

**THE OFFICE OF RAIL AND ROAD
146TH BOARD MEETING
09:00-15:00 TUESDAY 24 APRIL 2018
ONE KEMBLE STREET, LONDON WC2B 4AN**

Non-executive members: Stephen Glaister (Chair), Tracey Barlow, Anne Heal, Bob Holland, Justin McCracken, Michael Luger

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: Dan Brown (Director Strategy and Policy), Russell Grossman (Director Communications), Freya Guinness (Director Corporate Operations and Organisational Development) – to item 6, Juliet Lazarus (Director Legal Services and Competition), Tess Sanford (Board Secretary)

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. Graham Mather had sent apologies that morning as he was unwell.

Item 2 DECLARATIONS OF INTEREST

2. None in relation to this agenda. Board members noted that Bob Holland had withdrawn from discussions in 2015 that related to an open access application on the WCML because of a potential conflict of interest. The executive advised that, given the passage of time, this conflict was deemed to have fallen away.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The minutes of the meeting in March were agreed subject to one substantive and some minor corrections and signed by the chair. The board also approved the note of the policy discussion on PR18 held on 10 April.
4. The update on matters arising was noted.

Item 4: HEADLINES AND REGULAR REPORTS

Lucy Doubleday attended for Freya Guinness' update

5. **Ian Prosser** updated the Board on: ongoing investigations into the Sandilands tram incident and work with the industry and DfT to address RAIB's recommendations; emerging messages for the annual H&S industry report; and recent and current prosecutions. The board discussed DfT's engagement in the process to develop a new tram safety standards infrastructure and the importance of swift and accurate communications to passengers caught up in disruption in minimising the risk of dangerous behaviour such as the Lewisham self-evacuation.
6. **Graham Richards** reported on: ORR's contribution to government negotiations on a SoFA for RIS2; NR and TOCs' preparations for the forthcoming major timetable change in May; the completion of Easter engineering works. GR noted

conclusions from the Gibb review in relation to efficiency of possessions meant we would be taking a close look at this in CP6. The board also discussed levels of confidence around NR's asset knowledge and RIS2 funding.

7. **John Larkinson** reported on: publication of ORR's letter on freight vuc capping; an update on the informed traveller investigation;
8. **Freya Guinness** gave the year end report against the business plan including final budget position, service standards and public milestones met. The board noted the report showed an overall good performance. They discussed the underspend for 17-18 and plans to manage the staff costs budget differently in 18-19 as well as vacancy rates, staff retention and the report on excess hours.
9. **Joanna Whittington** reported on: meetings with officials and ministers, the results of the annual parliamentary survey, her evidence to the TSC, meetings with the rail industry. On internal matters she updated the board on a successful staff conference, the accommodation project, work to make us GDPR compliant and new internal auditors.

Item 5 NETWORK ACCESS APPLICATION

Catherine Williams and Rob Plaskitt joined the meeting for this item

10. John Larkinson introduced the WCML application, which was a re-application after an earlier award had fallen away. The board discussed the rolling stock proposed and asked that proper arrangements should be in place to minimise any risk from poor fleet reliability. The board noted the level of abstraction set out in the paper and the anticipated impact on the Secretary of State's funds. The board noted that the applicant understood that the charges associated with the new services were still being set.
11. The board approved the rights application for services between London Euston and Blackpool from May 2019 to December 2026. Subject to final checks by staff the board delegated John Larkinson to agree and sign the decision letter.
[Action list]
12. The board noted the update on the Southampton application.
13. The board discussed the time taken by all the parties to respond to applications for open access rights, how they interacted with franchise applications, and the way that this slowed down decision making. The board discussed arguments for moving to a fixed timetable for ORR decisions and the degree to which that might curtail applicants' opportunity to resolve issues. ORR's mix of statutory duties meant it engaged positively and tested the available information before attempting to determine an application.
14. A review of the ORR NPA test was planned for later in 2018/19, after the new charges had been announced [**Action – forward programme**]. Work was in hand to ensure that any new charging regime would be fair to both existing and new operators under the current legal framework. Government had committed to introducing a PSO levy as soon as parliamentary time became available.

Item 6 PR18 – SCORECARDS AND REQUIREMENT

This item to be redacted until after the final determination

Item 7 PR18 – LICENCE REVIEW

Claire Simpson and Chris Warburton joined the meeting for this item

30. Claire Simpson briefed the board on work done to date and confirmed that the changes to the licence proposed were possible, had been well received by stakeholders and could be delivered by available resources. The board discussed the anticipated benefits and risks associated with the planned change and the importance of stakeholder understanding and acceptance. The new licence structure needed to ensure balance between parts of NR. There was limited understanding in the industry of the licence as a regulatory tool: this context would be an important part of socialising the work. The board agreed the project should proceed.
31. The board noted the difficulty of enforcement action around asset sustainability under condition 1.

Item 8 PR18 NR INCENTIVES, MONITORING AND ENFORCEMENT IN CP6

Robert Cook and Sam McLelland Hodgson (phone) joined the meeting for this item

32. Dan Brown introduced the item and outlined work done to date. The board noted the objectives proposed to underpin ORR's approach to regulating NR during CP6 and the outline escalation map as well as next steps. It was important that any system balanced penalties and rewards. The board noted NR's existing staff bonus scheme linked bonuses to scorecard performance.
33. The board noted that this would be discussed further in the autumn [forward programme].

Item 9 PR18 – OTHER ISSUES

Chris Hemsley and Richard Gusanie joined the meeting for this item.

34. John Larkinson outlined plans for the final draft determination board session on 30 April. He repeated that this would be a different approach to that of PR13 with much less detail being specified by the regulator and more reliance (following independent analysis) on reporting on NR's progress against their own plans. This approach should make transparent the opportunity cost or impact of overspending or under-delivery by routes.
35. The board discussed the importance of communicating the determination as clearly as possible to key audiences, and particularly explaining the need for internal budget flexibility and its controls.
36. John outlined areas where the executive members held different views which would be further explored on 30/4.
37. Chris Hemsley described the structure and flavour of the executive summary, a draft of which would be discussed on 30/4.
38. Non executive members asked for hard copies of the slide pack for 30 April to be delivered to them [Action – Board secretariat]

Item 10 EUROPE – BREXIT ENGAGEMENT AND STRATEGY

Agnès Bonnet, Martin Jones and Paul Hooper joined the meeting for this item

**OFFICIAL
FOR PUBLICATION**

39. Dan Brown introduced the paper which would be the last combined paper on European issues because of the increasing complexity of the issues. Agnès described how ongoing work on the three elements: future standards and authorisations; the fourth package and the final implementation of the exit would be brought to the board separately in future. The pace of progress by government meant that UK would be in the European Union when the technical pillar of the fourth package is mandated, so it was currently assumed we would have to meet it, even if we subsequently withdrew.
40. The board discussed preparations for the exit and different legislative approaches the UK might take and associated risks. Although some industries had relied on European agencies for technical capability (like authorisations) UK rail was relatively well resourced.
41. The board noted the report.

Item 11 CONSUMERS – ASSISTED TRAVEL CONSULTATION UPDATE

Stephanie Tobyn (phone), David Kimball and Marcus Clements joined the meeting

42. David Kimball described responses to ORR's assisted travel research which had identified three main issues for TOCs: staff training, reliability and awareness of the service. ORR was supporting TOCs to develop their approach and encouraging them to make practical improvements without waiting for the revised DPPP guidance which we would consult on in the summer.
43. Public expectations had moved on since the 2009 guidance had been written and it would be important to respond positively and pragmatically to public concerns.
44. The board noted the update.

Item 12 FEEDBACK FROM COMMITTEES

45. Bob Holland reported on Monday's Audit and Risk Committee which had included:
 - outgoing internal auditors' final reports
 - Cyber security
 - Lessons learned on the IT transformation project and their application to the London accommodation project
 - Quarterly risk review
 - Incoming internal auditors' plan for 2018-19

Item 13 ANY OTHER BUSINESS

46. The board noted the forward programme.

Signed

Stephen Glaister
28 June 2018