

THE OFFICE OF RAIL REGULATION
MINUTES OF THE 117TH BOARD MEETING
SESSION 2 15:30-18:30, MONDAY 20TH JULY 2015
ONE KEMBLE STREET, LONDON, WC2B 4AN

Present: Non executive members: Anna Walker, Chair; Tracey Barlow; Michael Luger; Mark Fairbairn; Stephen Glaister; Justin McCracken; Bob Holland

Executive members: Richard Price, Alan Price, Ian Prosser, Joanna Whittington

Attendees: Tess Sanford, John Larkinson, Juliet Lazarus

Apologies: Ray O'Toole

ITEM 1 LESSONS LEARNED FROM YEAR 1 CP5

A separate note has been prepared of this private policy discussion.

ITEM 2 UPDATE ON REVIEW OF NETWORK RAIL BUSINESS PLAN 2015

1. John Larkinson updated the Board on progress to date. He reminded us of the principles agreed at the last meeting around ORR's engagement in the process. The team had been working alongside NR to ensure that ORR was able to comment on the quality of the plan, key assumptions and other ongoing work. They had recognised the importance of making clear where matters were licence requirements and where 'reasonably practicable' might apply when ORR considered enforcement. ORR would not be part of the decisions on specific enhancement project priorities, but will provide input where required.

The rest of this item has been redacted as relating to policy development

ITEM 3 - ANNUAL FINANCIAL AND EFFICIENCY ASSESSMENT

11. John reported that the process of agreeing the AEEA was going much more smoothly this year than in previous years because there was no disagreement about the underperformance.
12. He said that there was more route based financial information available and it would be used in this publication for the first time, helping further our strategic agenda on comparative information by route.

Paragraph 13-15 have been redacted as relating to policy development.

ITEM 4 NR CP5 MONTHLY MONITORING PACK

16. Alan gave us the headlines from the report: freight performance continues to be strong as a result of NR's work on route numbers and establishing proper corridors. Not all TOCs had agreed performance strategies for this year, but those that were agreed were seasonally adjusted, so there was no false comfort if they were being met.

17. The quarterly maintenance report was due shortly. Justin reported that HSRC¹ had discussed the long term impact of deferrals on current planned asset maintenance that morning.
18. The board noted the report.
19. **ITEM 5 DECISION ON INVESTIGATION INTO NR'S PERFORMANCE**
Nigel Fisher and Andrew Winstone joined the meeting
20. Nigel Fisher said that the recommendation was that past breaches were found for NR's delivery to two operators and in Scotland and a board decision was sought on whether and at what level penalties should be imposed.
21. Nigel reminded us that NR had told us in 2014 that they would not meet the targets for England and Wales in the final determination but had given ORR a plan to deliver improvements on a trajectory. We had said that delivering this plan would demonstrate reasonable practicability and that we would be unlikely to enforce in that case – although we reserved the right to enforce customer requirements if performance dropped by more than 2 percentage points (pp) below target PPM or 0.2pp above CaSL performance strategy targets. This lower standard had been breached in year 1 of CP5 (2014-2015). He explained that the investigation had focused on NR's delivery to these two operators because they were the most significant contributors to the national variance from target.
22. Nigel explained for each route what the findings had been and what adjustments were proposed by the team. He highlighted in particular the adjustment for the Commonwealth Games in Scotland, where NR had responded to issues in a positive way which sought to minimise passenger impact. Performance in Scotland in the current year was strong.
23. On NR's delivery to GTR and Southern, the impact had resulted largely from a new timetable at London Bridge which had caused primary and reactionary delay across the whole of the Sussex Area. This had been caused by significant weaknesses in data in the models, in the models themselves and in underestimating the risk in the new infrastructure. The drop in customer satisfaction, which was among the evidence in the paper, was almost unprecedented and it was the scale of the impact on customers that had led to the staff's recommendation that a penalty should be considered for these two routes.
24. Although the investigation had given further evidence that NR's planning and timetabling needed improvement, there were no particular systemic issues found by the investigation.
25. NR's response to the case to answer letter had been that the findings on Scotland were disappointing, but that the Southern and GTR findings were fair. The company said that all three were past breaches and that a penalty would not deliver improvements.
26. The board discussed the evidence about whether or not these were breaches and what evidence there was that NR was addressing them.

¹ Health and Safety Regulatory Committee

For publication

Paragraphs 27-37 to be redacted as relating to policy development.

38. We discussed and agreed next steps and the timeline for publishing the decision.

meeting finished at 18.30