



Railway Industry Health and Safety Advisory Committee (RIHSAC)

Minutes of the 107th RIHSAC Meeting
Tuesday 3 October 2017

Room 2, One Kemble Street, London WC2

Present:

Justin McCracken	ORR
Ian Prosser	ORR
Jen Ablitt	ORR
Steve Price	Rail Delivery Group
Tavid Dobson	RSSB
John Cartledge	London TravelWatch / Transport Focus
Lisbeth Fromling	Network Rail
Mick Holder	ASLEF
John Collins	Angel Trains
Jill Collis	Transport for London
Ian Gaskin	Transport for London
Bill Hillier	Heritage Railway Association
Mark Norton	Department for Transport
Bertie Bricusse	Department for Transport
David Porter	IOSH
Alastair Young	Transport Scotland
Jason Connelly	Transport Scotland
Tracy Phillips	ORR (RIHSAC secretary and items 5 and 7)
Martin Jones	ORR (item 4)
Chris Hemsley	ORR (item 8)

Item one: Welcome, introductions and apologies for absence

1. Justin welcomed everyone to the meeting, in particular Jen Ablitt (ORR), and David Porter (IOSH) who were attending their first meetings.

2. Apologies for absence were recorded from Steve Coe (TSSA), Susan Murray (Unite), Garry McKenna (DRDNI) and David Davies (PACTS). Tavid Dobson (RSSB) was attending for George Bearfield and Steve Price (RDG) for Phil Barrett.
3. RIHSAC reviewed and accepted the minutes and actions arising from the July 2017 meeting. Tracy Phillips provided verbal updates on the actions – Ben Shirley had had a brief discussion with Susan Murray about occupational health priorities and had provided his contact details if she wished to follow up; the request for Patrick Talbot to return to RIHSAC to discuss freight issues again had been added to the recently set up forward programme for RIHSAC meetings; some RIHSAC members had provided thoughts on ORR's PESTLE analysis but more would be welcomed as this helped inform business planning; and the update on level crossings requested at the last meeting would be provided at this one.

Item two: Chief Inspector's update

4. Since the last RIHSAC meeting, ORR had published the Chief Inspector's annual health and safety report (on 17 July), a launch event had been held and the report had been picked up by a variety of trade/rail publications, including an article in Rail Professional, Transport Business and Rail Technology. Ian re-iterated the key messages in his report around maintaining safe and sustainable infrastructure, safety culture and occupational health, safety by design and managing change.
5. The pace of change was picking up with new franchises and rolling stock bringing some changes in working practices. The maturity and capability of the sector continued to increase as it journeyed towards RM3 excellence.
6. Ian drew attention to the recent consultation on Network Rail's efficiency and the published responses. This was followed up by a workshop on 19 September for senior members of the rail industry to discuss and debate Network Rail's progress in improving the efficiency of its operations, maintenance and renewals (OMR) expenditure ahead of the expected publication by the Department for Transport (DfT) and Transport Scotland of the Statement of Funds Available (SoFA) for the next budgetary control period, due in October.
7. The Committee was advised that RAIB's investigation into the fatal tram derailment at Sandilands Junction was nearing completion and the report was expected to be published in early December. The separate investigations by ORR and the British Transport Police (BTP) were expected to be completed around this time also. It was understood that the inquest had been put on hold and there was discussion about the possible sequencing of the inquest and of any trials which would arise if prosecutions were brought. Mick Holder stressed that, in his view, the focus should be on shift patterns and the potential for fatigue which he thought was a general problem in the sector. He also stated that he considered that if TPWS had been fitted then the incident would not have happened. Ian confirmed that RAIB had looked at fatigue in its investigation and it was a line of enquiry in ORR's.
8. Ian also outlined some internal work on making our safety certification process more risk based and ORR's recent trainee inspector recruitment exercise (following a number of retirements) for which 250 applications had been received.

9. A number of consultations had recently closed – the Post Implementation Reviews for the Train Driving and Certificates Regulations 2010 and the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006. Committee members were thanked for any comments they had made.

Item three: Jen Ablitt introduction

10. Jen Ablitt introduced herself as ORR's new Deputy Director, Safety Strategy and Policy and explained that she used to attend RIHSAC when she had previously worked at ORR but had more recently been at the European Union Agency for Railways. She outlined her responsibilities, many of which were relevant to RIHSAC -
 - Capability and strategy (risk ranking, strategic risks, competency and resource management);
 - Policy (revising processes and legislation, level crossings, external relations, Brexit, investigations);
 - Health and human factors;
 - RAIB recommendations handling; and
 - Organisational development and business management.She is also the head of the UK Delegation to the Channel Tunnel Safety Authority.
11. Jen highlighted some areas where she is seeking improvements and on which RIHSAC inputs would be particularly welcomed. These included keeping our strategic risks under review, working with stakeholders and partners to establish an RM3 (risk management maturity model) governance board, options for decisions arising from Brexit and its implications, and using evidence more coherently and intelligently and in a more structured manner to inform our strategic risk areas/chapters.

Item four – Level crossings update

12. Mark Norton set out the Department's position on implementing the recommendations contained in the September 2013 Law Commissions' report on level crossings. He explained that the Minister, Paul Maynard, did not rule out law reform but considered that it was not necessary at this time and would not deliver demonstrable safety benefits. He believed that Network Rail was now more familiar with its estate, Level Crossing Managers were established in their positions, and generally the profile of safety issues at crossings had been raised.
13. Brexit was putting considerable pressure on parliamentary time and there was very limited scope to get anything else through. With Network Rail looking less at closing crossings and more at technological fixes/overlays, improvements in the areas covered by the Law Commissions appeared to be progressing anyway. The Department also wanted to take time to see how the work ORR was undertaking on the LX Order regime unfolded and was looking at what might be done in relation to updating requirements for signs at private level crossings.

14. A letter was due to go to the Law Commissions setting out the above position shortly.
15. Martin Jones, Head of Safety Policy, then outlined the work his team had been undertaking around the Order regime, in the continued absence of legislative progress with the Law Commissions' recommendations (which ORR had supported). He explained that his team had considered the extent of any simplification ORR could make to the Order process within the current constraints of the legal framework, and how it could best move to an approach more aligned with normal risk assessment and application of controls. This was exploratory work and the ultimate aim would be to move to an Order appropriate to each crossing rather than selecting a "template" based on crossing type. This would put more onus on the dutyholder to make the decisions, in liaison with highway authorities, rather than ORR. The team was also considering how it could future-proof Orders to mitigate administrative changes that may be required (and which were currently rather bureaucratic to make).
16. This work was being progressed with Network Rail route teams. A new style of Order describing the risks at a crossing, and how they were to be controlled, was in development. Wider consultation would be undertaken at the end of 2017 with a view to introducing the new approach gradually as crossings and Orders are renewed. The team would be working with the heritage sector as well as Network Rail, and reviewing ORR's guidance.
17. A number of points were made during the subsequent discussion –
- Alistair Young was concerned that sight had been lost of the original remit for the Law Commissions' work i.e. that the laws were antiquated, difficult to interpret and enforce and not fit for purpose;
 - Mick Holder queried whether ORR would still oversee the process and expressed ongoing concerns with risks at user worked crossings. Martin Jones recognised the transition and behavioural change required. ORR would need to work with the parties;
 - Lisbeth Fromling advised members that Network Rail was continuing its work to manage and reduce level crossing risk and had not paused this whilst awaiting implementation of the Law Commissions' recommendations;
 - Bill Hillier pointed out the Law Commissions report proposed increased access rights crossing users and queried whether this was now to be "put in aspic". He also asked whether the draft Act that the Law Commission had provided to the Department could be shared. Mark Norton agreed to clarify;
 - Bill also asked for it to be made clear in the consultation which elements of the Level Crossings Act 1983 ORR would still oversee as part of any new approach, and for the consultation to be held as soon as possible as the heritage sector was disparate and a number of operators were likely to want to comment. Martin Jones agreed;
 - John Cartledge thought that Brexit provided "a good excuse" not to act and noted that although the UK had good safety outcomes in comparison with other countries there was still the opportunity for improvement. He also felt that there was an opportunity to eliminate some of the inconsistencies between English/Welsh and Scottish law. He expressed regret that some of the more innovative elements of the Law Commissions' work in regard to balancing the

convenience of rail and road users would also be deferred by this decision, and queried whether, in light of the comment made about the focus being on new technologies, the pressure for NR to close crossings had gone. Lisbeth Fromling confirmed that Network Rail would not stop closing crossings, using ALARP (“as low as reasonably practicable”) as its guiding principle;

- Steve Price had hoped the Law Commissions’ work would give rise to greater collaboration with highway authorities, who regularly cited budgetary constraints as an impediment to making crossing improvements;
- Mick Holder requested that train driver representatives have the opportunity to input to the consultation;
- Alistair Young queried whether the closure process could be made clearer. Martin Jones clarified that his team’s work looking at Orders would not address closure but the Law Commissions’ proposals were seen as similar to the current process anyway; and
- David Porter queried whether this would be a formal or more limited consultation and Martin confirmed it would go on to ORR’s website.

18. Justin drew the discussion to a close, noting the Committee’s interest and confirming that sufficient time would be allowed for members to be consulted.

Action: Mark Norton to advise the Committee whether the draft Act the Law Commissions produced could be shared. [seek clarity on this action at 20 Feb meeting as draft Act was included in Law Commission report]

Action: Martin Jones to ensure the consultation on ORR proposals is available to all interested parties and that sufficient time is allowed for comment.

Item five – RIHSAC effectiveness

19. Tracy Phillips talked through her presentation which set out some background to the establishment of the Committee, its purpose, membership, rates of attendance at meetings and the items it had discussed over its last seven meetings.

20. It was agreed that it was a good opportunity to think about how the Committee could become more strategic in its approach and where the opportunities might be found to allow RIHSAC to advise, inform and influence ORR in the areas within its remit. For example, at key points in the year when ORR is reviewing its risk priorities and developing its business plan priorities, or at key points of policy development, project delivery or after significant events – Fourth Railway Package, development of RM3, lessons from Grenfell, for example.

21. Tracy also set out where she thought ORR could make improvements – better forward programming and planning of agenda items, circulating papers in advance to promote discussion, chasing up members who do not routinely attend etc.

22. David Porter agreed that there was room for improvement, in particular to enable RIHSAC to discharge its term of reference around “informing ORR’s development

of its strategy". RIHSAC should provide the challenge – what is ORR doing next year to push forward safety? Where is the continuity in priorities and milestones from one year to the next? How are the four themes in the Chief Inspector's annual report being taken forward strategically? How is the commitment to excellence being demonstrated? He outlined some particular issues he would like RIHSAC to discuss – the impacts of greater route devolution and the merits of continuing to use event-based models such as the SRM and PIM.

23. Tavid Dobson felt that RIHSAC might have some advice on/a part to play in how best to bring coherence to the various industry strategies in place, and agreed that we should look more at leading indicators when assessing risk and determining priorities. Jill Collis agreed that better alignment of strategies would be helpful as TfL's activity and interests cut across a lot of them.
24. Mick Holder queried who was advising who (Justin confirmed that RIHSAC was formally advising the ORR Board) and cautioned against using other HSE advisory committees to set the model for RIHSAC, believing they had moved away from their original purpose and in many cases the regulator did not have an express role on the committee.
25. Steve Price thought that ORR should add itself to the list of members on slide two of the presentation and asked whether Transport for the North should be invited to attend. Greater devolution might require a review of whether the Network Rail representation was correct and whether other infrastructure managers should be members. He felt that the membership of RIHSAC should be able to adapt and deal with the evolving nature of the sector in a more dynamic way.
26. John Cartledge stressed the positives of the Committee as he saw them – information exchange, allowing other organisations to bring relevant experiences and perspectives, networking opportunities, for example. RIHSAC was a key stakeholder for consultations and outward facing documents so he felt that absenteeism should be challenged. He noted that trams and (frequently) train operators had been obvious absentees.
27. John also highlighted a finding of the ORR's review of RSSB around a lack of consultation with non-member interests in that body at the strategic level, a need which RIHSAC existed to meet vis-à-vis ORR itself. He noted that there were previously sub committees on occupational health, freight, trespass, etc. He considered that RIHSAC provided a helpful forum for feedback to the railway in general and that it had the potential to play an important and valuable role.
28. Bill Hillier stated he would find it helpful to be kept abreast of developments between meetings and for the agendas to indicate whether items are there for information or advice. He also asked that we look at the dates chosen for the meetings to optimise inputs; for example, there was limited value in discussing the contents of the annual report just before it was published.
29. Steve Price felt that it helped to have some consistency of membership and Mick Holder felt that there was an opportunity to look at big topics such as occupational health.

30. There were also comments that meetings could be a bit “formulaic” and that the layout of the room did not help promote interactive discussions.
31. Ian Prosser highlighted a potential area where RIHSA members’ help would be welcomed, around work to determine how we best use RM3 in the future, where early input, before work started in earnest, would be beneficial.
32. Justin McCracken concluded by saying how helpful the discussion had been, and that he sensed RIHSAC was considered a valuable forum that we would want to continue. It was agreed that ORR would put together a paper for RIHSAC discussion as its next meeting, setting out how the Committee could be run differently.

Action: Tracy Phillips to work with Ian Prosser and Justin McCracken to develop a paper setting out how RIHSAC could be run differently, to address the points made above.

Item six – Periodic Review (PR) 18 update

33. Chris Hemsley, Deputy Director, Rail Markets and Economics joined the meeting to provide an update on PR18. The purpose was to remind members of the ongoing process, provide an update on progress and highlight publications on the website.
34. Chris explained that every five years Transport Scotland and the Department for Transport set out what they want from the railway in the High Level Output Specification (HLOS) and how much they are willing to pay for it in the Statement of Funds Available (SoFA). ORR then reviews whether it makes sense as a package and makes a determination which includes performance targets and incentives.
35. It had been hoped that the HLOS and SoFA would be published in July but both Governments were not ready so this was extended to 13 October. Neither Government had the confidence to confirm the spending envelope and wanted to understand Network Rail’s plans to improve its efficiency better, given the deterioration in maintenance and renewals in CP5. ORR had now published some work on efficiency which highlighted some examples and had tested it with other stakeholders.
36. There were a number of publications on the ORR website covering the efficiency work mentioned above : the Overall Framework document (which showed how it all fitted together) and separate documents on the system operator, including route regulation, scorecards, customer engagement and tools to hold Network Rail to account.
37. David Porter reported that there was a perception by some that the economic and safety arms of the regulator were not joined up, and that safety was treated as “business as usual” in the routes rather than to encourage working on issues such as deferred renewals in a more collaborative way. Ian explained that CP6

monitoring had been structured around virtual route teams – a structure that the safety directorate had had in place for some time and which was now becoming more cross-office, promoting a more integrated approach. Network Rail and TOCs were encouraged to self-evaluate against RM3 at the route level to identify strengths and weaknesses. Chris confirmed that a “safe and sustainable railway” was the thread running through the whole of PR18.

38. Chris concluded by saying that once the announcement of funds had been made, Network Rail would finalise its Business Plans and then ORR would start its scrutiny.

Item seven – revising strategic chapter 5 *Interface system safety*

39. Tracy Phillips introduced this item and highlighted that the revision of this chapter was at an early stage so comments were welcomed to help shape its further development. She outlined that ORR’s review to date had found that the chapter mostly covered the range of relevant risk scenarios, needed updating in the areas of PTI and train dispatch, needed more on organisational interfaces and would benefit from some restructuring. Some comments had already been received from members but more were encouraged.
40. David Porter queried whether he could circulate it widely within the IOSH membership and this was agreed.
41. John Cartledge felt that the section on slips, trips and falls would benefit from amplification as they each had different causes requiring more distinct mitigations than the chapter implied. He also suggested that the section on road vehicle incursions should refer to the fact that some of these were the result of careless parking of works vehicles by the industry’s own staff and contractors.
42. Bill Hillier thought that it should include more on interfaces with freight operators, loaders, etc. – or, if it was not intended to cover every interface, then this should be made clearer.
43. Tavid Dobson thought there should be stronger links to risk groups being set up under industry strategies and how they might help inform the chapters as they are reviewed.

Action: RIHSAC members were asked to provide further comments on the chapter to Russell Keir by end of November to allow publication by end December.

Item eight - Emerging business planning themes 2018/19

44. Ian Prosser provided some background to how he approached business planning. The strategic chapters were intended to pick up what was being done in the sector and to influence what industry does in the future and where greater leadership and increased capability was needed. ORR intended to review the chapters every year to determine whether they covered the right risks and consider how they could be best presented and structured. This would take into account external views (including from RIHSAC), the risk landscape, controls and vulnerability, ORR’s

ability to influence, themes already highlighted in his annual report and PESTLE analysis/horizon scanning. ORR's forthcoming scrutiny of NR's Business Plans would help inform its 3 to 5 year plans.

45. His slides set out the emerging areas but there were some questions. For example, on road traffic accidents. what impact could ORR have? Should ORR do more with the heritage sector next year? Trespass incidents were increasing in sidings and depots – how should that be reflected in our plans? How much more proactive inspection of level crossings should ORR do? What were the emerging risks from the introduction of new technologies and working practices? What more could be done to drive industry to address asymmetric loading and other factors that have contributed to freight derailments? What more could ORR do on accessibility on a cross-office basis?
46. Comments were welcomed from members before the detailed work started – were the themes relevant? Anything missing? Any that should be given greater emphasis?
47. Several comments were made in the discussion –
 - David Porter asked whether SWOT analysis was undertaken and Ian confirmed it was;
 - Mick Holder was surprised that fatigue did not explicitly feature and thought that leadership from ORR in this area would help (Lisbeth Fromling confirmed that it was high on NR's agenda and Tavid Dobson highlighted this as a priority for the freight sector); and
 - Steve Price thought that there should be more on establishing the virtual route teams and making them effective.
48. Members were invited to provide any further comments by end October.

Next Meeting

49. Dates for 2018 were in the process of being arranged; there would not be a further meeting in 2017. A forward programme and skeleton draft agenda would be sent out a couple of months before the next meeting to start to improve arrangements, as discussed under the Effectiveness session. The room layout would also be more "roundtable".

Tracy Phillips
RIHSAC Secretary
30 November 2017