



## Railway Industry Health and Safety Advisory Committee (RIHSAC)

### Minutes of the 110th RIHSAC Meeting

Tuesday 16 October 2018

Room 2, One Kemble Street, London

#### Present:

Justin McCracken	ORR
Ian Prosser	ORR
Jen Ablitt	ORR
Tracy Phillips	ORR
Matt Farrell	ORR (for item 4)
Matt Westlake	ORR (for item 6)
Claire Dickinson	ORR (for item 8)
Sharon Mawhood	ORR (for item 8)
Anna O'Connor	ORR
Steve Coe	TSSA
George Bearfield	RSSB
John Cartledge	Co-opted (passenger interest)
Trevor Rosenberg	London Travelwatch-Transport Focus
Bill Cooke	Network Rail
David Porter	IOSH
Alistair Young	Transport Scotland
Jason Connelly	Transport Scotland
Mick Holder	ASLEF
Bill Hillier	HRA
Rob Miguel	Unite the Union
Garry McKenna	DRDNI
Mark Newton	RDG
John Collins	Angel Trains
Andrew Knight	British Transport Police
Nisa Carey	British Transport Police

#### Item one: Welcome, introductions and apologies for absence

1. Justin McCracken welcomed everyone to the meeting and noted new representation from British Transport Police, Andrew Knight and Nisa Carey, that Bill Cooke attended in the place of Lisbeth Fromling for Network Rail, and Trevor Rosenberg in place of Tim Bellenger for London TravelWatch/Transport Focus and that it was Rob Miguel's (Unite the Union) first appearance in a while. Apologies

had been received from Stephen Chamberlain (Wales), Mark Ashmore (UKTram) and David Davies (PACTS).

2. RIHSAC reviewed and accepted the minutes and actions arising from the 29 May 2018 meeting. Tracy Phillips provided verbal updates on the actions:
  - On action 109.1 concerning Network Rail's proposed electrical safe working distance changes, Anna O'Connor updated that she had written to RMT and TSSA offering to meet to discuss more fully but confirmed that Network Rail were holding workshops with staff representatives providing more clarity, which was helping to reduce previous issues of miscommunication. She confirmed that in fact Network Rail were trying to achieve better compliance with the law and improve risk control.
  - Action 109.2 concerning RIHSAC input to the revision of RM3 would be addressed in Matt Farrells' presentation later on the agenda. Mick Holder expressed caution around molding ISO standards into *Taking safe decisions* – he would rather standards were set by Government or the regulator.
  - RIHSAC's comments on the draft Chief Inspector's 2017/18 annual report had been passed onto Ben Shirley (ORR) – action 109.3.
  - Claire Dickinson was speaking with Paul Clyndes on the matter of preventing staff assaults and abuse – action 109.4.
3. Tracy Phillips confirmed that the minutes had been amended to incorporate David Porter's recent comments against para 33 and advised that RAIB had had sight of ORR's Prior Role Review as part of its Sandilands investigation. It was still ORR's intention to publish it in due course but this could not be done whilst inquests and potential prosecutions were ongoing. In the meantime ORR was using the findings to inform its work to progress recommendation 9 of the Sandiland's report.
4. In response to John Cartledge's enquiry, it was still the intention that photographs taken at the last meeting (and represented logos) would be published on the RIHSAC pages of ORR's website, but as the terms of the ORR generic approval did not match the purpose for which the photos were to be used (it was considered far too broad), ORR was working on wording approval that would comply with GDPR and satisfy RIHSAC members.

#### **Item two: Matters arising of interest from Health and Safety Regulation Committee (HSRC) and other ORR Board meetings**

5. There had been two meetings of HSRC, one in June another in September. Discussions included a paper on the charter and heritage sectors of the rail industry and a new strategic risk chapter of ORR guidance on heritage is to be developed and brought to RIHSAC. A new guidance note was being prepared for ORR inspectors' use which explained how safety matters in the Channel Tunnel were regulated including the relationship with the Intergovernmental Commission (IGC) a Franco-British French body which takes the lead on regulatory matters in

the tunnel. HSRC also received a progress report on the consequences of the Sandilands tram derailment.

6. Andy Thomas had appeared at the September HSRC to explain his industry wide leadership role in Occupational Health and following the Grenfell Fire Inquiry, ORR had conducted a “lessons learnt” review to see what might be applicable to the regulation of the rail sector. No major issues were highlighted.

### **Item three: Chief Inspectors update**

7. Ian Prosser apologised for his absence from the last RIHSAC meeting. He reiterated the three themes of his 2017/18 Chief Inspector’s annual report – supporting our people, system pressure and technology and shared that the final determination for PR18 was well advanced and that ORR had started work on its regulatory approach for CP6. A funding scheme for the new tram standards body was ready to go to ministers for approval and the first phase of the Timetabling Inquiry had been published. This and the prior role review of ORRs involvement with the 2018 re-timetabling problems could both be found on the ORR Website.
8. ORR had launched a suicide prevention “Million Hour Challenge”, Rail Delivery Group (RDG), MTR, and Network Rail are also piloting this. Ian anticipated this would help the Samaritans and also provide a strong push for mental health support.
9. Ian Prosser would be meeting the new Chief Executive of NR and would be highlighting the value of undertaking RM3 assessments across the whole spectrum to identify strengths and weaknesses.
10. Ian also advised on senior staff changes - Paul Appleton was now RSD’s Deputy Director (operations).
11. Preliminary work had been undertaken on “What can we gain from Artificial Intelligence as a Regulator in the long term” and ORR was working with universities to improve the approach.
12. At John Cartledge’s request RIHSAC put on records its congratulations to Ian Prosser on his recent receipt of the rail industry award for “Outstanding Personal Contribution from Senior Management”

13. In response to:

Mick Holder’s enquiry Ian Prosser advised that the name Million Hour Challenge had been suggested by Samaritans.

Trevor Rosenberg’s request for an update on safety issues arising from Selective Door Operation, Ian Prosser advised that this was captured in the PTI strategy but he had no update yet. RIHSAC agreed that progress in implementing this strategy would form a good item for a future RIHSAC agenda.

**Action 110.1 RIHSAC secretary to add “PTI strategy” to the forward programme.**

#### **Item four: Timetable Inquiry – interim report findings**

14. The presentation had been previously circulated (*available on the ORR website*) and the agenda item provided RIHSAC with an opportunity to comment. Matt Westlake added that Phase 1 ended in September, Phase 2 would lead to another report in December.
15. In response to a question from David Porter about the extent to which the language around “diffused accountability” would impact on systemic health and safety risk, Anna O’Connor advised that the relatively new Network Rail role of System Operator was key and had to take safety into account. ORR would be monitoring closely.
16. Steve Coe felt that not much had been learnt since the Finsbury Park station overcrowding incident as the issue of health and safety impacts on frontline staff remained unaddressed.
17. Ian Prosser stated that he had written to GTR (on whose system the biggest disruption was reported), addressing the impact of late cancellations, changing of platforms. Changes had since been made to make the timetable more stable. We now awaited data from British Transport Police in relation to increases in staff assaults and this matter could return to a future RIHSAC meeting. ORR would continue to engage on this issue to ensure mechanisms were in place to support staff. Ian confirmed that the key lessons which had emerged from the Inquiry related to over optimism in planning and the absence of anybody taking overall charge.

#### **Item five: ORR’s strategic approach to the development of H&S leadership and management competence.**

18. David Porter referred to the paper distributed to RIHSAC members ahead of the meeting (*available on the ORR website*) and summarised its key points as being the challenges to health and safety management arising from the level of competency of those at the top of individual organisations. Do organisations pay sufficient attention to this and do we need to think of alternative ways of stimulating improvements?
19. George Bearfield agreed that there was a thin spread of competency across the board and that new initiatives needed to be sought to make improvements. He explained that the Risk Management Capability Group was developing bite size sessions on *Taking safe decisions* to different groups and highlighted a good course run by AD Little. Noting that risk was a function of change, he questioned if we had the appropriate level of understanding at senior level.
20. Ian Prosser agreed that the course run by A D Little was worthy of promotion and that *Taking safe decisions* was a powerful and well-written document.
21. Ian noted that a more devolved NR increased the potential for variability so RM3 assessments would be done for each route. ORR would be organising itself to regulate NR on this basis with a likely route lead for teams. Looking at all aspects (safety, financial, technical) across each route. NR had a strong assurance function

and TOC changeovers needed to be watched for points of distress (including maintaining current fleets).

22. Competence was covered in RM3 assessments and Ian Prosser would be using the industry's *Leading health and safety* at route level and at meetings twice a year with RSSB (which Paul Clyndes and Manuel Cortez attended) to highlight competence issues; the relaunch of *Taking Safe Decisions* would be done at one of these meetings. Ian also confirmed that there was a lot of relevant guidance out there to be read and applied.
23. John Cartledge thanked Jen Ablitt (ORR) for her slides compiled in response to David Porter's paper which helped provide further context. He asked whether the training courses suggested by George Bearfield and Ian Prosser adequately encompassed what all directors (not simply those with specific safety remits) needed to know about their legal responsibilities. Ian Prosser responded that he thought people with safety critical roles did understand "where the buck stopped". Mick Holder felt that the threat of corporate manslaughter charges did not go far enough as they do not include prosecuting individuals so some people might be prepared to take the risks.
24. David Porter was of the opinion that it was more about the capability to deal with systemic risk and not just about the knowledge - should we be looking at it from the angle of "what is the board doing?"
25. Bill Hillier agreed that addressing the Board as a whole was important and was concerned that – in the heritage sector - people did not always fully understand their responsibilities in law.
26. Rob Miguel agreed there were issues with senior level competence and that leadership went hand in hand with worker involvement.
27. Justin thanked David again for his discussion paper and noted that there would be a further chance to reflect on some of the points made in discussion when RIHSAC reviewed the Strategic Risk Chapter (SRC) on heritage. He noted that the SRC on leadership and culture had recently been reviewed but asked Jen to discuss with David and George offline whether there was a case for revisiting it and to determine the roll out plan for the revised version of *Taking safe decisions*.

**Action 110.2 - discussion to be arranged between Jen Ablitt, David Porter and George Bearfield to review whether the leadership and culture SRC should be revisited and to determine the roll out programme for the revised *Taking safe decisions*.**

#### **Item six: RM3 2019 Project – seeking RIHSAC views**

28. Matt Farrell advised this was a follow up from May's RIHSAC to illustrate how RIHSAC's feedback had been taken on board in relation to the organisational culture criterion and broadening membership of the RM3 Governance Board, and to set out next steps in the work. His presentation (*available on the ORR website*) was circulated to members in advance.

29. In response to David Porter's question about the appropriateness of having an "RM3 light", as regardless of size the hazards still exist and whether that might lead to dilution of the Regulatory approach, Anna O'Connor advised that the proposed version of RM3 light is a tailor made approach for light rail sector use.
30. Bill Hillier commended the retaining of the culture model as it is an important contributor to achieving a base level in legal compliance.
31. Matt Farrell invited Mick Holder to a consultation on the subject of organisational culture following Mick's comments to help more clearly define organisational culture.
32. Anna O'Connor invited Rob Miguel to join her on a visit. As Rob Miguel welcomed the inclusion in the model of an open culture enabling people to comfortably challenge managers but he was unsure how ORR would be able to see this evidenced. Matt Farrell explained that he revised model is very focused on the ability of staff to challenge confidently and this is a thread throughout the model- particularly to achieve higher levels of maturity.
33. In response to Ian Prosser's comment that NR senior leadership involved in developing a just culture, David Porter reiterated that a just culture is not the same as a challenge culture. Justin McCracken said that trade unions being on the RM3 governance board would enable them to help ORR get this right.

#### **Item seven: Level Crossing update**

34. Anna O'Connor gave a presentation describing risk reduction at level crossings on mainline infrastructure and outlining ORR's regulatory approach. She also introduced a proposed revision to the way ORR will handle Level Crossing Orders. This is in response to the government's decision not to progress the recommendations arising from the Law Commissions' 2013 report on Level Crossings. It was still being piloted, but would be consulted on shortly and ORR would welcome the input of RIHSAC members.
35. John Cartledge recalled that initially DfT developed an extremely comprehensive action plan which was subsequently dropped. Ian Prosser advised that he is still pushing the Department to recognise the benefits of the Law Commission reforms but acknowledged Parliamentary time is limited. Justin McCracken concluded that whilst we are unable to achieve legislative change we should continue to implement/manage improvements within the existing legislative framework.

#### **Item eight: Occupational Health**

36. Claire Dickinson provided an update on current ORR occupational health activity and invited RIHSAC to discuss this. The ORR's 5 year programme is due to conclude in March 2019. ORR is well advanced with preparations for its programme end review, setting out ORR's view of the industry's management of health risk. This will be ORR's 3<sup>rd</sup> review of the many data sources and will be

supplemented with interviews with key stakeholders and a survey. ORR sought information on further data sources and acknowledged that there are significant limitations to the OH data.

37. Rob Miguel enquired if there was scope to deliver training on fatigue. Claire Dickinson responded that she would be welcome a discussion with him about this. She stated that both ORR's and RSSB's web pages contained strong guidance on Fatigue Management.
38. Mick Holder recommended that ORR approach the TUC about extracting data applicable to the rail industry from the TUC biennial survey carried out with H&S reps on their health concerns. The key issues emerging were the long hours culture, stress and musculoskeletal conditions.
39. In response to David Porter's question on why ORR were leading on this topic, Claire Dickinson said it has started to transition now that RSSB has established the Health & Wellbeing Policy Group and subsidiary groups in response to LHSBR. At the current time, ORR is minded to drive forward on OH via the activities cited in the OH Strategic Risk Chapter (SRC) rather than proposing a third programme. The SRC will be updated following the ORR's review. ORR will continue to monitor industry leadership on health and will be prepared to step in if necessary.
40. Steve Coe would like to see more on manager fatigue and stress management
41. The ORR work focuses on health risk rather than wellbeing (e.g. smoking cessation or obesity). Inspectors deal with health surveillance for those topics where there is a regulatory requirement (e.g. COSHH or hand-arm vibration syndrome).
42. Claire Dickinson asked everyone to encourage duty holders to offer case studies of good practice demonstrating how improvement in managing health risk has been beneficial.
43. ORR agreed to return to RIHSAC with the health review paper to discuss emerging findings.

#### **Item nine: Forward Plan & Meeting review**

44. If anyone has something for the forward plan they should contact Tracy Phillips.
45. A lesson learnt from today was that the meeting needs to run to agenda times. Next meeting scheduled for 15 January 2019.

## Glossary of abbreviations

ASLEF	Associated Society of Locomotive Engineers and Firemen
COSHH	Control of Substances Hazardous to Health Regulations
CP	Control period
DfT	Department for Transport
DRDNI	Department of Regional Development (NI)
GDPR	General Data Protection Regulations
HMRI	Her Majesty's Railway Inspectorate
HS2	High speed 2
HSRC	Health & Safety Regulation Committee
IGC	Intergovernmental Commission (on the Channel Tunnel)
IOSH	Institute of Occupational Safety & Health
ISO	International Standards Organisation
LHSBR	Leading Health & Safety on Britain's Railways
LUL	London Underground Ltd
NI	Northern Ireland
ORR	Office of Rail and Road
OH	Occupational health
PACTS	Parliamentary Advisory Committee on Transport Safety
PPE	Personal protective equipment
PTI	Platform train interface
RAIB	Rail Accident Investigation Branch
RDG	Railway Development Group
RIHSAC	Rail Industry Health & Safety Advisory Committee
RM3	Risk management maturity model
RMT	Rail Maritime & Transport Union
ROI	Republic of Ireland
RSD	Rail Safety Directorate (of ORR)
RSSB	Rail Safety & Standards Board
TSSA	Transport Salaried Staffs Association
TUC	Trades Union Congress