were relevant to its decision to impose the penalty. The board did not accept that the new information offered was sufficient grounds for revisiting its decision. The licence condition was designed to make operators address their licence obligations on passenger information: GTR had failed to do so.

Paragraphs 22 and 24 have been redacted as legal advice.

23. The board noted the letter from DfT officials had been unhelpful by failing to distinguish properly between the franchise obligations and conditions imposed by the licence.

Item 7: UPDATE ON NR'S FINAL ORDER IN RELATION TO TIMETABLING

Catherine Williams and David Reed joined the meeting for this item

25. Catherine explained that three out of four requirements of the order had been met and the last (embedding the PMO properly) had been partially met. Further information had been sought from the PMO steering group and this would be reported in May.
26. The board discussed the PMO's structure, role and effectiveness to date and the other parts of the system which needed to run well to support it, particularly with assurance. The PMO had been introduced to address some of the accountability gap identified by the Glaister review and it had its own responsibilities, but it also made more transparent the specific decisions that other bodies were responsible for, and where any internal conflicts arose. The board commented that it would be useful to have a process diagram that clearly set out how and where the PMO would intervene: this could then be used to test other parties' understanding. *[Action – schematic to be drawn up and tested with others]*
27. The board then reviewed the latest versions of the risk registers around the May and December 2019 timetable changes, which had been included in the Board information pack (agenda item 5a): they noted planned mitigations for the delay on NWEP testing at 100mph. The board tested the understanding of staff on each risk and noted the overall picture. They particularly discussed how driver recruitment, training and availability

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reflect the capability of an operator to deliver its service and noted the continuing operational challenges of new rolling stock.

28. ORR had written to all operators following the announcement of the GTR penalty and work was now in hand to assess individual TOC's responses on their passenger information plans.

Item 8 NR'S 100 DAY PLAN AND CP6 PREPAREDNESS

Carl Hetherington joined the meeting for this item.

29. John Larkinson updated the board on progress on the 100 day plan. The board discussed the importance of understanding both any delays in implementing the plan and the resource implications of any delay. It remained crucial that Network Rail kept its focus on the 'day job' and that the data and processes were in place to allow ORR to hold it to account. ORR would issue an opinion under the management of change policy after its May board meeting.

Item 9 WILLIAMS REVIEW

30. The board had discussed ORR's work with the Williams Review and its developing submissions on compensation and accessibility the previous day. These submissions would be discussed at the May board [forward programme]. Engagement with the Review team would continue, including responding to further information requests.

Item 10 HIGHWAYS ENGLAND – RIS2 AND EFFICIENCY REVIEW

Richard Coates, David Hunt and Adam Spencer Bickle joined the meeting for this item.

31. Richard Coates introduced the regular update on RIS2 and described progress on the review of the draft SBP as the team developed advice for the DfT.
32. Key messages on HE's performance in 2018-19 would be on the May board agenda. [forward programme]
33. The board noted the report and the key messages paper. They discussed: the inflation rate HE used, HE's exposure to exchange rate fluctuations through its supply chain strategy, the company's procurement efficiency and how efficiency would be reported in RIS2 more generally.
34. They discussed, the importance of effective coordination between the SRN and MRN and the work of sub-national transport bodies in helping make this happen.
35. David Hunt reported positively on the quality of the Draft SBP compared to RIS1. The board discussed how the Draft SBP had been informed by ORR's capability reviews, which had contributed to the good quality of HE's Draft SBP.
36. The board noted the team's view that there were areas where a more mature organisation could provide more comprehensive plans, including understanding the impact on customers of its renewals programme and its environmental impact. There was evidence that Highways England was maturing in these areas and had taken steps to reduce customer impact through moving closer towards minimising whole life cost.
37. The board discussed HE's smart motorway proposals and what evidence was available on such schemes' historical performance and safety. The team reported that there was some Post-Opening Project Evaluation (POPE) information available on early smart motorway schemes, which, although the sample was small, reported that they

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largely delivered the planned journey time improvements whilst safety performance was no worse than traditional motorways. There had been significant trials and evidence gathering before the programme was rolled out.

ITEM 11 TRAIN SERVICE PERFORMANCE

Daniel Bulcock, Lyn Armstrong and Lyndsey Melbourne joined the meeting for this item

38. Graham Richards introduced the pack which illustrated the wide range of available data collected on train performance and its use by different bodies. Operators and Network Rail used the data to manage their business and DfT/ORR used it to hold them to account.
39. The board agreed that the purpose of board reporting was for the board to understand and challenge how ORR is holding NR to account; and for the board to understand the end user experience and probe what else could the ORR do beyond holding NR to account, they added that it should also help them to understand the reasons for performance shortcomings within the industry and to inform any regulatory response.
40. A set of NR route scorecards was tabled. ORR had agreed that in CP6, alongside the consistent metrics it required (which each route must include in its scorecards), routes should vary their top level scorecard to reflect the measures most important to their customers (TOCs/FOCs), and any local priorities. CP6 had only just begun and the system needed time to test its effectiveness, particularly how the emphasis on TOCs priorities was reflected in performance outturns. As part of monitoring NR, ORR would assure itself on the quality of the routes' engagement with their stakeholders, including in agreeing the specific measures. The board discussed the role of route supervisory boards and expected to see a relationship between their chairs and the ORR.
41. The board discussed the importance of consistency in reporting and the value of comparisons between routes, TOCs and regions. They agreed that their regular report should incorporate safety, financial, infrastructure and customer delivery measures on each route and translate this into an overall NR dashboard [action]. It would be useful to understand what information the NR board considered regularly. The board agreed there was a need to help passengers understand what published measures meant and which of those the regulator thought most significant in assessing the industry's performance. Clarity in this area would reflect ORR's commitment to evidence and objectivity.
42. The board discussed the lack of transparency around some aspects of TOC franchise performance and recognised the capability within the ORR to address this as part of its work as an accredited supplier of National Statistics. It supported the proposal for ORR to extend its reporting on TOC performance to deliver a clearer picture on passengers' experience.
43. A revised board information pack would be developed in the light of this discussion for a first iteration at the June board. [forward programme].

ITEM 12 COMMITTEE REPORTS

44. Bob Holland reported on the Audit and Risk Committee the day before which had discussed: the new risk management system highlighting its A3 single sheet dashboard and clear governance. It had considered audit reports on payroll, performance data and follow up work, where some housekeeping actions on the governance report were still outstanding.

ITEM 13 ANY OTHER BUSINESS

45. The board noted the items circulated below the line including the forward programme and the quarterly risk report.

Meeting closed at 2.55pm