

**THE OFFICE OF RAIL AND ROAD
170th BOARD MEETING**

28 April 2020, 09:00 – 13:00

By Skype for Business

Non-executive members: Declan Collier (Chair), Stephen Glaister, Madeleine Hallward, Anne Heal, Bob Holland, Michael Luger, Justin McCracken, Graham Mather

Executive members: John Larkinson (Chief Executive), Graham Richards (Director Railway Planning and Performance); Ian Prosser (Director Railway Safety).

In attendance: Dan Brown (Director, RME and Strategy), Russell Grossman (Director of Communications), Freya Guinness (Director Corporate Operations), Juliet Lazarus (General Counsel), 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 this second video-conference meeting of the ORR Board.
2. He particularly welcomed Madeleine Hallward to her first meeting as a non-executive member of the Board.
3. At 11am the board would observe the national one minute's silence to commemorate the front line workers who had died with coronavirus.

Item 2 DECLARATIONS OF INTEREST

4. No new relevant interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

5. The minutes of the March meeting were agreed.
6. There was a supplementary question in relation to the policy on tactile strips. Ian Prosser undertook to report on the number/proportion of stations where strips had not been installed yet, and to consider whether a review of the policy was necessary in the light of this. [Action]

Item 4 COVID 19 UPDATE

7. John Larkinson reported on the continuing severe impact of Covid-19 on the rail industry. He said that ORR had responded to every request for help or advice by government and industry and demonstrated an ability to move at pace. The move to working from home for all staff had gone very well. He gave an update on developments since the report including preparations to step up the timetable to nearer normal service numbers but noted that social distancing would limit the capacity of the restored services. NR had encountered some limited issues with its supply chain but had delivered most of the Easter works as planned.

8. The board discussed the ongoing debate in industry (and more widely) about the efficacy of face masks in preventing the spread of the virus. Public Health England (PHE) advice continued to be that masks offered minimal benefit. ORR was working with the industry and unions to develop principles that could be applied by local managers to risk assess different work environments where social distancing was not possible.
9. The board discussed commercial and financial risks to the industry including issues for the freight train operators, discussions around the Schedule 8 regime and discussions around funding streams in Scotland. On the latter, ORR would apply its processes to any rebate proposed from Network Rail to Transport Scotland (before it could be approved) and other stakeholders would have views on such a proposal.
10. The board discussed the challenge for front line railway staff of helping passengers, particularly those needing help to board or disembark, while trying to maintain social distancing. There was a need for clear communication to address reasonable expectations and safeguards for both staff and passengers. Telling passengers who required assistance what issues the pandemic had raised would be important.
11. The board noted the effective switch to home working for ORR staff and discussed the mechanisms for reporting of Covid and other absence both internally and to government. Work was in hand to understand more accurately the actual resource available from staff working from home given the challenges of eg shared working space, wifi access and home schooling for those with children. Having addressed the short term challenge it was important to manage the impact on staff over the medium term. ORR would join a Civil Service wide staff survey later in the spring to monitor these issues.
12. Graham Richards briefed the board on government's request for ORR to consider ways to alleviate cashflow issues for some HS1 customers.

Item 5 CHIEF INSPECTOR'S MONTHLY REPORT

13. **Ian Prosser** reported on:
 - Areas where ORR had issued urgent practical guidance in relation to Covid-19 including work on contingency planning on signals and operations.
 - Current work to agree principles on operating the rail network with social distancing, including the approach to facemasks and other mitigations. These could then underpin local risk assessments. He noted that some parties disagreed with the current PHE guidance and there was inconsistent application of advice across the network.
 - Work to consider how social distancing could be implemented on the rail network, looking at pinch points such as connections with London Underground. Government had asked for the timetable to be stepped up from 18 May and it would be important to communicate any new criteria for travel widely to help passengers decide when and whether to travel. Communication to railway staff would also be an essential part of this.
 - The board noted that understanding of how Covid-19 was communicated and the level of individual risk at each social contact was developing all the time and PHE advice could be expected to change too. The UK government was

following PHE advice and it was noted that this did not align completely with WHO advice. Ian reported that contact with international networks were still active but there was no consistency across national approaches. The board asked to be kept informed of any advice given to industry staff, passengers or our own inspectors and any lines to take [Actions: Ian Prosser and Russell Grossman]

- Ian also updated the board on the recent track worker fatality which was still under investigation, work on driver controlled operations (DCO), progress on the risk assessment of Eleclink, funding for the LRSSB. The board asked for a reminder on the current DCO principles [Action: Ian Prosser] and to be kept informed of progress on this.
- The board noted that financial pressure on operators could lead to reduced investment in safety and long term asset performance, this was a concern where operators halted regular maintenance or renewals.
- The board discussed the continuing issue of the time taken to conclude safety investigations – which was largely a result of the complex legal environment and resource constraints in other investigation bodies. The board encouraged the executive to consider whether the new white paper might offer an opportunity to streamline the legal processes. [Action: Juliet Lazarus]
- The board discussed trespass, where an industry strategy group was bringing focus, developing a plan and supporting media campaign. There appeared to be a re-emerging issue with cable theft.
- The board noted that SPADs continued to increase and sought assurance that the issue was being treated with urgency by the industry. Ian undertook to raise this with RSSB the next week. [Action: Ian Prosser]

Item 6 CHIEF EXECUTIVE’S REPORT AND BOARD INFORMATION PACK

14. John Larkinson introduced his report noting that the timing of the underlying data in the board information pack already showed some impact of Covid-19 disruption and should be treated with caution. The consumer section had not been circulated [*Post-meeting note: this was subsequently circulated*] but work continued including engagement with DfT on how they monitored consumer issues while franchises were under direct management. Work on the ombudsman’s first year and assisted travel policies also continued.
15. The board discussed the likely shape of the timetable changes that were being planned for May 2020 and the likely knock on impact on previously planned changes which were delayed. The question of how quickly passenger numbers would rise once the lockdown was lifted was being actively considered by the industry as part of its planning for recovery and stabilisation. DfT had a working group looking at the implications for traffic and mode choice across all networks (road, rail, freight, ferry and air).
16. The board noted the continuing pressure on NR’s timetabling team and that recent issues highlighted the importance of having sufficient capacity and capability in the system operator.

17. The board discussed the importance of some context for all data in the board information pack. With reference to the rail and road user satisfaction data, the board asked for a timeline and, for rail, a TOC comparison. The aim of this was to be able to understand whether any changes were cause for concern. It was noted that this information would not change each month. [Action: Graham Richards]

Item 7 QUARTER 4 REPORT AGAINST THE BUSINESS PLAN

18. Freya Guinness reported that, setting aside the one off underspend in relation to the London office move, the overall underspend of around 2% was a significant improvement on the previous two years (4% and 6% underspent). The executive had worked hard early in the year to address an emerging underspend by accelerating planned consultancy spend and other corporate projects.
19. The board discussed the level of vacancies reported and the challenge of recruitment during Covid 19 and were assured that recruitment continued and, although requiring a different approach, on-boarding was continuing for new staff. The board asked the executive to continue recruitment for key roles as quickly as possible. The board discussed the missed service standard on authorisations (1 item late by 1 day, due to its complexity) and heard about work to improve performance against the standard on enquiries and complaints.

Item 8 ORR BUSINESS PLAN 2020-21 REVIEW

20. John Larkinson introduced the item which showed how the executive were flexing the business plan to respond to the current crisis. In all directorates staff either continued to work on existing commitments and business as usual or were engaged in responding directly to the crisis, adapting and innovating to find ways to deliver while working from home. Management had taken a collegiate approach and shared responsibility for delivery. Significant shifts within industry had offered opportunities to demonstrate ORR's value-add. John explained that the change in franchise management offered an opportunity for ORR to re-visit the question of whole industry reporting because some limitations had been removed (eg commercial confidentiality). This could be transformative in understanding the whole passenger experience.
21. The board noted the oral update that NR had re-started its change programme (putting passengers first). They also discussed the challenge of safely bringing rolling stock which had been idle back into use. There was RSSB guidance on this for those operators who had suspended operations (including heritage and some open access operators) and ORR inspectors would be actively addressing these risks with the operators. The board asked for assurance that there was sufficient authorised rolling stock available for operators to step up services [Action: IP]
22. The board noted that the delay in publishing the gender pay gap report was a civil service wide decision.

Item 9 SAFETY REGULATION OF THE CHANNEL TUNNEL

This item has been redacted as relating to policy in development

Item 10 NETWORK RAIL – HOLDING NR TO ACCOUNT DURING THE CORONAVIRUS PANDEMIC

Richard Coates joined the meeting for this item

28. Richard Coates introduced the item which set out how ORR could hold NR to account during the current crisis considering NR's response to different phases: immediate, short term, medium and long term. This enabled ORR's response to be reflective, supportive or forward looking as appropriate.
29. The board discussed the presentation. It agreed the need to strike a balance so that NR was subject to monitoring and scrutiny that recognised the nature of the challenge it had to respond to and the continuing need that it deliver its licence requirements including efficient use of public money. The challenges of returning services closer to pre-virus levels were discussed, noting that the whole network had remained open and subject to normal maintenance, which reduced the potential safety risks. Much of the preparation would fall to the system operator which would work with the wider sector and needed to mitigate system wide risks as far as possible. ORR would monitor the effectiveness of preparations and implementation throughout the re-start process.
30. The board discussed the risk that the five year CP6 settlement (PR18) would need to be re-opened. The settlement had significant flex inbuilt with change control processes to allow that flex to be understood and exercised. Work was in hand to explore the limits of the flexibility inherent in the settlement in preparation for questions from government and NR. Reopening the settlement would introduce even more uncertainty into the system and was likely to prove a major distraction and resource drain. The board wished to see the current settlement preserved unless it proved irrational to do so.
31. The board asked that NR should be clear about the specific areas against which its performance in the crisis would be assessed. John Larkinson would write setting out ORR's approach and how it would hold NR into account.
32. The board noted that the forced reduction of congestion on the network could form a useful case study to understand the impact of congestion on performance and operating costs.

Item 11 HIGHWAYS ENGLAND – ANNUAL REPORTING ON SAFETY PERFORMANCE

Feras Alshaker and Iain Ritchie attended for this item

33. Graham Richards introduced the item, which was being brought in advance of a fuller report on key messages for the annual performance report because of the risks the board had recognised in road safety and particularly smart motorways.

34. The board noted that publication of data by DfT on safety on the SRN was always several months after the end of the year to which the data related. This was the result of the multiple sources of data being collated and then quality assured and analysed. This timing made it impossible to include current data in ORR's performance report so that any comment on safety performance needed to be generalised.
35. The board asked that this delay in data be made apparent in the report along with encouragement for HE to improve its reporting. It would also be useful to set safety on the SRN in the context of the record of the wider roads network.
36. When the safety data was finally published, ORR would comment on it in the context of HE's KPI.

Item 12

WILLIAMS WHITE PAPER

Paragraphs 37 to 39 have been redacted as relating to policy in development pending publication of the white paper

Item 14

FEEDBACK FROM BOARD COMMITTEES

40. Bob Holland reported on discussions at the Audit and Risk Committee the previous day including the quarterly risk report, two internal audit reports receiving substantial (green) assurance, the board effectiveness review, and an interesting discussion with ORR's cyber security adviser who would develop a dashboard for ARC and the board.
41. The risk report had been circulated to the board below the line.

Item 15

ANY OTHER BUSINESS

42. The Chair reported on his recent meetings including with Sir Peter Hendy and Bernadette Kelly, the Permanent Secretary at DfT. He was maintaining regular conversations with key stakeholders.
43. As the May regional visit would not go ahead during lockdown, the chair proposed a separate session on horizon scanning for Monday 18th May. The board secretary would be in touch.
44. The Board secretary will contact non-executive members of the Board about their assessments with the Chair.

Item 16

Non Executive discussion

45. As agreed following the board effectiveness review, the non-executive members of the board held a private discussion to reflect on the meeting and other items of interest.

APPROVED BY THE BOARD ON 19 MAY 2020