Railway Industry Health and Safety Advisory Committee (RIHSAC)

Minutes of the 109th RIHSAC Meeting

Tuesday 29 May 2018

Room 2, One Kemble Street, London

Present:

Justin McCracken	ORR
Jen Ablitt	ORR
Tracy Phillips	ORR
James Walker	ORR
Ian Skinner	ORR
Russell Keir	ORR
George Bearfield	RSSB
Tavid Dobson	RSSB (for item 4)
John Cartledge	London Travelwatch/Transport Focus
Lisbeth Fromling	Network Rail
Jill Collis	Transport for London
David Porter	IOSH
Alistair Young	Transport Scotland
David Davies	PACTS
Garry McKenna	DRDNI
Paul Clyndes	RMT
Paul Titterton	RDG
David Clarke	RIAGB
Mark Ashmore	UKTram

Item one: Welcome, introductions and apologies for absence

1. Justin McCracken welcomed everyone to the meeting and noted that this was Paul Titterton and David Clarke's first meeting and that it was Mark Ashmore, UKTram's first appearance in a while. Apologies had been received from Ian Prosser (ORR), John Collins (Angel Trains), Steve Coe (TSSA) and Rob Miguel (Unite) who would be replacing Susan Murray.

2. RIHSAC reviewed and accepted the minutes and actions arising from the 20 February 2018 meeting. Tracy Phillips provided verbal updates on the actions:

    ◦ as had previously been advised to RIHSAC, DfT had made the decision not to revise level crossing legislation as a result of the Law Commission's report. A

letter from Ministers confirming this position was still awaited. ORR was still pursuing changes to the way level crossing orders were managed to emphasise risk assessment more prominently. This should not have a major impact on dutyholders but ORR would share its plans with the industry before any change was implemented and RIHSAC members would be consulted.

- ◦ Provision of Health and Safety Regulation Committee (HSRC) feedback and a 'safety moment' were now added as standard agenda items. Reviewing the position for occupational health and its leadership, and a discussion on Brexit were added as items to the forward agenda. RSSB and RDG would be invited to speak at a future RIHSAC meeting on occupational health leadership.

- ◦ Photographs that were being taken at this meeting would be published on the RIHSAC pages of ORR's website as part of efforts to update and refresh the website appearance and content (part of the ongoing work on improve RIHSAC effectiveness).

3. Lisbeth Fromling led on a 'safety moment' regarding fatigue. It was agreed that more emphasis needed to be put on this issue. The public were becoming more aware of it and posting photos of fatigued staff to social media. Jill Collis remarked that workers needed to feel secure in being honest and open with fatigue so it was important that organisations created the right culture for this but should also recognise that the underlying causes of fatigue needed to be tackled.

Item two: Matters arising of interest from Health and Safety Regulation Committee and other ORR Board meetings

4. At its March meeting HSRC had discussed RAIB's report into the fatal tram derailment at Sandilands. This topic was a later RIHSAC agenda item.

5. HSRC had received comparative information about safety incidents across the UK, French and Channel Tunnel networks. The higher incident rate of broken rails in the Tunnel was noted as an emerging issue.

6. HSRC was reassured at its meeting that the future leadership programme for occupational health through RSSB's Health and Wellbeing Group was expected to be effective across the industry but ORR would continue to keep this under review before its Occupational Health Programme Board was disbanded.

7. HSRC had also considered how ORR should best discharge its duties around promoting research and development during CP6, including whether the Research and Development Advisory Group should continue and how to secure more coordination between research and development programmes across the rail industry.

8. HSRC had noted that good progress was now being made towards electrical safety compliance in terms of Network Rail infrastructure, particularly with faster, safer isolations. Paul Clyndes raised RMT's concerns that Network Rail were reducing the safe working distance for live wires from 2.75 metres to 1.6 metres and had attempted to introduce a 'charged but not live' perspective on safe working on live

equipment. RMT opposed these moves and was concerned at the way in which NR was handling them. Justin McCracken noted these concerns and agreed to arrange an ORR response after the meeting.

Action 109.1: Justin McCracken to arrange for a response from ORR on Network Rail's proposed electrical safe working distance changes.

Item three: Chief Inspectors update

9. Jen Ablitt provided this update in place of Ian Prosser. ORR's PR18 final determination was due to be published on 31 October 2018 so the push was now to publish the draft determination on 12 June in order to consult over the summer. The determination would include reference to RSSB's revised safety risk model.

10. ORR successfully prosecuted Bam Nuttall Limited after a painter fell through a roof, and South Devon Railway after a child almost fell through the flooring of a moving train. Network Rail had also recently been found guilty in the East Farleigh prosecution case in which a level crossing gate operator had suffered life-changing injuries.

11. There had been some senior changes within the Railway Safety Directorate (RSD). Deputy Director Johnny Schute had moved to RSSB and his successor was to be announced shortly. Keith Atkinson had been appointed as the Assistant Chief Inspector of Railways responsible for Transport for London and Crossrail and Ian Skinner as the Assistant Chief Inspector of Railways responsible for heritage, trams, light rail and safety by design. A workshop would be held to review and revise RSD's team structure to ensure it was fit for purpose as we approached CP6. Resources would be reprioritised and refocused where needed, ensuring new starters were trained efficiently and effectively and the right training and development opportunities were available for existing inspectors and staff.

Item four: Developing RM3

12. Tavid Dobson, RSSB, provided this presentation (previously circulated and attached) in his capacity as a member of the Governance Board. He set out the overall aim to complete the revision of the RM3 model by the end of the year. He highlighted two key potential changes: removing the discrete safety culture element as safety culture was embedded throughout the model, and encompassing supply chain management in the scope of the segment on control of contractors.

13. It was intended that the revised model would align with ORR's strategic risk chapters and *Leading health and safety on Britain's railway*. The revised ISO standards would be moulded in and the use of *Taking safe decisions* would be given a central role. The Governance Board also wanted to show the links with the CSMs more clearly.

14. Jill Collis queried why Highways England (HE) and the freight sector were being invited to participate in the Governance Board. Tavid Dobson explained that it was thought that HE could provide a good external benchmark and there were areas of commonality, managing contractors for example. However, the freight sector had decided not to adopt the model as their risk portfolio was too diverse. RSSB was still in discussion with this sector to identify areas for potential collaboration.

15. Paul Clyndes noted that no explicit reference was made in RM3 to the role of trade unions in the management of health and safety, particularly in relation to consultation; RM3 only mentioned "workers".

16. Tavid Dobson agreed that RIHSAC should be plugged into work on revising the RM3 model as it evolved. It was noted that RIHSAC's next meeting was not until October so he agreed to review ways in which members could give input to RM3 outside of meetings. There was also sector representation at the Governance Board so comments could be fed via that route. ORR also offered Neil Anderson as a contact for any input.

17. Jill highlighted that RSSB's remit was confined to mainline operations whereas RM3 was used more widely. This might mean its focus as a Governance Board was too focused on the mainline. TfL used the tool and wanted to keep up with developments; the revised RM3 needed to be as useful to the non-mainline as now. George Bearfield stressed that RSSB was willing to offer training and marketing more widely but needed to scope out the need. David Clarke confirmed that RIGB would provide input for the supply chain perspective.

18. Paul Clyndes thought that the decision to remove safety culture as a discrete element was at odds with the CSM on conformity assessment which had just added in a specific safety culture criterion. Some other members also felt uncomfortable about the removal of explicit reference to safety culture. Tavid Dobson re-iterated that safety culture was embedded in all the elements of RM3 and had not been "withdrawn". Jen Ablitt stressed that RM3 was increasingly seen as the practical tool to make real changes on the ground and that discrete programmes to drive safety culture were not always the most pragmatic way forward.

Action 109.2: Tavid Dobson to consider the best method for RIHSAC members to provide input to the revision of RM3 outside of meetings.

Item five: Tram safety – Sandilands

19. Ian Skinner had previously circulated his presentation (attached) covering the response to RAIB's report and recommendations. He picked out the key slides, highlighting ORR's objectives for trams; his intention to use RM3 in the sector as a dialogue piece with the tram industry to evaluate where they are, and his plans to develop a strategic risk chapter on trams for consultation with RIHSAC in October.

20. He reported a positive industry reception to the recommendations, acceptance of RAIB's findings from the incident, and a desire and appetite to work collaboratively to find solutions.

21. John Cartledge noted the limited volume of published performance data available in relation to the sector, relative to the mainline network for which much more comprehensive coverage was provided, thanks to RSSB. The tram industry reported mainly through RIDDOR. ORR was looking at how RIDDOR data could be used more intelligently to provide a feel for the performance of the sector. Ian Skinner stated that a clear remit of the proposed safety and standards board for

trams would be to develop a data system and John Cartledge urged that they be encouraged to put as much as possible into the public domain, in order that properly informed inter-sectoral comparisons could be made.

22. David Davies asked about highway safety and light rail's responsibility for road incidents/safety as this was a key topic on PACTS agendas. Ian Skinner explained that ORR had limited vires and not all issues were reportable to ORR, for example if a road vehicle/cyclist/pedestrian accident occurred as a result of the track but no tram involvement then this was the responsibility of the Highways Authority (HA). ORR did engage with the HA regarding tram design.

23. Mark Ashmore confirmed that he would be joining UK Tram on a full time basis from July and noted that they were working on a reporting database for all tram operators. Although the data would be secure, it would be available to the ORR to examine trends and risks. Ian Skinner noted that it was relatively immature.

24. David Porter noted the good co-operation but asked what regulatory levers ORR had to ensure delivery and quality control from operators and duty holders. Tram systems were discretely operated systems so that ROGS duty of cooperation did not apply, however there were criteria under RM3 that required tram operators to cooperate and coordinate in order to demonstrate excellence. Justin McCracken stated that RAIB's investigation had shone a light in many areas of the tram sector and there now appeared to be a positive attitude to making the necessary improvements. However, if sufficient progress was not seen to be being made then ORR would use all its powers and influence to drive change and ultimately there would be the option of going to Ministers to seek statutory change.

[David Porter made some comments on the internal review of Sandilands before the meeting, These were not addressed in Ian Skinners presentation. As he promised to return to RIHSAC in October with progress David Porter was content to leave discussions of his points to the next meet]

Item six: Cyber security

25. James Walker's presentation was previously circulated (attached) which presented the risks of cyber security and the background to the need for cyber legislation in the UK. It covered the risk of hacking into networks and physical risks such as flooded server rooms.

26. Network Rail was an operator of essential services and must notify the competent authority (DfT) when becoming aware of any impacts on continuity of service. The National Cyber Security Centre had developed an information sharing database with real time updates of potential threats, viewable to anyone linked into the system.

27. The rail sector was becoming increasingly reliant on networked technology and so cyber security needed to be considered holistically from the outset. ORR would not be the cyber enforcing authority but would seek assurance through duty holders' SMSs that they had considered cyber security matters and had suitable measures in place. There was a question around what was reasonably practicable in relation to cyber security risk.

28. ORR was continuing to liaise with DfT and would undertake a review of ORR guidance to increase awareness of cyber security both internally and externally.

29. It was noted that as trains become increasingly technological, system updates would become more complex. There were potential issues with systems not updating correctly and data being corrupted. George Bearfield thought that the industry needed to think more about how this issue filtered through the supply chain; the CSM on risk acceptance relied on strong processes to introduce new technology. He expressed concern about the lag between the position now and bringing new technologies in downstream which presented a strategic challenge, particularly in respect of the chain of responsibility.

30. RDG had an ongoing workstream on cyber security and digital railway fed into that. ORR's engagement with this work was queried. RSSB observed a risk around industry sharing of security data which was more closed than the collection and sharing of safety data.

31. It was agreed that close working between ORR and DfT would be required in this area to avoid double jeopardy and a push to go beyond what was reasonably practicable.

Item seven: Strengthening ORR's use of evidence for safety planning and monitoring

32. Jen Ablitt had previously circulated her slides (attached) which were intended to promote discussion around whether ORR was receiving all the data it required and how best to provide a clear link between the evidence and ORR's actions. ORR received data systematically but could also request information for a specific inspection or investigation. As a regulator ORR had a rich source of data through inspections and RM3 evidence that needed to be used in the most effective way.

33. "The gist of David Porters' comment to Jen on the data issues was that he thought the problem statement was too narrow, and focused only on data. David Porter advised that the problem statement should be along the lines of, "what are the information and intelligence needs of ORR and how can they best be met?". This alternative approach raises questions about what is needed rather than asking "we have a lot of data how do we use it well?"" George Bearfield suggested that examining leading indicators and failures to comply with certain management processes were useful drivers for reviewing the effectiveness of SMS arrangements. It was agreed that more work needed to be done on root cause analysis of risks and incidents to understand the real drivers and identify the areas to focus on. It was queried whether there was confidence in the quantity and quality of reporting.

34. David Porter thought ORR should be clearer in its annual report how we perceive risk and be more transparent about how we use this to make decisions in relation to our regulatory and supervisory role. Justin McCracken agreed that it would be helpful if we could explain this more clearly.

35. John Cartledge noted the stated emerging theme of "near miss" precursors in the annual report (which were actually, real misses but near hits). As the railway

became safer and catastrophic events rarer, knowledge and learning became reliant on events that did not occur as much as events that did, and thus knowledge of all such events needed to be reported. This gave rise to the question - was ORR getting this information and hence prioritising the right things?

36. Justin stated that this was a deceptively difficult area in which to synthesise all sources of information.

37. RIHSAC was thanked for its comments which will be taken forward as this work progresses.

Item eight: Preparing for Chief Inspector's 2017/18 annual report

38. The presentation had been previously circulated (attached) and the agenda item provided RIHSAC with an opportunity to comment on the Chief Inspector's report before publication in July.

39. David Clarke noted that the new regulations and responsibilities for cyber security, as discussed at this meeting, could be included.

40. John Cartledge asked who the target audience for the report was. Justin McCracken stated that the report had a broad readership and that chief executives and safety directors across industry should be aware of it and that all should read at least the foreword and refer to other sections as required.

41. David Porter noted that the messages across each annual report should be consistent, and that issues raised in the previous report should be followed up in the next. Justin McCracken agreed that there should be consistency of messages and that more context would allow for a greater understanding of the overall safety of the railway.

42. David Davies thought that trespass and suicide - as the biggest causes of death on the railway – should feature more prominently. Gary McKenna agreed and wanted to see this issue connected with issues of accessibility to the railway.

Action 109.3: Jen Ablitt to feedback RIHSAC's comments to Ben Shirley (ORR) who was collating the report.

Item nine: Meeting review, forward programme, potential new RIHSAC members

43. It was agreed that this meeting was better balanced in terms of presentation and discussion.

44. It was noted that the British Transport Police used to attend RIHSAC, and there were no objections to them being re-invited. Simon French from RAIB would be invited to attend annually. The Samaritans would be offered the option to become a RIHSAC member or be invited annually.

45. Paul Clyndes raised an AOB item regarding the recent timetable changes, and the resulting increased levels of staff assault and verbal abuse. Workers were facing increased levels of harassment from members of the public leading to serious detriment to staff wellbeing. Justin McCracken thanked Paul Clyndes for raising

this issue and confirmed that the ORR were aware of the issue and were looking into the preparation and assessment of the change from the industry, and would welcome any further evidence provided.

Action 109.4: Paul Clyndes to put forward evidence of increasing incidents of staff assault and abuse to ORR to help inform ORR's review of the impacts of the timetable changes.

Glossary of abbreviations

ASLEF	Associated Society of Locomotive Engineers and Firemen
CP	Control period
DfT	Department for Transport
DRDNI	Department of Regional Development (NI)
HMRI	Her Majesty's Railway Inspectorate
HS2	High speed 2
HSRC	Health & Safety Regulation Committee
IOSH	Institute of Occupational Safety & Health
LUL	London Underground Ltd
NI	Northern Ireland
ORR	Office of Rail and Road
PACTS	Parliamentary Advisory Committee on Transport Safety
PPE	Personal protective equipment
PTI	Platform train interface
RAIB	Rail Accident Investigation Branch
RDG	Railway Development Group
RIHSAC	Rail Industry Health & Safety Advisory Committee
RM3	Risk management maturity model
RMT	Rail Maritime & Transport Union
ROI	Republic of Ireland
RSSB	Rail Safety & Standards Board
TSSA	Transport Salaried Staffs Association