

THE OFFICE OF RAIL AND ROAD
135th BOARD MEETING
09:00 -14:00 TUESDAY 25th APRIL 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

Dan Brown (Director Strategy and Policy) items 1-9 and 11-13

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. It was noted that there was no business on the agenda which would be affected by the imposition of purdah in advance of the general election on 8th June.
2. There were no apologies for absence.

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 noted the draft minutes with some corrections.
5. The board noted updates on the action list. Juliet Lazarus reported that the legal team were still working to understand the implications of the clause in the HS2 legislation about the secretary of state's role in any arbitration around HS2.

Item 4: MONTHLY HEADLINES

6. Ian Prosser reported on:
 - The ORR investigation into potential health and safety breaches around the multi fatality tram incident at Sandilands in Croydon.
 - The publication of ORR's guiding principles on driver controller operation.
 - The forthcoming annual report by RAIB.
 - Headline results for health and safety on Network Rail (NR) which would be reported more fully in May **[forward programme]**
7. Graham Richards used the example of the Ilkeston station to illustrate ORR's role in reviewing the technical specifications and risk assessments undertaken by operators on stations, rail infrastructure and rolling stock before these could be brought into operation. ORR's

- service standard was to complete these technical authorisations within 28 days, but they were often sought in much shorter timescales.
8. Graham reported on an internal audit recommendation that the board should have better visibility of the use of the regulatory escalator and described how regular scrutiny by ORR had helped focus NR on reducing their backlog in examination of structures.
 9. NR's delivery of its enhancement programme continued to be under pressure.
 10. John Larkinson explained the process for planning and introducing a new timetable across the country and how complaints and appeals about a new timetable would be considered by ORR officials.
 11. The board was assured that the appeals process was transparent and would be applied within published timescales.
 12. Joanna Whittington reported on:
 - Changes to senior civil servants in DfT;
 - The possible impact of purdah on government's preparations for PR18;
 - Executive discussions with the Wales government, NR's Group MD Digital Railway, and Highways England's executive.
 - On internal matters: ORR had closed the 2016-17 business year with a 1.9% underspend – within the target of no more than 2%. The IT programme had been discussed at ARC and was broadly on track. Recruitment for the replacement director of Corporate Operations was in hand.
 - No judgement had been issued on the HAL judicial review.

Item 5 MONTHLY REPORTS

13. The board noted the **Health and Safety report**. IP undertook to clarify the level of risk relating to the incidents reported on wrong side failures around block sections showing clear (para 15, bullet 3) **[Action]**.
14. The board noted the **CP5 tracker**.
15. **PR18**: the executive continued to engage with officials at Treasury to explain the significance of the five year planning cycle for the railway.
16. **Q4 report against the business plan**: the board noted the correction to the service standard on authorisations where 100% had been completed within the standard (reported at 98%). The board discussed the level of vacancies reported and noted plans by the executive to improve management information and reports. JW would give further detail on the significance of the number of vacancies. **[Action]**.

Item 6 ORR'S APPROACH TO TRACK ACCESS ISSUES ARISING FROM THE CONSTRUCTION AND OPERATION OF HIGH SPEED 2 (HS2)

Rob Plaskitt and Jonathan Rodgers joined the meeting for this item

This item has been redacted until the publication of a consultation document – anticipated to be summer 2017

20. The board agreed the approach and delegated sign off of the consultation to John Larkinson **[action]**

Item 7 NETWORK RAIL'S DELIVERY OF PERFORMANCE IN 2016-17

Matt Durbin joined the meeting for this item.

21. Graham Richards introduced the item. In 2015-16 staff had undertaken enhanced performance monitoring for NR's delivery to GTR, SE Trains, Heathrow Express and Transpennine Express to encourage improvement and to gather evidence for any necessary enforcement action.
22. In 2016-17 staff had implemented enhanced monitoring for NR's delivery to GTR, SE Trains, VTEC and South West trains.
23. Performance issues on GTR were complicated by industrial action and were the subject of senior intervention by NR and government. It was not felt that action by the regulator would contribute to improved delivery at this time.
24. NR's delivery to South Eastern had improved recently, but had been poor for two years. It included the worst incident in terms of delay minutes (the derailment at Woolwich). We wanted to consider whether there was a pattern emerging of underlying issues with the planning and handback of engineering works, highlighted by a series of incidents around London Bridge. The executive therefore planned to launch a formal investigation into this route. This would encourage the continuation of the recent improvements and might reveal a systemic issue with associated learning for the future.
25. The board noted the planned investigation and the continuing enhanced monitoring of the other routes. It was important that the reasons for choosing which poor performing routes would be investigated were clearly understood and could be articulated.
26. The board noted that TOCs' delivery of their franchise commitments was not a matter for the regulator.

Item 8 INPUT INTO NETWORK RAIL'S REMUNERATION COMMITTEE ON PAYMENTS TO SCHEME MEMBERS UNDER THE MANAGEMENT INCENTIVE PLAN FOR 2016-17

27. Graham Richards explained that ORR's view of NR's performance for 2016-17 would be set out in the annual Monitor published over the summer. Key messages for this publication would be developed as the relevant information was finalised and discussed with the Board in May. **[forward programme]**
28. ORR's proposed approach to NR's management incentive plan as set out in the paper was a mechanistic one; transparent and predictable. The board agreed the broad approach, noting that the NR Remco should be invited to consider both whether their targets were consistent with the regulatory framework and that their underlying information was robust.
29. The board noted the executive's suggestion that the licence condition relating to the MIP might be reviewed in PR18.

Item 9 UPDATED DRAFT CONSULTATION ON IMPROVING NR'S EFFICIENCY

Carl Hetherington, Mark Morris and Chris Hemsley joined the meeting for this item

This item has been redacted until the publication of a consultation document – anticipated to be summer 2017

Item 10 VISITORS: THE RAIL DELIVERY GROUP'S FREIGHT GROUP

38. The board prepared for the visitors from the RDG Freight group.

Russell Mears, Hans-Georg Werner, Paul Plummer and Paul McMahon

39. The board welcomed the visitors. The visitors set out the context for the rail freight industry and some of the challenges and opportunities that they could see in relation to PR18.

40. The meeting discussed:

- railfreight operators' commitment to sharing good practice in safety;
- the decline in historical bulk cargos and increases in container and other traffic;
- the underlying reasons for improved freight performance on the rail network;
- the importance of an effective system operator and the FNPO's role in a route-based NR;
- the complex nature of freight paths compared to passenger routes;
- the opportunity of extra capacity on the WCML following HS2 opening;
- commercial challenges for the sector including the need to change or adapt rolling stock, staffing levels and competition with road haulage
- railfreight's concerns about possible PR18 freight charges, given their experience in PR13;;
- the environmental benefits of railfreight over road haulage.

41. Stephen Glaister thanked the visitors for their constructive contribution and their time.

Visitors left the meeting

42. The meeting reflected on the discussion, noting particularly the public benefits that rail freight delivered over road haulage in terms of reducing congestion, lower carbon emissions, and reduced accident risk, and our PR18 charges work.

Item 11 BREXIT – STRATEGY FOR ORR

Agnès Bonnet joined the meeting for this item.

43. Dan Brown introduced the report which set out the proposed approach to ORR's engagement with Europe now that Article 50 had been triggered. The proposals set out in the paper were in line with government's approach to European engagement. When Brexit was complete ORR would need to reflect on the degree to which relationships with European bodies were a legitimate use of our resources, but for now the use of resource was necessary.
44. The plan for the next twelve months was
 - a) to continue to engage actively in all forums as we have been;
 - b) to assess options for necessary bilateral or multilateral relationships for the future (to deal with cross border issues such as the Channel Tunnel and in Ireland);
 - c) to consider how to apply European TSIs in the UK after we leave.
45. The board discussed the importance of maintaining necessary relationships. ORR had led the way in Europe both as an economic regulator in rail and in health and safety standards and this influence was seen to have delivered benefits for the UK industry. The team should continue to invest in relationships and keep options open until the shape of the exit was clearer.

Item 12 FEEDBACK FROM COMMITTEES

46. Bob Holland reported on the previous day's Audit and Risk Committee which had an update on key risks, including the IT programme and risks in the wider industry. The risk management system continued to be useful but needed further embedding. He outlined the full internal audit programme for 2017-18.
47. Michael Luger reported on the previous day's meeting of the Remuneration and Nominations Committee which had considered its new responsibilities for non-executive induction and training and discussed the staff survey results in detail.

Item 13 ANY OTHER BUSINESS

48. The board noted the items listed below the line:
 - The minutes of December's HSRC
 - A tabled note on the forthcoming regional visit to the West Midlands
 - The board forward programme.
49. The board agreed to hold an awayday in autumn 2017 to review strategic objectives and consider the outcome of the road/rail synergy project. [action]
50. The board agreed to refresh the 'context' section of the board agenda to focus on changes since the last meeting and key messages for the NED board members. [action]
51. The board attended a teach-in on the overall framework for PR18.

[ends]