

**THE OFFICE OF RAIL AND ROAD
148th BOARD MEETING
09:00-13:15 TUESDAY 22 MAY 2018
ONE KEMBLE STREET, LONDON WC2B 4AN**

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

Executive members: Joanna Whittington (Chief Executive), John Larkinson (Director Railway Markets and Economics), Graham Richards (Director Railway Planning and Performance); Ian Prosser (Director Railway Safety) – to item 9.

In attendance: Dan Brown (Director Strategy and Policy), 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. Apologies had been received from Graham Mather, Bob Holland and Russell Grossman (Director Communications).

Item 2 DECLARATIONS OF INTEREST

2. Justin McCracken reminded the board of his previously declared interest as a Director of Ombudsman Services Ltd. This was relevant to item 6: he had not received the papers and would withdraw from the discussion.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The minutes of the two meetings on 24 and 30 April had been circulated. Further thought should be given to appropriate redaction periods and some corrections were agreed. The chair would sign updated minutes.

Item 4: HEADLINES AND REGULAR REPORTS

4. **Ian Prosser** updated the Board on: progress on investigations into the Sandilands tram incident and work with the industry and DfT to address RAIB's recommendations; a successful recent prosecution against NR for insufficient risk assessment of a level crossing; rising awareness among the charter industry of the need for improvements to rolling stock to avoid flushing toilets onto track; current industrial disputes on DCO. IP would circulate his recent letter to NR clarifying responsibilities for vegetation management and proper risk assessment of issues arising **[Action]**. The board asked for more explanation of the apparent significant reduction in reported HAVS cases **[Action]**. The board sought and received assurance that LUL's delay in sharing reporting data was not a current cause for concern.
5. **Graham Richards** reported on roads: the launch of an improved strategic roads user satisfaction survey with a much larger sample size which should improve understanding of the impact of HE interventions on the road user experience.

6. On rail: he reported on the immediate impact of the major timetable change implemented on 21 May. The customer team were following up on a press story about guidance to TOC staff on the treatment of limited mobility customers who might delay services – the board asked for a report **[action]**.
7. The board noted the number of industry wide issues generating public concern at the moment (industrial action, franchises, poor performance by TOCs and separately by NR) most of which were outside ORR's remit.
8. **John Larkinson** reported on HAL's¹ application to apply a mark up to recover fixed costs through its charges, which had been approved by staff. He also reported on ongoing work to develop precursor indicators for CP6, and updates on three open access applications (two existing – WCML and Southampton - and one new).
9. **Joanna Whittington** reported on: RDG's review of fares; the termination of VTEC's ECML franchise and ORR's work with the supplier of last resort to ensure their operations could begin; meetings with ministers; work on the Channel Tunnel; NR's new CEO. Internally she reported on: the accommodation project and work to make us GDPR compliant. Board members sought and received assurance that the annual appraisal, business planning and objective setting processes were in hand for all staff.

Item 5 ANNUAL REPORT AND ACCOUNTS

Lucy Doubleday attended the meeting for this item.

10. Lucy reported that the NAO would issue an unqualified audit opinion and, as a result of greater assurance around ORR controls, had reduced the audit fee this year. She highlighted changes from the previous year's report which included the new page on employee matters and an analysis of trades union facility time. One correction had been made to the circulated text on p 62 which related to pension eligibility for non executives.
11. The board noted the Annual Report and Accounts and recommended them to the Accounting Officer for signature.

Item 6 PR18 – RAIL OMBUDSMAN/ALTERNATIVE DISPUTE RESOLUTION

Owing to a previously recorded potential conflict of interest, Justin McCracken left the meeting for this item.

Stephanie Tobyn, Marcus Clements, and George Denham joined the meeting for this item

12. RDG were developing a new scheme of alternative dispute resolution (ADR) for customers, recognising the reputational benefits that good complaint handling could bring to the industry as well as the direct benefit to customers who used the service. The paper updated the board and reported on the consultation that ORR support this initiative by requiring licence holders to join the industry scheme through an enforced change to the licence. The board discussed the evidence set out in the paper and considered the likely handling issues. On the current timetable, the scheme would be in place for about six months before membership

¹ Heathrow Airports Limited

became a licence condition. The board discussed the inclusion of stations and charter operators in the scheme, and other areas for consideration through the consultation. The board noted that licence holders would have a right of appeal to the CMA if they wanted to challenge the enforced licence change.

Justin McCracken rejoined the meeting.

Item 7 INFORMED TRAVELLER

Rob Plaskitt joined the meeting for this item

13. John Larkinson updated the board on the three investigations into issues linked to NRs failure to meet the T-12 standard for timetable publication.
14. Updates were due this week from TOCs on their plans to improve the quality of public information on their own websites. There was a mixed picture here with some poor performers.
15. The executive had asked NR to provide a simple report on progress against their recovery plan. This showed a mixed picture with some recovery for most operators although significant risks remained to the target of achieving T-12 by January 2019.
16. The investigation into root causes had not identified a single cause although the impact of late notice possessions and undelivered enhancements were still being examined.
17. The board discussed the importance of making the public aware that some sources of information were unreliable and the need to make accurate timetabling information available in good time. Our correspondence with TOCs on this would be published and John Larkinson was asked to report on TOC responses.[Action]
18. The board discussed the challenge for NR of timetabling around short notice possessions and the additional resource that this required. The board discussed the future challenges for the System Operator (SO) around this critical function and others. The success of NR's transformation programmed relied in the long term on the SO having understanding of the operational railway and authority to ensure that short term imperatives in the routes did not damage the long term and strategic interests of the network.
19. The board noted the update on the three strands of the investigation and the expectation that staff would issue case to answer letters in due course. A further update should be provided at that point. [Action: forward programme].

Item 8 NETWORK RAIL PERFORMANCE IN 2017-18

Rob Plaskitt, Andy Lewis, Richard Coates and Ian Ritchie joined the meeting for items 8, 9, 10

20. Andy Lewis introduced the proposed key messages for the report, noting that year 4 of CP5 was important context for PR18 and plans for CP6. This year's report would include more route specific data than previously.
21. The board discussed this early draft and suggested additional content following up on areas highlighted in our reports in 2017, particularly the management of change in NR, the overall positive context on safety and evidence of lessons learned (such as the on time delivery of Dunblane Alloa). The evidence was

likely to show a mix of good and poor performance in different functions and routes. The board discussed the wider context for the report, considering the apparent increased stability and improvement in delivering plans, including in finance, within NR over recent years. The question was whether ORR could cite evidence to indicate that the stabilisation was real and would give a base for improvements in performance in future. In that context, it would be useful to be able to report NR's performance separately to TOC performance.

22. The board noted the report.

Ian Prosser left the meeting to attend an industry Health and Safety meeting

Item 9 HIGHWAYS ENGLAND PERFORMANCE IN 2017-18

23. Iain Ritchie reported on a broadly positive set of measures and highlighted future risks to sustaining the levels. HE had had a steady year in managing costs and overruns in their under-developed five year plan. The board noted that issues caused by poor original costing and planning of capital projects could be compounded by enforced changes of scope by the shareholder and local planning requirements. Governance and planning for future projects needed to be more effective and better informed. On the other hand, pavement condition had improved over last year and such evidence also needed to be included.

24. The board noted the report.

Item 10 RAIL/ROAD SYNERGY

25. The board discussed the paper, which compared the two sets of messages. Where there was scope for read-across between our work on HE and NR it was powerful with useful comparators. The board discussed the performance on workforce safety in both organisations and the potential benefits of route based comparisons in HE. The board noted ORR's different approaches on management incentive schemes, driven partly by the differences in our roles. Where there were apparent inconsistencies in the way we approached an issue that we could not eliminate, it would be important to be able to explain why they existed.

26. The board noted the report.

Item 11 PR18 – MANAGING CHANGE IN CP6

Carl Hetherington, Nick Hall, Paul Darby, Claire Simpson, Liz Thornhill attended for this item

34. John Larkinson introduced the item which was seeking Board's agreement to a range of issues which had previously been discussed and consulted on around the management of change and risk by NR during CP6.

The rest of this item has been redacted until after publication of the final determination

Item 12 PRI8 UPDATE

35. John Larkinson tabled some slides with an update of the PR18 programme which reflected that policy discussions are going well, but that delivery carried significant risk. He gave updates on: NR income forecasts, performance innovation fund, Anglia performance trajectories, NR's scenario planning for performance trajectories and improved asset condition. NR continued to review

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our challenge on 'headwinds'. The work to update our enforcement policy would be reflected by some 'minded to' sections in the draft determination.

36. Drafting was behind schedule and some subsidiary documents would be published after the main bundle. The announcement of the draft determination would stress its consultative nature.
37. The board would receive drafts of the whole document and the executive summary for comment (bearing in mind the need for any comments to be made urgently). [Action: PR18 Programme Board] Publication was still anticipated on 12 June.
38. The board noted the update.

Item 13 FEEDBACK FROM COMMITTEES

39. The Audit and Risk Committee and Highways Committee had met and scrutinised the annual report and accounts which had now been signed off. The Highways Committee had similarly considered issues which had been discussed during the meeting.

Item 14 ANY OTHER BUSINESS

40. The board noted their decision, taken in correspondence, to recommend to the Secretary of State a nomination for the Head of the UK Delegation to the Channel Tunnel Intergovernmental Condition.
41. The board noted the committee minutes circulated below the line and the board forward programme. Meetings with NR's board around the Final determination were still being finalised.

Signed

Stephen Glaister

28 June 2018

ACTIONS AGREED:	<i>Update for the February meeting</i>
From the October Board	
The board noted that we had not undertaken stakeholder events in London, where many of our key stakeholders were based, and agreed that an annual awayday should be planned at an appropriate point in the calendar	Action: Board secretary – events being considered for later in the year – depending on board agenda
From the May board	
IP would circulate his recent letter to NR clarifying responsibilities for vegetation management and proper risk assessment of issues arising	Secretariat - completed
The board asked for more explanation of the apparent significant reduction in reported HAVS	Ian Prosser
[Graham Richards] reported on the mixed success of the major timetable change implemented on 21 May. The customer team were following up on a press story about guidance to TOC staff on the treatment of limited mobility customers who might delay services – the board asked for a report	–Oral update at the next meeting
Our correspondence with TOCs on this would be published and John Larkinson was asked to report on TOC responses.	John Larkinson/customer team on the June agenda T-12
The board noted the update on the three strands of the investigation and the expectation that staff would issue case to answer letters in due course. A further update should be provided at that point.	Rob Plaskitt – June agenda
SINGLE ISSUE DELEGATIONS	<i>Date exercised/completed</i>
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.	This letter has not yet been issued pending clarification by the applicant.
FORWARD PROGRAMME	Date due
The board asked for a paper explaining ORR’s system for assessing passenger impact and determining appropriate responses [Stephanie Tobyn]	Customer team: July 2018
PR18 NR Incentives, Monitoring And Enforcement In CP6	Autumn 2018