

THE OFFICE OF RAIL AND ROAD
MINUTES OF THE 121st BOARD MEETING
14:00-18:00, MONDAY 14 DECEMBER 2015
ONE KEMBLE STREET, LONDON, WC2B 4AN

Non-executive directors: Anna Walker (Chair), Tracey Barlow, Mark Fairbairn, Bob Holland, Michael Luger, Stephen Glaister; Justin McCracken, Ray O'Toole

Executive directors: Richard Price (Chief Executive), Ian Prosser (Director, Railway Safety), Joanna Whittington (Director, Railway Markets and Economics), Alan Price (Director, Railway Planning and Performance)

In attendance all items: Tess Sanford (Board Secretary)

ORR staff in attendance are shown in the text. Also: Juliet Lazarus (JLz - Director, Legal Services), John Larkinson (JLk - Director Economic Regulation and Consumers), Dan Brown (Director, Strategy and Policy), Graham Richards (Deputy Director, Railway Planning and Performance) and Robert Cook (Head of strategy and policy projects) (items 1-4)

ITEM 1 APOLOGIES FOR ABSENCE

1 There were no apologies.

ITEM 2 DECLARATIONS OF INTEREST

2 Bob Holland had previously declared an interest in the East Coast mainline applications and would excuse himself from that item. No other relevant interests were declared.

ITEM 3 APPROVAL OF DRAFT MINUTES OF NOVEMBER BOARD

3 The minutes were approved.

ITEM 4 REVIEWS OF THE ORR

Paragraphs 4-10 of this item have been redacted as policy under development

Non Board members left the meeting (except Tess Sanford)

ITEM 5 DFT REVIEW

Philip Rutnam (Permanent Secretary), Bernadette Kelly (DG Rail Executive), Cav Elithorn (Rail Executive) joined the meeting

11 The Chair welcomed the DfT team. Philip Rutnam set out the importance of the rail sector to DfT and to government. He thanked Anna Walker for her six and a half years of leadership and recognised that effective independent regulation was a very important part of the rail system. He identified three key roles for a regulator: access to a monopoly run network, safety regulation and ensuring value for money.

12 He welcomed the appointment of Stephen Glaister as interim chair.

- 13 Bernadette Kelly explained the background of the DfT review. DfT was very keen to get ORR's full engagement and she offered to return to the Board to discuss emerging findings. The ORR Board welcomed the offer. **[Action: Secretariat]**
- 14 The meeting discussed the importance of this review as an opportunity to work together to tackle known issues that had followed NR's reclassification and the issues around affordability of enhancements and sustainability of the network. The ORR Board said that it wanted to engage fully in the review and in supporting DfT where helpful.
- 15 Both bodies recognised the significance of increased financial constraints on NR and the compelling need for better scope and cost definition for enhancements.
- 16 The chair thanked DfT colleagues for attending and repeated the offer of resource support from ORR for the review.

Philip Rutnam, Bernadette Kelly and Cav Elithorn left the meeting

Juliet Lazarus and Dan Brown returned to the meeting

- 17 Board members reflected on what they had heard from DfT.
- 18 The board encouraged the executive to do what they could to engage positively with the department, but recognised that DfT's timetable was very ambitious.
- 19 The Board checked that resource plans were in place and were assured that the key resources would be drawn from existing expert staff. Any backfill required could be resourced externally.

ITEM 6 NICHOLS REPORT

Graham Richards joined the meeting for this item

- 20 AP explained how the reporter system works and how this particular piece had been commissioned and subsequently been diverted to supply independent assurance for the Hendy review. Such reports are normally put on ORR's website as a matter of public transparency.
- 21 The Board suggested that NR be invited to offer a management response to the report to be published alongside it so that the wider context could be understood.
- 22 The Board asked the executive to develop a handling plan including alerting DfT to the publication.
- 23 The draft letter to Mark Carne on the NR business plan should also be amended in the light of this document and then issued and put on ORR's website **[Action: JLK]**. Jlk reminded the board that the EIP¹ and oversight and change control process were receiving close attention by staff.

ITEM 7 CONSUMERS AND TRANSPARENCY

John Larkinson Andrew Winstone joined the meeting for this item

- 24 JLK updated the board on consumer related work. A slide pack had been circulated. Jlk reported that the team had made good progress in building the evidence base on consumers and understanding TOC positions with most TOC

¹ Enhancements Improvement Plan

- MD meetings being positive. This was an important shift from anecdote to verifiable evidence.
- 25 The consumer obligations annual report (working title) would show results by each TOC. The TOCs would be given an opportunity to comment on their own pages in draft. The Board noted the importance of being able to audit or assure the data that would be reported and the importance of fair comparisons. Context was very important for proper interpretation.
- 26 Jlk updated the board on other current work: compliance checks with TOCs on ticket vending machines and a possible super-complaint from *Which* about compensation arrangements in the rail industry. The statutory time limit on super-complaints is very tight and John was making preparations so that ORR could be effective from the first day if a super-complaint was received.
- 27 Andrew Winstone updated the board on transparency activity. Moves toward publishing route and TOC data on rail were significant increases in transparency. The first six monthly assessment of Highways England (HE) had also been published. He highlighted that rail industry data (Darwin) was not fully open data although considerable improvement had been made in access to Darwin, while Highways England planned to make all its data open with the expectation that app developers would respond by creating new apps for road users.
- 28 Jlk told the board that the work being delivered by the consumer team had been broadly welcomed by stakeholders.

ITEM 8 HEATHROW AIRPORT LINK CHARGING

Rob Plaskitt joined the meeting

Paragraphs 29-34 have been redacted as relating to current regulatory activity and related legal advice

Bob Holland left the meeting

ITEM 8 ECML APPLICATIONS UPDATE

Paragraphs 35-36 have been redacted as relating to current regulatory activity.

ITEM 9 VOTE OF THANKS

The Chair reminded colleagues that this was the last board meeting for Mark Fairbairn and Ray O'Toole after five and a half year. She thanked both of them very warmly for their commitment and engagement. ORR had benefited hugely from the skills each had brought and owed a debt of gratitude to each.

Tracey Barlow offered the Board's thanks to Anna Walker for her six and a half years as Chair. Her energy and commitment had seen the ORR through some difficult times and the board and the organisation were very grateful for her eye for detail and leadership on wider issues.

[Ends]