

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

**Minutes of the 90th RIAC Meeting  
Tuesday 12 June 2012  
Rooms 1 & 2, One Kemble Street, London**

**Present:**

Tracey Barlow	Chair, ORR Non-Executive Director
Dave Bennett	ASLEF
John Cartledge	London Travel Watch/Passenger Focus
Jonathan Ellis	Network Rail (NR)
Bill Hillier	HRA
Andrew Livingston	Atkins Global
Mike Lunan	Passenger representative
Kraig McCarthy	Department for Transport
Colin Robey	CENTRO
Peter Rowe	British Transport Police
Louise Shaw	ATOC
Mike Strzelecki	London Underground Ltd
Alastair Young	Transport Scotland
Ian Prosser	Director, railway safety, ORR, and HM chief inspector of Railways
Dilip Sinha	ORR, RIAC secretary
Michael Beswick	ORR
John Gillespie	ORR
Martin Jones	ORR) item 4

**Item 1: Welcome, introductions and apologies for absence**

1. Tracey Barlow welcomed everyone to the meeting. She said that Mike Lloyd had explained at the last meeting that he would ask one of his fellow non-executive directors to chair this meeting, as he would be unable to do so. She had volunteered to step in, to gain more exposure to the safety aspects of ORR work and the wide range of people who are members of this Committee.
2. Tracey explained a little about her background. She has gained experience in the utilities, particularly water and electricity. In addition, she has some experience in the transport sector due to having worked with the Highways Agency over the last four years.
3. Apologies for absence were received from Francis How of RIA; Robert Gifford of PACTS; John Collins of Angel Trains; Tim James of the Welsh Assembly Government; and Steve Coe of TSSA.
4. RIAC reviewed the minutes of the 89<sup>th</sup> meeting (7 February 2012), which included amendments received by the secretariat after circulation of the original draft. In discussion, the Secretariat agreed to discuss amended wording for paragraph 32 with Louise Shaw of ATOC. All the actions from the February meeting were recorded as completed or in progress.

**Action: Secretariat to agree amendments to para 32 wording with ATOC**

## Item 2: Strategy for health and safety regulation

5. John Gillespie introduced this item. He explained that it was a follow-up to an item at the last meeting, when RIAC had been briefed on work taking place under the Strategic Elements Project (StEP project) to draft a core message, strategy and priorities for ORR's health and safety regulation work.
6. John explained that ORR's goal is reduced harm. The vision remains one of zero fatalities and an ever decreasing health and safety risk. ORR is working to achieve excellence in asset management and operations, along with excellence in health and safety management and culture. It believes that achieving these will result in better management capability, reduced risks, reduced harm and a decrease in the likelihood of catastrophic accidents.
7. As part of this work, ORR has developed a "core message", which sets out what it seeks to do. This refers to checking legal compliance and pushing for business excellence in management. A copy of the core message was available at the meeting and is reproduced in appendix 1 of these minutes. The background to ORR's activities in law consists of European of European law (Railway Safety Directive) and domestic law (Health and Safety at Work etc. Act 1974).
8. John explained that ORR believes that excellent managers are likely to be already meeting their legal responsibilities. The management maturity model (RM3) helps ORR and the industry to assess managers' ability to control risks. There are also models in use in the industry to industry to understand (and therefore control) risks, and these have strengths. But they also have weaknesses – weaknesses – they can overstate can overstate risk and they rely on good data good data capture. .
9. ORR prioritises risk using a scorecard. This includes judgments on risk management, enforcement history; public concern etc. Use of this scorecard has led to a list of priorities, classified as high, medium or low. These will help ORR set its work programmes and judge resource allocation. By using the scorecard and priorities, ORR can assess priorities, work programmes and planned activities for the mainline; Transport for London; trams/light rail and heritage sectors. John Gillespie demonstrated how the process worked with the aid of a series of slides.
10. John noted that the common European approach to safety supervision, developed with a large amount of UK input, has three elements. These include interviewing people, assessing documents and observation of conditions. This ranges from inspection at a work site to a management system audit inspection. The approach fits well with ORR's operating practices, which are along the same lines. The common approach will become law soon.
11. John concluded by noting that ORR is working to match its work programmes to its strategy better, and assessing the likely effect of its activities using industry models. It is working to sharpen health and safety regulation management, using outcomes from the ERA cross-audit procedure; it is also concentrating as a priority on bringing the performance of the least capable inspectors nearer to that of its best performing staff.
12. Tracey Barlow thanked John Gillespie for the presentation. A discussion followed, during which the following points were made:
  - Bill Hillier asked about the distinctions between trams, trolley buses and heritage railways. He and John Gillespie agreed to discuss the issue further outside the meeting;

- John Gillespie said that the strategy document will be published, but he is not sure when it will be on the ORR website. However, he will send the latest version to Bill Hillier;
- RIAC members welcomed work to improve inspector competence, but Bill Hillier stressed that this should not lead to identikit staff.
- Mike Strzelecki thought that the work ORR is doing to assess its performance and set priorities is right, and is how a well managed organisation operates. It would be helpful if London Underground can see the work ORR does on assessing its own management performance, as it is even more difficult for a big organisation like LUL to get it right than for ORR, with only a few hundred staff;
- John Cartledge said that John Gillespie had referred to the legal background to ORR work. However, neither the EU's rail safety directive nor HSWA mention excellence – they refer rather to reasonable practicability. Responding, John Gillespie said that the reasonably practicable test relates mostly to decisions on specific risk controls and that the requirement to have arrangements to manage those controls is not subject to “so far as is reasonably practicable”.
- Colin Robey said that the production of the documents in the project is a move in the right direction. His sector had invited an ORR Inspector to attend a best practice meeting in the past. He would like to be the contact for tramways for future notifications or consultation from ORR, in order to co-ordinate a response from what is a small sector. John Gillespie agreed to do this, and also to send the report that consultant Tony Taig has done for ORR to Colin Robey;
- Alastair Young welcomed the reduction ORR is bringing about in the number of documents it has which relate to regulation. In the past, in his experience, having too many rules has prevented the right decisions being made. Dave Bennett noted that some situations where rules had previously been used are now dealt with by use of risk assessments – for example, the question of driving while diabetic. Mike Strzelecki observed that LUL used to have thousands of standards and has now reduced those to a couple of hundred;

13. Tracey Barlow thanked everyone for their contribution. She suggested that the documents should be circulated, and members should consider their effect in practice over the next few months. RIAC could then discuss the issues further in the light of experience, perhaps in February 2013.

**Actions:**

**John Gillespie to contact Bill Hillier re definitions as in first bullet point, and to send him a copy of the latest version of the document**

**John Gillespie to ensure CENTRO is treated as the contact for tramways in future work, and to send Colin Robey a copy of Tony Taig's report**

**Secretariat to arrange for further discussion at an appropriate date, provisionally February 2013**

**Item 3: Chief Inspector's Update**

14. Ian Prosser reported on developments since the last RIAC meeting. He noted that Caroline Wake, Deputy Chief Inspector for Railway Operations, would partially retire in summer. She would still continue to be the head of ORR's delegation to the Channel Tunnel Safety Authority. Meanwhile, ORR has appointed Sue Johnston, one of its long-serving inspectors, as Deputy Director for Scotland and Safety Policy. This appointment will strengthen our presence in Scotland, and allow for better multi-functional teamworking with key Scottish stakeholders.
15. ORR published its Business Plan for 2012-13 on 30 April. Copies were available on members' tables for them to take away. Ian noted that this year's is a new style of plan, and said feedback would be welcome. ORR has also published its Capability Review in April – thanks go from ORR to all those who participated in the review.
16. Other consultations issued recently include one on proposed changes to the Station Access Conditions (March); the financial and incentives framework for Network Rail document (1 May); and aligning incentives to improve efficiency. The last consultation closes on 28 June, and Ian encouraged members to reply.

**Actions:**

**Members to provide feedback to Ian Prosser on the Business Plan format and content if they wish to**

**Members to reply to the aligning incentives consultation if they wish to**

**Item 4 – RIAC 12/01 European railway safety policy and current developments**

17. Martin Jones introduced this presentation. He explained that he concentrated on two particular work areas: policy work on European Union safety issues, and acting as the UK Secretary to the Inter-Governmental Commission and the Channel Tunnel Safety Authority. Martin said that he would assume that members had read the paper and would not go through all of it. Instead, he planned to focus on two areas: the Common Safety Method on Risk Assessment (CSM RA) and the Fourth Railway Package.
18. Martin noted that the CSM RA dealt with managing changes. Its scope will extend from 1 July so as to include operational and organisational changes. RSSB is preparing guidance on the change, which applies to the mainline railway only. In the light of the change, ORR proposes to disapply safety verification in respect of the mainline when it reviews the ROGS regulations later this year, given that the CSM regulations will have direct effect in UK law.
19. Martin said that safety verification would still be applicable to non-mainline railways, but those railways could choose to adopt the CSM RA procedure instead. ORR will be issuing a consultation on ROGS in July 2012 – members are encouraged to respond.
20. The CSM RA is being revised by the European Rail Agency, and a vote is expected between October and December this year. The draft regulations make better provision for assessment of independent assessment bodies – the procedures will become less bureaucratic for domestic projects. ORR will share the draft revised guidance with members – and would welcome any feedback from members on their experience applying the new CSM procedure in due course.
21. Turning to ERA, Martin noted that the European Commission is looking at expanding the role of the organisation. It believes that not all national safety

authorities are enforcing the Directive effectively, and this is particularly affecting the market for international services.

22. ORR has received a report prepared by consultants, which Martin is happy to circulate on request. Options for proceeding will be put to an EU conference in September, with some radical options including a wider role for ERA being on the table. This may include ERA carrying out some supervision and inspection work directly. Members need to approach the Commission directly if they wish to lobby Europe about these proposals. Concluding, Martin said that the EU has made a questionnaire available for the public to complete – ORR can provide details to members.

**Actions:**

**Members to reply to the ORR ROGS consultation when it is issued in July, if they wish**

**Secretariat to circulate draft revised guidance, consultants report and EU questionnaire location to members**

**Members to provide feedback to ORR on their experience applying the new CSM RA procedure, when it is in use, if they wish**

23. Tracey Barlow thanked Martin Jones for the presentation. In the discussion which followed:

- Alastair Young said he had seen the consultation a few weeks ago, and was unhappy with some aspects. He believes the EU is not dealing with the problem properly. It was particularly worth stating that as the body devising the directive, ERA should not be the people to enforce it – it would lead to a poacher turned gamekeeper situation;
- Martin Jones agreed with this point, saying that ORR believes what is needed is better transparency and accurate implementation, not more legislation;
- Ian Prosser noted that the EU cross-audit procedure, which he is involved with, can improve transparency re NSAs. There are some legislative problems in member states, and ERA already has budget issues – if it takes on more work, money will have to be found from somewhere to pay for it;
- Louise Shaw agreed with Ian Prosser that ERA itself is not seeking extra responsibilities – Deutsche Bahn and SNCF were pushing this agenda. It was important that the Commission does not assume that the same problems exist in all countries – when lobbying, UK parties should make this clear.

**Item 5 – Periodic Review (PR) 2013: next steps after the Advice to Ministers document**

24. Michael Beswick introduced this item. He reminded the Committee that the PR process, which normally takes place around every five years establishes Network Rail's outputs and funding (in this case for 2014-19), based on what the (British and Scottish) governments want from the railway, how much they will pay, and the efficient use of money. The process seeks to improve the framework of incentives on the railway so as to facilitate better outcomes for passengers and funders.
25. This review takes place just over a year after publication of the Value for Money Review (the McNulty Report) , seeking to reduce costs in the industry by 2019. The Government has also recently published a Command Paper setting out its

vision for the railway, which sees continued investment and greater public use, but also greater efficiency.

26. In addition to all that, ORR and the two governments are seeking to encourage railway partners to develop alliances and work together to deliver better results. The Rail Delivery Group has been set up by the railway sector itself to try and deliver better results – the Group consists of very senior representatives of the industry's owning groups.
27. Michael talked the Committee through the steps involved in the PR process, explaining that ORR is just over halfway through at the moment. ORR had sent the Advice to Ministers document to the governments in March, setting out proposed efficiency and funding ranges for NR. It included specific advice on safety, but recommended that this review, unlike the last one, should not set a specific target figure for safety improvements.
28. ORR will begin an "outputs consultation" in August, after the publication by the DfT and Scottish Ministers of the High Level Output Specifications. It will set out what NR should be required to deliver by way of performance and the measures and enablers that will be proposed to allow the company to do so. It may include specific safety requirements.
29. Looking past that consultation, Michael noted that ORR will receive NR's draft Strategic Business Plan next year, before publishing its determination in draft and then final form. In doing this, ORR would have to consider whether NR could manage its risks properly within the proposed level of funding it was to receive, and whether there should be specific safety requirements for the company to achieve during 2014-19.
30. Tracey Barlow thanked Michael Beswick for the presentation. She said the ORR Board recognised the need for a structured process, and she had two questions: what incentive mechanisms would help people work together better, and is there anything ORR can do to encourage integrated working?
31. The following points were made in discussion:
  - Louise Shaw said it is not just about incentives – behaviours and mechanisms to enable change are also important. Train companies recognise the need to help NR reduce costs, but it needs to do the same for them too;
  - Bill Hillier said that he had now heard about the PR process several times. It seems very complex and mechanistic, with little interaction with others – has the ORR Board looked at the process to consider this?
  - Dave Bennett believed that there could be industrial relations problems as the McNulty Review is implemented, due to changes in working practices and methods of risk management. Mike Strzelecki disagreed, saying that all industries work to become more efficient and safer. It is the natural order. It does not necessarily need to lead to industrial strife;
  - John Cartledge noted that the Government's Command Paper had not focused heavily on safety, and had mainly raised third-party risks (e.g. suicide, trespass). Why had these issues in particular been raised – was there a political message to the regulator here? Responding, Michael Beswick said that there is probably no deep meaning behind these choices – traditional risks are being addressed already;
  - Louse Shaw believed that the drive to reduce costs has led to people becoming more inward looking and taking less notice of best practice elsewhere. However,

several other members felt that this was not really so – work is still going on to learn from others;

## **Item 6 – New RIAC terms of reference and Rules of Procedure**

32. Tracey Barlow explained the background to this item. RIAC has discussed proposed reforms to the Terms of Reference since last October, and a draft revised version had been circulated to members in advance of this meeting. The Capability Review ORR carried out last year had recognised the need for changes to the Terms of Reference of some of the ORR Board's committees – of which RIAC is one. The changes the Capability Review proposed would ensure that the committees are aligned properly and ensuring that their terms of reference fit together. ORR's Board will take this forward at a meeting this month, and RIAC will receive an update on the review at the October meeting.
33. Dilip Sinha briefly took the Committee through the proposed revised version, explaining that it had been drafted by John Cartledge, a committee member. ORR had wanted to allow the membership to propose the contents of the document, to ensure members' were able to shape its content to reflect their views. Dilip explained that ORR had accepted John's draft with one amendment, to allow ORR to allow a non-member (e.g. Tracey Barlow) to chair a meeting. If the changes were approved, RIAC would become the Rail Industry Health & Safety Advisory Committee (RIHSAC), a title which better reflected its specific remit.
34. In discussion: the points below were raised:
- Ian Prosser said he had not approached owning groups to join the Committee, after correspondence between the Secretariat and ATOC. He and Louise Shaw agreed to work to consider whether additional TOC representation is needed in addition to ATOC's membership. Ian would also approach Carolyn Griffiths to see if RAIB was interested in membership, but he could see reasons why it may not be;
  - Several members proposed technical amendments to the wording of the draft document, which were accepted by the Secretariat.
  - Tracey Barlow said that the draft emerging from this meeting will be put forward into the ORR Board's review of the Committee.

**Action: Ian Prosser and Louise Shaw to consider membership issues re ATOC and TOCs**

## **Item 7 – October meeting agenda**

37. RIAC considered options for the October meeting agenda. It agreed that it would have a discussion on "McNulty – one year on" reviewing progress made since the McNulty report, with particular reference to health and safety. There will also be an item from Railway Safety Directorate on managing work related stress. This left space for one more item.
38. After discussion, the Committee agreed that Ian Prosser and Network Rail would consider who should present on Network Rail's current work on level crossings, which should be complete by October. It also agreed that it would debate the CSM on organisational change once it has been in effect for a while – February 2013 might be the best date for this. Ian Prosser agreed that, as part of the output from ORR's work on reviewing rail operators' emergency preparedness, RIAC should examine the lessons to be learned from a series of incidents of incidents (e.g. at Kentish Town, on which RAIB had recently reported) in which trains had become

stranded for excessive periods and passengers had lost confidence in the operators' handling of the situation and had resorted to evacuating themselves.

**Actions:**

**Secretariat to arrange October meeting agenda**

**Ian Prosser to work with Network Rail re presentation on level crossings in October**

**Next Meeting**

Tuesday 16 October 2012, from 1230-1600 at One Kemble Street.

Dilip Sinha

RIAC Secretary

June 2012



Appendix 1 (ref paragraph 7): ORR “core message”.

## **ORR as rail industry regulator**

ORR is the economic and safety regulator for the railway industry in mainland Britain.

Our regulation focuses on business risk, recognising that business risk includes commercial risks and health and safety risks. Health and safety is not an overhead or an optional add-on. It is a fundamental requirement – and it is good for business.

## **Health and safety regulation**

We safeguard the public by challenging the rail industry to improve its health and safety performance and prevent people being killed, injured or made ill as a result of its activities.

## **What we do**

The rail industry in mainland Britain is made up of many businesses. ORR oversees those businesses and how they work together to keep the rail system safe.

A business will be safe if its people manage risks effectively every day. The role of ORR is to motivate businesses to have excellent health and safety management and to check that they identify and assess risks properly, control them effectively and comply with the law.

ORR recognises that any business which either creates a risk or is partly responsible for a shared risk, must effectively manage that risk. This is irrespective of that business's profitability, availability of resources, or how long any contract they hold has left to run. Although ORR is also their economic regulator, this applies as much to ORR's dealings with Network Rail and HS1Ltd as with any other companies. As the economic regulator for Network Rail, ORR decides what it has to deliver (its outputs) and how much this should cost. When we do this, we take safety into account so that the government's priorities are met. Quite simply, these are: a rail industry that maintains a high level of safety, controls its costs and delivers both value for money for the taxpayer and a good service to its customers..

## **Our core focus**

ORR expects businesses to achieve proper control of risks by having an excellent safety management system. We expect leaders in the rail industry to understand their risks and how to measure their performance in controlling these.

Our major concern is to secure high standards of protection from train-crash risk without businesses losing sight of other risks that need to be controlled, such as asbestos or falls from a height.

ORR looks for evidence of what is being done by businesses to control health and safety risks. We actively seek evidence through our inspections, investigations of incidents and permissions for certain activities. And we strike a balance on the resources we allocate to each. At all times, we act fairly and compare evidence against consistent standards of what businesses should be doing. ORR can use its enforcement powers to require improvement if that is needed.

ORR will not settle for mediocrity or a culture of complacency. We will always ask whether improvement is needed, but we recognise that the law sets minimum standards and that an excellent organisation is one that delivers compliance with the law efficiently and consistently. ORR encourages excellence, but will not enforce beyond the standard set down in law.

A railway system which is designed with safety in mind from the outset is more likely to deliver a railway that can be operated safely and efficiently for years to come. ORR

expects careful thought during the design process to eliminate risks or reduce them where possible.

ORR works with other European regulators to help deliver sensible regulation and a common European approach. This is so that trains can run through the Channel Tunnel to British and European destinations safely, and so that trains built in one country can operate in another. Like our European neighbours, we keep the legal framework for safety on the railway under review and can propose changes if necessary. We do this in line with the principles of better regulation, which underpin all that we do.

[end]