

**THE OFFICE OF RAIL AND ROAD
164th BOARD MEETING**

30 October 2019, 08:30 – 14:30

Marriott Hotel City Centre, 2 Lower Castle Street, Bristol, BS1 3AD

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

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

In attendance: Russell Grossman (Director of Communications), Freya Guinness (Director Corporate Operations), Stephanie Tobyn (Deputy Director, RME), 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 everyone to the meeting. Daniel Brown (Director Strategy and Policy & Railway Markets and Economics) and Juliet Lazarus (General Counsel) had sent apologies. The board noted the likelihood of a general election being held before Christmas which would require a period of purdah and might have implications for some policy work.

Item 2 DECLARATIONS OF INTEREST

2. No new relevant interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The Board agreed an addition to the minutes in paragraph 13: *To this end ORR should satisfy itself that HE is taking all reasonably practicable steps to gather and analyse the safety impact of converting motorways to all lane running, on either a full time or part time basis. It was important to public confidence that such evidence should be made public without delay.* The Chair would sign an amended version of the minutes.
4. The board noted the updated actions list. John Larkinson explained a multi pronged approach to countering unevidenced assertions on the cost of safety including: meeting the DfT senior team with responses on specific cases, building a library of positive stories and at least one technical case study. This should generate a constructive debate.
5. The Board welcomed this approach and the transparency it should bring, noting the need to make sure new ministers were also given accurate information.

Item 4 HEALTH AND SAFETY MONTHLY REPORT

Ben Watkins attended for this item

6. The Chair noted the recent 30th anniversary of the Ladbroke Grove rail crash and asked Ian Prosser to explain what had happened on the day and as a result. It

was important to keep this information current in the corporate memory. Ian reminded the board that 31 people had died and 417 were injured – many with life changing injuries. The incident had followed relatively quickly another head-on collision at Southall. At Ladbroke Grove, an inexperienced driver had overshot a red signal. Later it had been recognised that the signal was one with a history of issues.

7. The report by Lord Cullen had been in three parts: Part 1 – what happened, Part 2 – how had the industry structure contributed and Part 3 – signalling issues. Headlines from Part 2 were around the culture in the sector where performance had been more important than safety, practice was based on rules not culture, and the industry was not responsive in terms of lessons learned. The report had been critical of the then rail regulator and had made the case convincingly that a capable, proactive, proportionate and active regulator would be good for the industry. The report had noted that the difference in the size of fines from the regulator on performance and those from the courts on safety violations might have added to the incentive to target performance above safety.
8. Before the incident, TPWS had been rejected as a mitigation because it was seen as not cost-effective in saving lives (even though the SPAD risk then was 7 times higher than now). Ian reminded the board that there was a very slow record of change in the industry. The Cullen report had resulted in the creation of RSSB, being critical of the situation at the time that standards were driven by the operator. Railtrack had been seen as too powerful as a disproportionately large player in the industry.
9. RSSB had been reviewed every five years since the report and shown to be a success. Although the introduction of TPWS had been seen as a short term solution at the time, it was still being used on about half the signals on the network. TPWS had a major impact on safety – as did the ban on slam door rolling stock under the same legislation. Ian noted that the safety benefits had been underestimated at the time and in practice had been much greater than predicted.
10. The chair thanked Ian for the report. Some of these lessons would be particularly pertinent when considering the industry wide changes which might be proposed in the forthcoming Williams White Paper.
11. Ian updated the board on progress by the CPS on Croydon, and progress against RAIB's recommendations and the establishment of the LRSSB. He also reported on senior staff changes at TfL and LUL, financial pressures there, and the review they had commissioned by APTA: the board suggested IP ask to meet the review team and see the terms of reference for the review [Action].

Paragraph 12 has been redacted as commercially sensitive

13. The board were surprised that the ORR process did not include scrutinising the contractual detail of disposals in relation to safety implications and asked the executive to consider whether that should be done in future. [Action]
14. Ian updated the board on the investigations around Margam, and the overall risk picture which was slightly worse this month. The board noted the report and suggested that a 'dashboard' approach would be helpful for some of the charts and data included. [Action]

Item 5 BOARD INFORMATION PACK, RIS2 UPDATE AND QUARTERLY BUSINESS REVIEW

15. Graham Richards presented the board information pack and highlighted: December 2019 Timetable change where the GWR Newport to Cardiff electrification would be dependent on ORR completing its authorisation but there was some doubt as to whether the technical file will be received in time (it was already late and the PMO was aware of the risk). Overall however, the risk of major system wide disruption at this timetable change was judged very small, and the PMO appeared to be managing the system risks.
16. Graham noted that the election announcement might delay the final announcement of RIS2, but that ORR would make clear to HE that planning had to continue so that implementation was not delayed unnecessarily.
17. Graham commented on the current NR regional scorecard performance and highlighted some apparent anomalies between national and regional scores.
18. The board discussed the report and made some suggestions for continuing improvement including:
 - Using dashboards with less commentary and detail,
 - Distinguishing measures of the user experience from the holding to account measures that would be necessary to track delivery against regional and centralised organisational commitments,
 - Considering reporting on absolute delivery as well as delivery against targets.[Action]
19. Freya Guinness identified one mis-reported standard in the report –which should have been flagged as green, not red. She also highlighted the financial report in the quarterly business review and the board discussed areas of resource stretch among key teams. There was only one post where recruitment was on hold pending the publication of the white paper.

Item 6 CHIEF EXECUTIVE'S REPORT

20. John Larkinson reported to the board on meetings with the Rail Minister, Chris Heaton-Harris and Baroness Vere as well as a number of speeches and stakeholder events. He described a meeting with the APPG for Rail in the North which had generated questions across a wide range of topics. Such events were important for ORR but required significant preparation and follow up to deal with detailed questions.

Item 7 OTHER EXECUTIVE REPORTS

21. **Graham Richards** reported on senior staff changes planned in the directorate and discussions with DfT on how ORR could support their review of smart motorways.
22. **Stephanie Tobyn** reported on RME including progress on the CVL transfer arrangements in Wales, and a forthcoming meeting to discuss Transport Scotland's views on a Network Rail rebate. The board discussed the political, performance and financial pressures working on the Scottish region.

23. Stephanie also reported on the new consultation on accessible buses for rail replacement services following the legal challenge. The pre-election hiatus would enable more time to reflect on the high level of interest and varied responses received.
24. On timetabling, the board understood there was no showstopper issues in December, but recognised a continuing risk around local disruption with some potential adverse comment on the continued operation of rolling stock that had been scheduled to be stood down. The board suggested John Larkinson write to Dft with an update on what was expected for December 2019 and what had been done to mitigate risks. John added that he would want to comment on what had improved in terms of delivery as a result of new structures and where ORR saw remaining risks. John noted that the system had already begun to give early warning that the May 2021 timetable change carried major risks. [Action]
25. **Russell Grossman** updated the board on a reasonably successful month of positive or neutral coverage and the likely impact of a purdah period on ORR's planned publications and announcements. The Board discussed the boundaries around what could or could not be done and made public. It was important that ORR continued to offer independent advice transparently wherever possible.
26. **Freya Guinness** reported on progress with the London office move and work done to maintain continuity during the transition period.

Item 8 MOU WITH RSSB TO SUPPORT ORR CAPABILITY AND CAPACITY

27. Graham Richards explained that the MOU was necessary both to ensure consistency over time but also to give transparency of the arrangement - acknowledging the potential for perceived conflict of interest (because RSSB is industry-funded) and recognising that ORR was taking steps to avoid this. He clarified that where RSSB could not meet a need for skills, a normal external procurement exercise would be undertaken. The authorisation of new MOUs with external bodies was reserved to the board.
28. The board approved the MOU with minor amendments for clarification.

Item 9 SAFETY ENFORCEMENT

Keith Atkinson attended for this item

Paragraphs 29-31 have been redacted from the published minutes as relating to current enforcement proceedings.

32. The board thanked Keith for his report and discussed the findings. These would be communicated informally to NR and RAIB as necessary. The ORR Chair and CEO were due to meet NR's Chair and CEO and this incident was likely to be part of that agenda.

Item 10 NETWORK RAIL MONITORING

Richard Coates, Ashley Goddard, Liz McLeod joined the meeting for this item

33. Graham Richards introduced the item explaining that the staff resources to support regional monitoring were now in place and work was in hand on day-to-day monitoring

and processes for escalation with NR. There was more to do (and very quickly) on public reporting on the monitoring that ORR was undertaking on the regions and SO/FNPO performance.

34. The board discussed the role that Route supervisory boards (RSBs) were playing in the regions and the other mechanisms by which regional NR management was engaging with their local stakeholders (in particular regional transport bodies). RME planned to survey NR's stakeholders early in 2020 and this would give a fuller picture of their experience and views. The board discussed the importance of transparency around scorecards and noted that this seemed to be less than had been anticipated by ORR. Transparency was an important source of public confidence and this should be addressed as part of the overall monitoring and reporting framework. John Larkinson described developments in the way parts of NR were engaging locally and how this was developing. The board were assured that ORR's scrutiny was not reliant on the RSBs' views.
35. Staff described the arrangements and functioning of the regional team and how intelligence was shared between them. John Larkinson commented that the commitments made in the System Operator's delivery plan (i.e. increase in System Operator resources for timetabling activity) required careful monitoring and described the challenges around its expansion as well as the way the team planned to address them. The picture was developing quickly and more would be clear before the end of the year. One issue was to be clear whether regions were securing the right contribution to their success from the SO and if not to determine what ORR could do to make that happen.
36. The board asked for more information at the November board meeting to explain how the SO was being held to account and its influence on performance. [Action]

Item 11 HIGHWAYS ENGLAND

Richard Coates and Iain Ritchie attended for this item

37. The board noted the report on ORR's scrutiny of smart motorway safety following the questions raised at the September meeting. They noted the review announced by DfT which was intended to report within two weeks and the likely impact of an election on any announcement or policy change as a result.
38. The board discussed the issues around the introduction of smart motorways including the quality of evidence available and the lack of clarity about the safety regime which would apply on an open system such as highways.
39. The board agreed that there was insufficient data available for it to make any definitive comment. The board agreed that ORR should continue its work to investigate safety on smart motorways by asking HE to provide evidence of its performance in rolling out safety improvements such as the provision and spacing of emergency refuges and how they are deploying equipment to quickly identify when a lane is blocked to demonstrate their continuing management of the issue. ORR should also consider if there was data relating to safety on smart motorways that HE should provide on a regular basis.
40. The board asked for a report from ORR staff setting out the overall system for assuring, ensuring and enforcing safety on the roads, including how scrutiny would be exercised over significant changes such as smart motorways. [Action].

41. The board also noted the inclusion in RIS2 of significant spending on smart motorways. It was important that if the evidence in due course demonstrated that the designs should be changed for safety reasons then that would need to be carried through. The board expected HE to be able to demonstrate that they were doing all that could reasonably be done to deliver mitigations of any emerging safety risk.
42. HE's board should demonstrate that they have considered whether to pause the roll out and what they had considered and when they would be able to show more evidence. ORR's role offered useful scrutiny and transparency in this area. [Action – produce a draft letter to Jim O'Sullivan asking whether HE had considered pausing the roll out of all-lane running schemes while further evidence is collected. For consideration by executive and board before sending.]

Item 12 CHANNEL TUNNEL SAFETY REGULATION POST BREXIT

Martin Jones joined the meeting for this item. Jeremy Bohl dialled in.

43. The board welcomed the update which demonstrated that arrangements were in hand for the regulation of safety in the Tunnel when Brexit occurred. Short term arrangements were in place in the event of no-deal. If there was a change in government then more options might appear, but for now the paper covered the likely ones. A further report would be brought back in March. [forward programme]

Item 13 WILLIAMS REVIEW

Rob Cook was on the phone for this item

44. John Larkinson updated the board on recent meetings with DfT officials and others around the Williams proposals and an early draft of the executive summary of the white paper. ORR continued to offer support and information, and would be included in the working group on implementation. The impact of the election was most likely to be more time for policy development and staff would monitor this closely so that ORR's reservations about any principles or proposals could be put on the record. Particular concerns were anticipated around the risk introduced to the system by significant change and the risk of management distraction. DfT had committed to sharing the main text with ORR before the write round to government.
45. ORR had offered full support on implementation (and would find resources to do so). Being involved in the implementation planning was an opportunity to influence the plans and make practical proposals on how ideas could be implemented.

ITEM 14 EXTERNAL RELATIONS

46. Russell Grossman introduced the paper which scoped a more proactive approach to stakeholder engagement to ensure that the organisation was listening to all the necessary sources of intelligence in its decision making.
47. The board discussed the paper and the areas where work would need to be focused once a new government was in place. There would be more time for planning as most activity would need to be paused during purdah. A further discussion would be held at the November strategy day. [Forward programme]

Item 14 FEEDBACK FROM COMMITTEES AND PANELS

Audit and Risk Committee

48. Bob Holland reported on the meeting noting reports on the operation of the new risk system, audit reports on stakeholder management, vehicle authorisations and management of consultants as well as the regular follow-up report. NAO had presented the audit plan and the regular risk review was also highlighted and had been circulated with the board pack.

Renco

49. Michael Luger reported that that Renco had considered papers on the gender pay gap, diversity strategy and pay strategy review as well as its own terms of reference, senior succession planning and NED induction, among others.

Item 16 ANY OTHER BUSINESS

50. Next meeting: the next meeting would be on Tuesday 26 November at the new London office in Cabot Square.
51. The board noted the items below the line.

Approved by the board
26 November 2019

Signed by Declan Collier, Chair