

Office of Rail Regulation
Railway Industry Health and Safety Advisory Committee (RIHSAC)

Minutes of the 93rd RIHSAC Meeting
Tuesday 11 June 2013
Rooms 1 & 2, One Kemble Street, London

Present:

Mike Lloyd	Chair, ORR Non-Executive Director
John Abbott	RSSB
Catherine Behan	London Underground Limited
Dave Bennett	ASLEF
John Cartledge	London Travel Watch/Passenger Focus
Paul Clyndes	RMT
John Collins	Angel Trains (ROSCO representative)
Miles Flood	British Transport Police
Bill Hillier	Heritage Railway Association
Francis How	RIA
Mike Lunan	Passenger representative
Tom Naughton	British Transport Police
Colin Robey	CENTRO
Richard Sharp	Murphy (ISLG representative)
Allan Spence	Network Rail
Alastair Young	Transport Scotland
Ian Prosser	Director, Railway Safety, ORR; HM Chief Inspector of Railways
Dilip Sinha	ORR, RIAC secretary
John Gillespie	ORR
Graham Richards	ORR
Claire Dickinson	ORR) item 5

Item 1: Welcome, introductions and apologies for absence

1. Mike Lloyd welcomed everyone to the meeting. He reported that apologies for absence had been received from Chris Angell of DfT, Steve Coe of TSSA, Jill Collis of LUL; David Davies of PACTS; Colin Dennis of RSSB; and Garry McKenna of DRDNI. Catherine Behan and John Abbott were attending as alternates on behalf of LUL and RSSB respectively, and Mike welcomed them to the meeting.
2. Mike said that Michael Beswick, ORR's Director of Rail Policy, had sent his apologies for being unable to make the meeting. Michael was attending an event in Scotland related to publication of ORR's draft determinations, which would take place tomorrow. He was, however, due to retire from ORR on Friday, so this would have been his last meeting. Mike Lloyd said he was sure that members would join him in thanking Michael for his services over many years, and wishing Michael well for his retirement.
3. RIHSAC reviewed the minutes of the 92nd meeting (12 February 2013), which included amendments received by the secretariat after circulation of the original draft. Members agreed the minutes subject to the deletion of para 27, which was a duplicate of para 25. After a short discussion, John Cartledge agreed to update

members with the latest details of TOCs who had not yet responded to his correspondence on the issues raised in that para.

Action: John Cartledge to update members on TOCs who have not yet responded (*Note: action completed by email on 12 June*).

Item 2: Chief Inspector's Update

4. Ian Prosser reported on developments since the last meeting. ORR will shortly (July/Aug) be consulting on the proposed consolidation of three sets of out-dated safety legislation covering train protection systems, mark 1 rolling stock and miscellaneous provisions. This review falls under DfT/ORR's response to the Government's Red Tape Challenge. ORR would be willing to give a presentation to the next RIHSAC meeting if that would be helpful.
5. We are expecting the Law Commission to publish the report, draft Bill and regulations arising from their level crossings project before the end of the Parliamentary year (18 July).
6. At the last RIHSAC meeting Dawn Russell gave a presentation on HSE's reform of health and safety legislation which members found helpful. Three updates –
 - Construction Design and Management Regs and ACoP – HSE is aiming to publish, in late summer, a consultation document on changes to both. The rail sector is encouraged to be ready to engage with this process and submit views to HSE. ORR will consider the implications for our regulation of rail construction work.
 - Asbestos – DEFRA is expected to consult at the beginning of July on proposals to give ORR the power to grant exemptions from the European Regulation which restricts the supply of second-hand articles (including rolling stock) containing asbestos. ORR is aiming to consult, at the same time, on a draft exemption for the rail sector.
 - RIDDOR – revised regulations following last autumn's consultation are expected from HSE in October. ORR is producing its own sector specific guidance to coincide with this. We are planning to consult a few stakeholders during July/August on our draft guidance – please contact us if you would like to be involved.
7. EU Balance of Competences Review (this had been raised by John Cartledge, Passenger Focus as a potential item for discussion at RIHSAC): This review, launched last year by the Foreign and Commonwealth Office, is considering how our national interests interact with the EU and its constitutions, whether the balance of competences works well in practice and where understanding and engagement can improve. Each Department is tasked with reviewing the relevant, specific areas of competence falling within their scope of activity/work. DfT has recently put out a call for evidence (by 6 Aug) to help inform their Departmental review and are running a rail workshop on 20 June to help people understand how they might contribute. ORR's Head of European Policy will attend. If RIHSAC members have not been invited and would like to attend they should contact DfT.
8. In the short discussion that followed, Ian Prosser undertook to confirm to Bill Hillier how long members would have to respond to the July ORR consultation, along with an update on ORR's view on the competences review. John Gillespie also undertook to ensure that the minutes recorded any important issues raised by HSE's consultations.

Action: Ian Prosser to contact Bill Hillier re the July consultations and the competences review.

Action: John Gillespie to report on any significant differences in HSE's proposals from those discussed by members.

Item 3: PR13 – publication of the Draft Determinations

9. Graham Richards, Deputy Director of Railway Planning and Performance Directorate, opened this presentation. He explained that he would not be giving details of our conclusions, as they will be published tomorrow, but would set out the next steps for the review and give a flavour of how ORR had gone about its assessment of NR's Strategic Business Plan. In particular, he would try and highlight where we had used the specialist skills of ORR safety staff.
10. Graham began by talking members through the timeline of the process that the industry has gone through. He explained that PR13 is the process through which ORR determines the outputs that Network Rail must deliver, the efficient cost of delivering those outputs, and the access charges the company can levy on train operators for using its network to recover those costs. The resulting determinations will cover "period CP5", which is 1 April 2014 to 31 March 2019.
11. Graham explained that decisions are made as part of a 'balanced package'. The settlement may be regarded as more challenging in certain areas and relatively less challenging in others, but should be considered and judged as a whole.
12. ORR will be consulting on our draft determination from tomorrow, publication day. ORR wants people to focus on whether there is evidence that we have missed or not properly taken into account. During the consultation period ORR will also review its work to ensure it has correctly interpreted the evidence and reached appropriate judgements.
13. ORR will be hosting three workshops to discuss our draft determination. These will be in London (19 June 2013), Glasgow (24 June 2013) and Cardiff (16 July 2013). Responses to the consultation should be sent to ORR by 4 September.
14. Graham explained that ORR safety specialists have been closely involved, and will continue to be so. As an example, RPP staff have used the RM3 Management Maturity Model, used by safety inspectors to assess dutyholders' safety competence, in assessing Network Rail's plans to modernise operations. Ian Prosser added that safety inspectors' knowledge, built up over five years, has been used to assess things like maintenance, civils and renewals. 15 safety staff had been involved in the process on a substantial basis, which was far more than in 2008.
15. In the discussion which followed, Bill Hillier asked how the evidence in the annex to ORR's RemCo letter fitted in to the draft determinations. Mike Lloyd and Graham Richards explained that the draft determinations looked forward, but the issues that were mentioned in that annex were taken into account in deciding train service performance targets for Network Rail to deliver.

Item 4 – Health and safety – ORR's priorities in 2013-14

16. Ian Prosser, HM Chief Inspector of Railways and ORR's Director of Railway Safety, introduced this presentation. He explained that members had been consulted last year, along with other stakeholders, while ORR prepared its Business Plan for 2013-14. That plan was published in April this year, and Ian wanted to highlight the key safety related areas of work for this year.

17. Ian explained that ORR had a vision for safety: 'Zero fatalities and an ever-decreasing health and safety risk'. It is also looking to the industry to achieve excellence in asset management and operations and in health and safety management and culture. This is all incorporated into the wording of ORR's relevant strategic objective:

1. Drive for a safer railway: Enforce the law and ensure that the industry delivers continuous improvement in the health and safety of passengers, the workforce and public, by achieving excellence in health and safety culture, management and risk control.

18. ORR has decided to focus on several areas this year, including industry response to safety issues; extending use of RM3; investigation and enforcement; ensuring duty holders ensure safety of workers; delivery of EU Common Safety Methods; and its statutory duties (LX orders, safety certificates and authorisations and train driving licences).

19. Ian explained ORR's risk priorities for 2013-14:

- **Level crossings** – focus on delivery of Network Rail's strategy rather than inspections (notable risk reduction since 2010);
- **Greater focus on system interface safety** – particularly PTI risk which represents 40% of total passenger fatality risk;
- **Maintain our focus on occupational health** - building on the good work of our existing OH programme;
- **Supply chain management** – new activity to ensure we use suppliers potential to help reduce risk;
- **Other areas** – as set out in para 18 above.

20. Ian concluded by setting out how ORR will be looking at Network Rail's intervention plans this year. There will be 10 projects across Network Rail's six route areas. Focus areas will include management of structures and earthworks; looking at track management, including vegetation and drainage; safe design and use of On Track Machines; and ensuring safety management is properly incorporated into major new developments such as the Northern Hub.

21. In the discussion which followed, the following points were made:

- Answering a question from Bill Hillier as to what emerging information on asset management heritage railways can use, Ian Prosser said asset information remained patchy, with more work required. There was a backlog of inspections and assessments. Intervening, Allan Spence noted that it is important to ensure that there is sufficient access time for staff to do the work. Changes were taking place: for example, using drones removed the need to have people working at height examining structures;
- Ian Prosser noted that the condition of assets varied between asset groups;
- Members and ORR agreed that it is important to try and ensure corporate knowledge sharing, so that important information is not lost when particular staff leave ORR;
- While accepting that the Underground and mainline were not the same, John Cartledge noted that LUL had done work on the platform / train interface which had been valuable. This was important as a large amount of risk arises

from the platform/train gap. Ian Prosser agreed, and said that this was one of ORR's main target areas. He noted that some recent unannounced checks had shows that improvements are taking place; and

- Responding to Louise Shaw, Ian Prosser said that ORR's work this year on safety by design was designed to ensure that NR gets things like platforms right in new projects.

Item 5 – Occupational Health Programme: update

22. Claire Dickinson, Principal Inspector responsible for leading ORR's occupational health programme, presented this item. She said that she has been managing the occupational health programme for three years, the team was into year 4 and ORR's Board had committed to run a further programme for the period 2014-19. At the moment, Claire believed that occupational health management was 10-15 years behind the industry's current position on management maturity demonstrated by RM3.
23. Our vision is an industry that consistently achieves best practice in occupational health. Our health programme aims to change how health is led and managed by organisations in the rail industry and improve how health is regulated by ORR.
24. Claire explained that rail workers report a higher incidence of work-related ill health than similar occupation groups (railway operatives: 5850 rate per 100,000 employed; all industry: 3470; all transport: 3740; construction: 4800).
25. National sickness absence rates are – ~45 - 6.5 days per employee per year, 3.5% working days lost. Some rail sector comparisons.....Network Rail = 8.1 days/employee in 2010/11; Transport for London = 9.7 days/FTE; and Crossrail = 6.8 days/FTE.
26. Claire reviewed progress that had been made in industry occupation health management since 2010, setting out examples of good progress and other areas where action was still very necessary in order to get to the standard required. ORR has placed some good practice studies on its website in various areas: stress; musculoskeletal disorders; hand arm vibration; wellbeing programmes etc. It also publishes quarterly industry updates on areas of health risk. Members are invited to subscribe to receive these by email.
27. Claire explained that a more proactive approach would lead to success, which would be demonstrated by:
 - Health Policy and Objectives – documented processes
 - Health Risk Management – assessment, surveys, reporting
 - Health Assurance – data driven, audits, performance reviews
 - Health Promotion – health fairs, communications, training
 - Leadership and public commitment to ill health reduction
 - Informed on the cost of work related ill-health
 - Meets legal compliance and striving for excellence
 - Raised awareness at managerial/supervisory level and active role; and
 - Pride and communicating to others what worked!
28. Claire invited RIHSAC members to get in touch if they would like to take the opportunity to engage or collaborate in devising activities for the 2014-19

occupational health programme. Claire's contact details are:
Claire.dickinson@orr.gsi.gov.uk Tel: 0207 282 3742.

Item 6 – Fire risk in railway premises: a presentation by Network Rail

29. Allan Spence, Network Rail's Director of Safety Strategy (and formerly an ORR Deputy Chief Inspector) presented this item. It arose from an earlier presentation to RIAC (as it was then) in 2009 by the London Fire Brigade on delays caused to railway services by fires adjacent to the railway.
30. Allan explained that the Government had asked Network Rail and the Highways Agency to review how the national infrastructure is managed following a major incident which caused damage to the M1 motorway in 2011. That had led to the road being closed for a considerable time.
31. Network Rail has 5500 commercially let properties, including over 3000 railway arches, and an extra 1000+ freight sites. 521 sites are 'high risk', of which 413 linked to motor trades. Contrary to what might be imagined, just 18 use acetylene on site.
32. Allan said there have been 7000 incidents of fire/smoke affecting railway services in 5 years, most with minimal effect. Just 29 had been on Network Rail's estate, and fire accounted for only 0.3% of total delay. Off-site fires, especially involving acetylene, had cost £11m over 5 years.
33. Allan explained the steps Network Rail has been taking on fire issues. These include refurbishment of arches and other properties and continued monitoring of existing sites. Updated Fire Service guidance has reduced the period of interruption to railway services a fire can cause, and Network Rail is continuing to work closely with fire services to take this further when possible.
34. Responding to points raised in the discussion that followed, Allan agreed that Network Rail seeks to ban acetylene from sites where it can do so. In answer to a question from Tom Naughton, he pointed out that signal box fires and similar events were recorded in the figures for fires on NR's estate. Allan also undertook to check with Network Rail colleagues about construction site work using gases such as propane.

Action: Allan Spence to respond by email to points raised

Item 7: RM3-R: the Management Maturity Model for the Regulator

35. John Gillespie introduced this presentation. He reminded members that ORR uses RM3 – the Railway Management Maturity Model – when its inspectors are working with dutyholders. This tool allows ORR to assess the level of safety competence within an organisation, and establish where improvements are needed.
36. John said that ORR believed that it should practice what it preaches. So it has been doing work to look at what excellence in managing regulation might look like. The result of this work is a version of the Management Model for ORR – the Management Maturity Model for the Regulator.
37. As a first step, ORR had considered whether it could apply the RM3 model to itself. However, it concluded this would not work given that, as the regulator, ORR is one remove from being a health and safety manager for the railway. So it has asked itself: what should an excellent regulator do?
38. At the moment, RM3-R is still in draft, and is being introduced to ORR's staff. John Gillespie stated that he would like to circulate the draft to members and hear their comments on the current draft. Is the document right – is it under-ambitious or over-

ambitious? Is there anything missing? There was no problem in members circulating it to any necessary internal policy-making body for review.

39. Members agreed to consider the draft and respond individually to ORR via the committee's secretariat.

40. In discussion, Louise Shaw cautioned against having too bespoke a document. John Gillespie said it is being shared with HSE. Thus it will not be entirely railway focused. He also agreed with Bill Hillier that it may be worth consulting other regulators. Members agreed to respond by the end of the first week of September.

Meeting review / agenda planning

41. Members considered the agenda for the next meeting. They agreed to take an item on the Law Commission LX review if it was ready then; and to provide some feedback on the draft determination for ORR to consider before publication of the final determination in October. An alternative was an item on the platform/train interface, with an introductory presentation by London Underground; or on RSSB's "Learning from operational experience" report – Ian Prosser could add a section to this looking at the findings of ORR's health and safety report and what it was likely to mean for business in the year starting April 2014.

42. Finally, Mike Lloyd informed members that the next meeting would be his last, as he is stepping down as an ORR Board member. He will try and bring the next RIHSAC Chair with him to the October meeting, once the Board has identified a candidate.

Next Meeting

Tuesday 15 October 2013, from 1230-1600 at One Kemble Street.

Dilip Sinha

RIHSAC Secretary

June 2013