

Office of Rail Regulation

Minutes of the 86th Board meeting on 24 July 2012

(10:00 – 16.30) in Room 1, ORR offices, One Kemble Street, London

Board present:

Non-executive directors: Anna Walker (chair), Tracey Barlow, Peter Bucks, Mark Fairbairn, Mike Lloyd, Stephen Nelson, Ray O'Toole and Steve Walker.

Executive directors: Richard Price (chief executive), Michael Beswick, Ian Prosser, and Cathryn Ross.

In attendance, all items: John Larkinson (acting director, RPP), Jen Dinmore (legal adviser), Ken Young (director, external affairs), Sam McClelland Hodgson (Board secretary), Gary Taylor (asst. board secretary)

In attendance, specific items: Annette Egginton, Head of Competition and consumer policy (item 3), Brian Kogan, deputy director, RME (item 4), Agnes Bonnet, Head of European policy (item 4), Nigel Fisher, head of performance, information and analysis (item 6), Les Waters, managers, licencing and network regulation (item 6), Sandra Jenner, Change Advisor (Items 7 and 8), Dan Brown, director of Strategy (items 7 and 8), Ronan Devaney, Private Secretary (items 7 and 8), Andy Lewis, manager, corporate governance (items 8 and 9), Professor Rod Smith, chief scientific advisor, DfT (item 10) and Alan Paterson, DfT (item 10)

Item 1: Welcome and apologies for absence

1. Anna Walker welcomed everyone to the meeting, in particular, Jen Dinmore, who was standing in for Juliet Lazarus who had sent her apologies. Apologies were also received from Peter Bucks.

Item 2: Declarations of interest

2. There was no declarations declared relevant to the agenda, however Mike Lloyd would speak to the Board Secretary to update his declaration of interests.

Board 24.07.2012 Action A: Mike Lloyd to provide declaration to Sam McClelland Hodgson after the meeting.

Item 3: ORR's consumer programme: aims, ambitions and possible future work

3. We considered an update on the work being undertaken to take forward ORR's consumer programme. The paper and slides outlined the work carried out during 2012-13 and the preparatory work undertaken to prepare for 2013-14.

Paragraphs 4-10 have been redacted as they relate to policy development

11. Stephen suggested that it may be useful for the Board to consider having face to face dialogue with consumer groups to understand the issues that are current and have most impact. We agreed that this was a useful suggestion and further consideration would be given to how this could be facilitated.

12. We thanked Annette and Cathryn for the useful update. We agreed that we would welcome a further update on progress at the Board in the autumn.

Board 24.07.2012 Action B: RP/CR/AE to consider better defined deliverables around a combination of options 1 and 2 and the associated resources and skills required to deliver this and put proposals to the Board.

Board 24.07.2012 Action C: Ensure that our consumer options are considered in the context of our vision for 2030.

Board 24.07.2012 Action D: Consider the possibility of face to face interaction between the Board and consumer groups to get a better understanding of their current issues.

Board 24.07.2012 Action E: Further update to be provided on these points to the Board in the autumn.

Item 4: Our approach to Europe

13. We considered an update on our work on European matters. We recognised that our work in Europe had not been seen as a priority for this organisation in the past but agreed that this was now the correct time to discuss and assess whether this stance should change particularly as in 2013 Anna would be chair of the European group of independent regulators – IRG-Rail. The question the Board needed to discuss was what the ORR should aim to achieve with this chairmanship.

Paragraphs 14-18 have been redacted as they relate to policy discussion.

19. We thanked Brian and Agnes for the paper which enabled a useful discussion. We agreed that a follow up discussion would be useful and should take place in advance of Anna taking on the role of Chair of IRG.

Board 24.07.2012 Action F: In light of the 4th Railway Package, expected by end of 2012, we agreed that the executive would provide the Board with advice and a clear stance on our work on interoperability.

Board 24.07.2012 Action G: BK/AE to speak to Cabinet Office, DfT and the UK permanent representation in Brussels to establish their views on the priorities of DfT and UK regulation on European issues.

Board 24.07.2012 Action H: RP and executive to further consider our role in encouraging market opening for UK rail business in Europe.

Board 24.07.2012 Action I: Further Board discussion on European issue to be scheduled. This should take place in advance of Anna beginning role as chair of IRG Rail.

Item 5: Our Stakeholder strategy, what role NEDs should have in external engagement

20. We considered an update on the development of the programme for NED engagement with stakeholders. Following discussion we agreed that it would be extremely beneficial to involve the NEDs as part of the overall stakeholder engagement plan, including accompanying members of the executive team to meetings and events rather than in 'solo' roles.

21. We suggested that it would be useful to arrange stakeholder dinners around current calendar of Board meetings for ease of putting arrangements in place. We were keen to

ensure that the NED only dinner sessions remained as these had proved to be useful sessions.

22. We suggested that Board dinners with ROSCOs and the supply chain as well as CEOs of TOCs and Network Rail would all be good ideas.

23. Overall we thanked Ken for his work and agreed that we were keen for Ken to begin to implement the engagement plan as soon as possible. Ken agreed to work with the Board secretariat to establish suitable dates for these sessions to take place. NEDs would be informed of progress in due course.

Board 24.07.2012 Action J: KY to work with Secretariat to look to establish stakeholder dinner events (up to 6 per year) to take place around existing Board meetings/events.

Item 6: Overview update on performance: Long distance, London & South East and Freight

24. Michael Beswick and Nigel Fisher provided an update on Long distance performance, the investigation into the performance of London and Southeast and the progress being made by the freight recovery board.

25. Michael reported that we had raised concerns with Network Rail with regards to failing to achieve its JPIP targets for 2012-13. We noted that we had accepted its base+ recovery plan to ensure that targets would be met. Michael confirmed that we have told Network Rail that we require its first report (covering periods 1-3) by 20 July. Assessment of the report would take place shortly and Michael confirmed that the Board would be advised of our findings and any recommendations at the Board meeting in September.

26. In relation to Virgin Trains Michael confirmed that Chris Gibb has been seconded to Network Rail with a brief to bring the operator perspective to the recovery plan. Michael confirmed that we had written to Network Rail informing them that we will give them time to allow for Chris Gibbs secondment to make an impact and we will continue to monitor developments in the meantime.

Paragraphs 27 and 28 have been redacted as they relate to policy development.

29. John highlighted the issues around “trade-offs” and how Network Rail have raised these recently, particularly in relation to performance and extra trains on the network. We agreed that we would need to consider this issue at a future PRC meeting as we need to have a clearer understanding of what the trade-offs are as part of the regulatory outputs to be agreed for CP5.

30. In relation to freight, Michael confirmed that good progress had been made to date through the freight recovery board. An update would be provided to the Board in September.

31. Michael confirmed that the issues around LSE performance are work in progress. We noted that Network Rail had agreed to produce a plan by 6 August. Michael confirmed that updates and any actions would be presented to the Board in September. Analysis of the plan was currently being undertaken by colleagues in RPP. We agreed that the issues around the LSE case strengthens the case for a more formal monitoring role for ORR as it involves a number of TOCs and their performance as well as Network Rail.

32. We discussed the monitoring of targets for PPM at TOC level, not sector level as highlighted through the proposed CP5 outputs document. Michael suggested that using sector level targets had proved useful in recent proposed enforcement action.

Board 24.07.2012 Action K: AW to discuss Network Rail succession planning and underperformance within Network Rail with Richard Parry-Jones at a future 1:1.

Board 24.07.2012 Action L: Trade off discussion to be scheduled for future PRC meeting

Board 24.07.2012 Action M: Freight update to be provided to the Board in September.

Board 24.07.2012 Action N: RP/CR/JLark to discuss getting the key messages on performance issues to Network Rail and the industry.

Item 7: Internal capability plan

33. We considered an update on the development of our internal capability plan. We noted that the plan would look at all areas of the organisation's work, paying close attention to all our core processes. Sandra confirmed that a draft plan would be presented to the Board in September.

34. Richard provided the following update on senior recruitment:

- Alastair Gilchrist had been appointed as interim director of corporate operations for 6/9 months. Alastair has change management experience having worked in both the private and public sectors. He is due to start on 13 August.
- Interviews for the strategy and policy director role will take place next week. The Board will be informed of any subsequent appointment
- Dan Brown has agreed to extend his stay at ORR. Dan will be looking at the strategy framework and our business planning process.
- The advert for the director of RPP has gone live. The Board will be kept up to date with any development.

35. We noted the HR and finance data and thanked Sandra as this was a significant improvement in the management data provided to the Board. Ray asked whether succession planning was being looked at as part of the capability plan. Sandra confirmed that this was a key aspect of the capability plan and would be picked up in due course. David Chapman was leading on this and a discussion at RemCo was currently being set up to go through this in greater detail.

36. We noted that the business planning process was currently being reviewed. Sandra confirmed that she had met with colleagues at Ofcom to discuss implementing a more integrated approach to planning. We agreed that staff should be made aware that the planning process could change as some directorates may have started to begin looking at their planning data for 2013-14. We also agreed that DG should schedule a

For publication

discussion on business planning to decide on how this will be carried out for the production of the 2013-14 business plan.

Paragraph 37 has been redacted as it relates to policy development

Board 24.07.2012 Action Q: The plan should consider all options including whether ORR should continue as a Civil Service Department.

38. In relation to the staff strategy workshops which are taking place, we agreed that it would be useful to have feedback from the NEDs. We agreed that this would be picked up through our work on the strategy which would be discussed at the Board in September.

Board 24.07.2012 Action O: Succession planning to be discussed at the next RemCo meeting

Board 24.07.2012 Action P: Internal Capability Plan to be discussed at September Board meeting – identifying long term (2030 vision) milestones alongside our short term (2013-15) milestones/deliverables.

Board 24.07.2012 Action R: We agreed that it would be useful to get NED's feedback on staff strategy workshops.

Board 24.07.2012 Action S: DG to discuss business planning process for 2013-14 and ensure that all staff are aware of the proposed new process.

Item 8: Assurance and accountability – reporting progress on the delivery of the business plan priorities for 2012-13

39. We noted the report which set out progress to date against our business plan. Richard confirmed that following detailed discussions with each director, the report provides the directors judgements on whether we are on track to achieve our business plan objectives.

40. Richard highlighted the following concerns raised as part of the report:

- PR13 – Some concerns have been raised around the planning, resource and governance aspects of the programme of work. Cathryn confirmed that steps were being taken to address these issues and proposals would be coming to the Board in September.
- PR13 Incentives – We agreed that this is the point where the industry faces the most complexity as we consult on a whole raft of possible changes in access charges. We agreed that it would be crucial to see coherent packages around our work on incentives at the Board in September.
- Asset management - Network Rail is significantly off its trajectory so this is recorded as an amber milestone. The Secretary of State's guidance to ORR as part of the HLOS also requires ORR to ensure whole life asset management. Activities in the next few months will give us a better understanding of where we

are likely to be by the end of the year. We agreed that we would need to be clear on our strategy for asset management going forward. Anna suggested that it was crucially important to understand where our current position is and where we want to be by the end of CP5. We discussed the potential step change in asset management and agreed that we would need to have a clear understanding of the resource implications for this.

- Occupational health – Ian confirmed that our programme is on track, however the industry is behind where it needs to be, and data is poor. The Board will look at this in more detail in September to assess our options for taking this forward in 2013-14.

41. We thanked Richard for the useful report and welcomed the new approach to holding directors to account. Anna suggested that one area which had not been picked up was our work on transparency. We noted that the DfT guidance suggested that ORR should ensure a step change in this area. We agreed that Richard and the executive team should consider how best to take this forward.

Board 24.07.2012 Action T: Following discussion – agreed that it is important to have a coherent plan on incentives to highlight key milestones and interdependencies for discussion at the Board in September.

Board 24.07.2012 Action U: RP and the executive to consider ORR's strategy in transparency to respond to the SoS guidance to ensure a step change in this area.

Item 9: Debrief and next steps from Risk Workshop

42. Tracey thanked fellow Board members for attending the lively and informative risk workshop which took place on 23 July.

43. Andy confirmed that the workshop had identified a consensus around a number of different areas of risk which will be refined and presented as ORR's new High Level Risk Register. This revised HLRR would be discussed at DG in August and subsequently at the Audit Committee on 19 September. The final version will be presented to the Board in October.

44. We thanked Tracey and Andy for their hard work and recognised that the process had been a significant improvement compared with last year's workshop.

Board 24.07.2012 Action V: Revised HLRR to be discussed at the Board in October.

Item 10: Technology & innovation – Presentation by Professor Rod Smith, Chief Scientific advisor, DfT

45. We welcomed Professor Rod Smith, Chief Scientific Advisor at the DfT who facilitated an interesting discussion on innovation in the railway industry.

46. The presentation focused on a number of areas, most notably:

- The nature of innovation and its relevance to the railways;

For publication

- The reasons behind why the industry is slow to adopt new technology;
- Step changes in track, vehicles and control systems;
- Wider issues around electrification;
- Passenger issues.

47. In discussion, it was recognised that maintenance costs were the biggest single cost for the railway. The track was not a permanent way – it was constantly maintained and renewed. The wheel/track interface was crucial here and ways needed to be found to make interaction better on this, thus stimulating innovative and cost effective approaches.

48. The sector currently only spent 1% of turnover on R and D. This was very low compared with other sectors. Richard Parry Jones, as the new Chair of Network Rail had already signalled his concern on the issue. The question for ORR was whether it should push for more expenditure in this area.

49. It was agreed that people issues were very important in stimulating innovation. New staff needed to be attracted into the sector to transfer good practice from elsewhere. Another general area needing improvement in the railway sector was information – for passengers and for the sector itself of the impact of the track/wheel interface.

50. Following a lively presentation and discussion we thanked Rod for raising a number of issues. We agreed that it would be useful to continue to be kept up to date with the latest developments in innovation on the railways. We agreed that we would keep in contact with Rod to discuss any issues as they arise. Richard and Anna agreed to discuss how best to maintain the dialogue with Rod and follow this up shortly.

Board 24.07.2012 Action W: RP and AW to discuss how best to continue dialogue with Rod Smith on technology and innovation issues.

Board 24.07.2012 Action X: Board to consider how best to move forward on technology issues in CP5.

Item 11: Chairs report

51. We noted the chair's report for mid-June to mid-July. We discussed the significant number of RAIB recommendations still outstanding.

52. We noted the meetings between Anna and Carolyn Griffiths (RAIB). We agreed that in future Richard should take on the liaison with Carolyn.

53. Following discussion we agreed that Ian should be included as a member of PRC to ensure that any safety related PR13 issues are picked up. Ian agreed to attend the PRC meeting on 25 July.

Board 24.07.2012 Action Y: We agreed that IP should become a member of PRC.

Board 24.07.2012 Action Z: RP to lead on discussions with Carolyn Griffiths going forward.

Item 12: Chief executive's overview and monthly data pack

54. We discussed the Chief Executive's overview and monthly data pack which set out the key issues for ORR in relation to internal and external activities. In particular the

For publication

executive provided updates on recent safety activities; including data on our enforcement, inspections and our progress against RAIB recommendations.

55. We noted the safety information included in the overview. No significant issues were raised. Ian confirmed that the ORR annual health and safety report had been published. Ian welcomed any comments from Board members.

Paragraph 56 has been redacted as it is potentially commercially sensitive

57. Cathryn informed us that as part of CP5 discussions, she and Dan Brown have agreed to take part in a series of facilitated discussions with Network Rail. These conversations will cover lessons from the past including CP4, the challenges the industry faces, Network Rail's role in respect of these challenges. Cathryn confirmed that Richard will be attending the final session which will be used to pull together the issues raised and to discuss next steps.

58. We received an update on the response to the ConDoc. Michael confirmed that we have pointed out to DfT that unless there is a clear steer soon, it will miss a significant number of franchises unless something is done. Further progress to be provided to the Board in due course.

59. John confirmed that the data pack would include explanations for red JPIP targets in future months.

60. We discussed the membership for the technical panel of experts. John asked the NEDs to provide suggestions for potential members. John asked for a quick response as he would ideally like to approach potential members by the end of July.

Board 24.07.2012 Action AA: NEDs to provide suggestions for members of technology and innovation panel.

Board 24.07.2012 Action AB: Management Data Pack to include explanation for red JPIP targets.

Item 13: Committee meetings

61. We noted that PRC considered a number of issues including the supply chain, government franchise changes and efficiency.

Item 14: Approval of minutes of Board meetings of 22 May 2012 and June 2012 for publication

62. No comments were raised on these minutes and were approved for the Chair to sign, subject to her final review.

Item 15: Matters arising (not taken elsewhere on the agenda)

63. We noted the progress against actions from our previous meetings; a number of actions had been completed since June and further updates were noted on those still outstanding.

For publication

Item 16: Any other business

64. Anna asked Sam to try to extend the time allocated for the September PRC meeting.

Board 24.07.2012 Action AC: SMH to set up additional discussion time for the September PRC meeting.

Item 17: Meeting review

65. We agreed that the meeting had been extremely productive with enough time allocated to agenda items.

Draft minutes approved by the Board on 18 September 2012

Anna Walker

Chair