

**Office of Rail Regulation
Railway Industry Advisory Committee (RIAC)**

**Minutes of the 89th RIAC Meeting
Tuesday 7 February 2012
Rooms 1 & 2, One Kemble Street, London**

Present:

Mike Lloyd	Chair, ORR Non-Executive Director
Dave Bennett	ASLEF
John Cartledge	London Travel Watch/Passenger Focus
Colin Dennis	RSSB
Robert Gifford	Parliamentary Advisory Council on Transport Safety
Andrew Livingston	Atkins Global
Gareth Llewellyn	Network Rail (NR)
Mike Lunan	Passenger representative
Kraig McCarthy	Department for Transport
Garry McKenna	DRDNI
Alastair Young	Transport Scotland
Ian Prosser	Director, railway safety, ORR, and HM chief inspector of railways
Dilip Sinha	ORR, RIAC secretary
John Gillespie	ORR
Errol Galloway	ORR) item 3
Nicola Perrins	ORR) item 3
Jerry Mawhood	ORR) item

Secretariat note: Apologies for absence were received from Anson Jack of RSSB; Mike Strzelecki of London Underground; Michael Beswick of ORR; and Gary Cooper of ATOC.

Item 1: Welcome, introductions and apologies for absence

1. Mike Lloyd welcomed everyone to the meeting. Apologies for absence were taken as read.
2. RIAC accepted the minutes of the 88th meeting (25 October 2011), which included amendments received by the secretariat after circulation of the original draft. All the actions from the October meeting were recorded as completed or in progress on the action sheet.

Item 2: Chief inspector's update

3. Ian Prosser reported on developments since the last meeting. The rail element of the Red Tape Challenge had begun last November, and ORR has been working closely with the Department for Transport to review relevant regulations. Members would also want to be aware that RSSB has recently published its Annual Safety Report for the 2011 calendar year. The report showed that performance has remained stable.
4. Ian advised members that ORR has set up an Equality Project Group to look at its duties under the Equality Act 2010. These basically require ORR to ensure that

people are not disadvantaged due to disability. Ian said he would welcome any input from committee members regarding relevant issues.

Action: Members to provide input to Ian Prosser if they wish

5. Ian turned to train driver licences, explaining that ORR has issued the first ten licences to Eurostar. These are required as part of a change in legislation to implement European requirements. He noted that Allan Spence, ORR's Deputy Chief Inspector of Railways for Network Rail, is beginning a year-long secondment to work with the NR safety team under Gareth Llewellyn. Ian observed that ORR has now engaged in four secondments with the industry, including NR and London Underground. These secondments are valuable to ORR.
6. Ian concluded by noting that ORR will be chairing the Work Related Deaths Protocol (WRDP) Group's national committee for the next two years. .
7. There was a brief discussion , which included the issues below:
 - There was broad agreement that there has been no groundswell of complaints by the public or railway sector as part of the red tape challenge. Indeed the safety channel had received only 20 responses. Passenger Focus had contributed to say that the current safety regulatory system was fit for purpose. It could be argued that a red tape "burden" was created by how the industry chose to comply with the law (through a standards and rules approach) rather than from the law itself. or regulatory action;
 - Robert Gifford asked whether the WRDP would include people who are driving at work? John Gillespie undertook to let Robert have a written answer to this question.

Action: John Gillespie to brief Robert Gifford re WRDP "driving at work" issue

- John Gillespie advised members that ORR will be audited in July as part of ERA's cross-auditing of National Safety Authorities (NSAs).

Item 3: Briefing: StEP: the Strategic Elements Project

8. A paper was circulated to members, and is attached to these minutes.
9. The project is designed to explain what ORR does and why in the field of health and safety regulation. It will produce a core message on ORR's role. This message is currently being drafted. It will include links to several categories, such as enforcement and law, which will contain further details about that area. Members would want to be aware that there are currently around 1300 documents on ORR's internet and intranet sites related to safety regulation – these will need to be placed into the appropriate categories and linked to the core message.
10. John explained that ORR has been reviewing its knowledge of the health and safety risks in the industry, to inform our strategy, priorities and day-to-day activities. The project has also looked at the London Underground and RSSB risk models, with help from a consultant. The findings showed that the models are good, and recommended that ORR consider using the models more extensively.
11. Errol Galloway, HM Inspector of Railways, and Nicola Perrins, risk specialist (seconded from London Underground) then gave the attached presentation. The project is looking at risk prioritisation - "how, which and what". It is looking at four industry sectors – mainline, London Underground, trams and heritage. Information

and intelligence/data is being evaluated using inspector visits/reports, investigation reports; and sources outside ORR such as the RSSB annual safety report. Information is being considered in both quantitative and qualitative ways (where data allows).

12. The project has ranked each risk using a scorecard approach as an aid to subsequent thoughts on prioritisation. A spreadsheet was circulated to Members, which showed the risks that had been scored. These are provisionally ranked in order from highest risk to lowest risk. Members observed that not all the “risks” in the spreadsheet are properly “risks”, as it includes topics such as risk assessment, which are processes (albeit linked to risks).
13. Errol explained that members were not expected to comment today. A draft document will be ready for circulation to RIAC members during the week of 12 March, and the secretariat will arrange for circulation. Members will have two working weeks to comment on the document, and ORR will particularly value input on whether the risk priorities set out are representative; whether members agree with ORR’s perspective; and any comments members may wish to make on ORR’s strategy or any other issues they want to raise.
14. The Chair thanked Errol and Nicola for the presentation. The discussion which followed included the following issues:
 - Members, including trade unions, pointed out that the rankings in the spreadsheet seemed perverse in some areas. For example, some of the areas that caused the highest number of injuries were ranked in the lowest risk categories, including areas that often affect rank and file union members. Errol Galloway explained that this was a draft document explaining topics that have been reviewed and scored – and these are listed in alphabetical (not priority) order within their relevant risk category. Nonetheless, the document has been produced to solicit comment and aid our thinking, and is not a final version. Members may find some of their questions answered when they see the full document in March;
 - The 70 “risks” (issues) listed in the spreadsheet looked like a lot of areas for ORR to take forward simultaneously. They cannot all be priorities. ORR must have a clear sense of what matters. The document sent out in March must clearly identify what the top priorities are. It is important for ORR to bear in mind that risks will change in the future, and (in particular) that some risks of today merit attention today to avoid them becoming worse in the future (irregular working by signallers may be one such area). ORR needs to keep the list under review;
 - Answering a question from Colin Dennis as to whether there is to be a final top six priorities in the paper, Errol Galloway said that the project will seek to identify the priorities ORR should follow. This will be at a high level, however, and there will be no planning of details in the document of operational work to be done in carrying out the priorities day-to-day. Those will be decided during our planning process.
 - Rob Gifford said that some of the items in the spreadsheet were clearly in the industry’s interest to get on and do. Others needed regulator involvement in the public interest, otherwise they would not be so likely to happen. The document in March could usefully consider the priorities of ORR with those of the industry.

Item 4 – Briefing: revised managing rail staff fatigue guidance

15. Jeremy Mawhood, HM Inspector of Railways, introduced this presentation. He explained that the workstream had been introduced to help inspectors of railways understand the human factors leading to, and involved in dealing with, fatigue.
16. There are several reasons why ORR has decided to review its fatigue guidance to the industry. These included a finding by RAIB that fatigue was a factor in at least 111 rail accidents/incidents between 2000 and 2011; the fact that fatigue led to an increased likelihood of errors which could have serious consequences; police statistics showing that 20% of motorway accidents arising because drivers are tired; and the fact that there is no “blood test” type measure to identify fatigue.
17. Jeremy explained the background to the issue of ORR’s original guidance in 2006. He said that, five years on, poor fatigue controls are still being found. ORR is also concerned about poor understanding within industry of the factors that cause fatigue and the staff likely to be affected by it, and an observed over-reliance on mathematical fatigue tools on the ground.
18. In revising the guidance, ORR had drawn on learning from incidents, inspections, and talking to dutyholders’ staff. It had reviewed good practice in a range of industries, and held a two stage consultation including a wide range of industry companies and bodies. This had all led up to the revised guidance being published on ORR’s website on 20 January 2012.
19. The new guidance seeks to encourage a proportionate approach to fatigue management. It emphasises the need for management, unions and workers to work together and take responsibility for delivering results. It recommends companies use a data-driven approach to “triangulate” the position on fatigue, using a wide range of information; sets out the legal background; and classifies work into three types in order to enable employers to see which sections of the guidance are most relevant.
20. Jeremy gave details of the elements involved in a good employer fatigue risk management system, and said that a simple checklist will help dutyholders check all relevant issues are being addressed.
21. The next stages of work will involve ORR speaking to industry groups about the new guidance, and encouraging companies and unions to review their fatigue management arrangements. Jeremy raised the possibility of a second rail industry fatigue day once the guidance has soaked in, and asked members to be aware that inspectors may refer to the revised guidance in illustrating good fatigue management practice.
22. The Chair thanked Jeremy for his presentation. In the discussion which followed, the following issues arose:
 - It may be the case that agencies providing staff to contractors could do more to check potential staff – e.g. do they have second jobs, or an excessive travelling time to the workplace?
 - Though there is always a possibility of employees feeling that they are being told what their lifestyle should be, employers should continue to try and educate them about the benefits of a good work-life balance, and the dangers of not being bothered about possibly becoming fatigued during a future work shift. The trade unions in particular have done a lot of work in this area already;

- A research summary will be available soon, giving details of international work on fatigue. Once a reference URL is available, Robert Gifford will supply it to the secretariat and it will then be forwarded to members.]

Action: Rob Gifford to supply reference for secretariat to circulate

Item 5 – ORR’s ‘Ambitions’ workshops and 2012-13 planning

23. John Gillespie introduced this item. He said that Richard Price’s arrival as Chief Executive in 2011 had been used as an opportunity to take a look at the current ORR strategy and business planning processes. The strategy review was not a wholesale rewrite of the existing ORR five-year strategy, but was rather designed to ensure that it remained up-to-date and relevant in the light of changes in the industry such as the McNulty review.
24. As part of the process, ORR decided to fully engage its people in deciding upon its priorities for the work year starting in April 2012. To this end, a series of eleven workshops were held at offices throughout Great Britain (ORR’s role does not extend to Northern Ireland) in October and November 2011. All staff had been invited to attend, and the majority of staff had attended at least one workshop. ORR’s directors had facilitated discussions at the workshops, and Board non-executive directors had attended several of them.
25. Members had available two documents: one, published in October 2011, set out the priorities that ORR had proposed to staff, and one, from December 2011, reported on the suggested put forward by staff at the conferences and some ways these were being taking forward by ORR’s management team. ORR’s February 2012 Board meeting is scheduled to discuss the proposed work priorities for 2012-13.
26. John then turned to the 2012-13 planning process for health and safety regulatory activities. He explained that ORR will not just be relying on inspection activity to achieve outcomes – there will be a number of other methods in use too. These are targeted at reducing accidents and risk and creating a sustainable improved management capability in industry. ORR would focus on assurance, providing independent scrutiny and requiring remedy of faults and failures.
27. In its work, ORR will seek to balance appropriately its proactive and reactive activities. There will be a set of national priorities, but also targeted priorities for individual dutyholders. Members needed to remember that ORR is not just looking for faults or to criticise, but will laud good practice when it finds it – and point it out to other dutyholders.
28. ORR will continue to plan its work through nine proactive health and safety programmes in 2012-13: H&S management systems; change management; interface system safety; workforce safety; occupational health; construction; asset safety; industry staff capability; and Europe. A breakdown of the time percentage allocated to these activities is shown in the presentation distributed to members at the meeting.
29. In discussion, members noted the difficulty in finding a balance between catastrophic risk (such as train collision) and accidents to individuals (such as can arise from trips, slips and falls at stations or from workers being electrocuted). . When asked objectively, the public could see no difference in killing ten people in one event and killing the same number over time in several events. When resources are scarce, it is important to target them where they will achieve the best outcomes in the real world. John Gillespie agreed that ORR needed to bear this in mind.

30. Members also noted that there are differences in safety focus between the UK and other parts of Europe. The UK, for example, is unique in including health and safety of the industry workforce amongst issues considered by the NSA.

Item 6 – Role and functions of the Railway Industry Advisory Committee: follow up to October 2011 discussion

31. Mike Lloyd explained the background to this item. RIAC agreed to review the terms and reference of the Committee at the June 2011 meeting. A sub-committee had met on 5 October, and the 25 October RIAC meeting had agreed to circulate the proposed revisions to the terms of reference, along with some other issues, for members to consider in advance of further discussion at this meeting.

32. There was a detailed discussion, which touched on the following matters:

- Members agreed that RIAC is not a brand. It does not issue documents or guidance or make decisions for the industry. It is an advisory committee, which advises ORR upon guidance that the Office prepares, and on appropriate ways ORR can use its influence to improve the railway by developing and implementing strategies. This can be done as a group, or by individual members responding direct to ORR with comments and advice;
- It was worth keeping membership under review to ensure that it allows for an appropriate range of industry views to be articulated. Members agreed that Ian Prosser should approach RAIB's Chief Inspector and some owner group companies to see if they have any interest in becoming members of RIAC;
- The drafting of the terms of reference should be more consistent. For example, the word "member" was used in two different contexts; and it would be appropriate to replace Chairman with Chair;
- It would be beneficial to combine the first two terms of reference, as they currently were repetitive. Members agreed to adopt a form of wording that had been put forward in correspondence, and the Secretariat will make the changes. It was noted that all changes of this kind will need to be approved by the ORR Board;
- Members agreed to delete the requirement to declare conflicts of interest by the current method, and will instead state at the outset of the meeting any such conflicts;
- The Secretariat confirmed that draft minutes will be circulated within a week, and members will have three weeks to submit amendments before the minutes are treated as final.

Action: Secretariat to take forward actions as above

Item 7 – June meeting agenda

33. RIAC considered options for the June meeting agenda. It agreed that it would receive a briefing on the StEP project, which will have fuller documentation than; on Europe, with a paper and presentation from the ORR European Policy team; and on the public interface with system safety – how should money be allocated when the public thought that enough was being spent on an area – for example, level crossings.

34. Mike Lloyd noted that he may unfortunately not be available for the next meeting on 16 June. If that was so, he would ask another non-executive director, or ORR's Chair Anna Walker, to chair the meeting. The Secretariat will inform members as soon as arrangements are in place.

Next Meeting

Tuesday 12 June 2012, from 1230-1600 at One Kemble Street.

Dilip Sinha

RIAC Secretary

February 2012