



## Consumer Expert Panel

29 September 2022 - Microsoft Teams Meeting

### Attendees

<b>Name</b>	<b>Organisation</b>
Anne Heal	Chair, Non-executive Director, ORR
Diane McCrea	Consumer Expert Panel Member (Items 1 & 2 only)
Ray Kemp	Consumer Expert Panel Member
Carol Brennan	Consumer Expert Panel Member
Marie Pye	Consumer Expert Panel Member
James Walker	Consumer Expert Panel Member
Andrew Williams-Fry	Consumer Expert Panel Member
Helen Parker	Consumer Expert Panel Member
Mike Hewitson	Consumer Expert Panel Member and Transport Focus
Daniel Roberts	Office of Rail and Road (Item 4 only)
Lynn Armstrong	Office of Rail and Road (Item 4 only)
Richard McGreevy	Office of Rail and Road (Item 3 only)
Patrick Johnson	Office of Rail and Road (Item 2 only)
Jacqui Russell	Office of Rail and Road
David Kimball	Office of Rail and Road

# Agenda

## Welcome and declarations of interest

<b>Item</b>	<b>Speaker</b>	<b>Time</b>
Welcome	Anne Heal	10.00
1. Consumer Team update	Jacqui Russell	10.10
2. Rail reform – culture and regulation	Patrick Johnson	10.20
3. Strategic Road Network user satisfaction	Richard McGreevy	11.00
4. Horizon Scanning - risks to regulation	Daniel Roberts	11.40
Closing remarks and AOB	Anne Heal	12.20
Close		12.30

1. Apologies were received from Trisha McAuley, and from Diane McCrea for items 3 and 4.

## Consumer team update

2. Jacqui Russell updated the panel on the implications of recent events. She reflected on the appointment of the new Prime Minister, cabinet and transport ministers and indicated that, although there was some uncertainty regarding the future of planned rail reforms, including the introduction of new legislation and the plans for workforce reform, ORR would continue with its work in these areas as planned until further clarity was obtained.
3. Jacqui also reflected on the experience of the nationwide rail strikes that had taken place since the previous meeting of the panel: ORR's focus was on ensuring licence holders were meeting their obligations in respect of passenger rights and information during disruption, working with Transport Focus. Jacqui considered that lessons had been learned by industry from the previous disruption, as discussed at the last panel meeting, and that although passengers were still negatively impacted this compared positively with earlier occasions.

4. More widely, Jacqui reported that industrial relations and staffing issues were still having a negative impact on passengers' experience of rail travel; in a challenging set of circumstances, ORR's focus would continue to be on the provision of passenger information and those aspects over which licence holders have influence and control.
5. The panel raised concerns regarding the provision of information on what services are available during strike action and regarding the impact of disruption on disabled passengers. A question was also raised regarding ORR's role in the development of minimum services levels during proposed strike action. Jacqui noted that unplanned disruption was a particular challenge for disabled people, welcomed the insight into the wider strike issues raised.
6. Finally, Jacqui provided an update on the projects to introduce a new Complaints Code of Practice and procure the ORR-sponsored Rail Ombudsman: following the contributions of the panel in June, consultations had taken place over the summer; ORR was expecting to publish decisions documents in both areas within the next month and, subject to a formal licence modification process, was intending to issue an Invitation to Tender for the Rail Ombudsman contract by the end of the year. The new Complaints Code of Practice was planned to come into effect in April 2023, also subject to gaining consent for the necessary licence modifications.
7. The panel welcomed the progress made.

## **Rail reform - culture**

8. Patrick Johnson introduced his paper on culture and regulation. He noted that opinions varied as to the extent to which a regulator should get involved in work culture issues and invited the panel to comment on whether there is a role for ORR in the work being undertaken to develop a new culture for GBR and the industry more broadly. Patrick also invited opinions on the framework set out in paper.
9. Panel members reflected on their own experience of organisational culture change, including:
  - The development of an open culture of reporting safety issues at the CAA;
  - The importance of getting change right first time, with firm leadership and close management of the change programme to ensure it is embedded at all levels of an organisation;

- The benefits of establishing culture change champions;
- The role a regulator can play in framing and shaping culture change e.g. the positive reaction of the finance industry to FCA's development of its consumer duty, but also the risk of a regulator incentivising behaviours that run counter to the change in culture that is desired through its own monitoring activities;
- The risks of a particular culture, e.g. emphasis on the precautionary principle, resulting in unintended or undesirable outcomes; and
- The experiences of Ofcom and Ofwat in attempting to secure culture change in the creation of Openreach and the water sector respectively.

The panel also highlighted the following considerations:

- Ensuring engagement with Network Rail (and GBR in the future) is done at the appropriate level, for example both with its board and with individual business units;
- The potential impact of the new Better Regulation framework on ORR's regulatory work;
- The opportunity to encourage a more transparent and collaborative working culture, particularly at a time where trade-offs may be needed to stay within funding envelopes e.g. on the design of rolling stock; and
- The challenges to effective regulation posed by the regionalisation of Network Rail.

10. Patrick thanked the panel for their contributions and queried how best to use the framework referenced in the paper, parts of which were intended to be included in GBR's licence. The panel suggested that ORR could use both its hard (direct) and soft (indirect) power to influence the direction of change.

## **Strategic road network user satisfaction**

11. Richard McGreevy introduced the panel to the work of the ORR Highways team and his paper on measuring user satisfaction on the strategic road network, setting out the role of Transport Focus in monitoring satisfaction, and ORR's role in holding National Highways to account. Richard noted that the current survey questions are shaped by research, with journey time reliability the key driver of overall satisfaction.

He highlighted that as a result of the COVID-19 pandemic face-to-face surveys were no longer taking place, and noted that the move to online and telephone surveys only was resulting in a lower level of satisfaction being reported. As a result, the Highways team had now begun to monitor outputs rather than outcomes, for example National Highways' delivery of its customer service plan.

12. However, the team was also looking at National Highways' own satisfaction data as an indicator of user sentiment, amongst other methodologies, and was considering regional floor targets to allow for regional variations in performance.

13. In the subsequent discussion, the panel made the following observations:

- The CAA's annual survey, a link to which was provided to panel members after the meeting, includes user satisfaction, topical questions and asks about complaint handling, and may be a useful comparator;
- There could be benefits to seeking qualitative data via focus groups or other deliberative approaches, for example on the experience of smart motorways; and
- It is important from an equality perspective that users are provided with a variety of means of responding to surveys, particularly older and disabled people;

14. The panel also queried:

- The extent to which the results of the survey are taken seriously by the National Highways Board;
- To what extent 'willingness to pay' questions are effective at identifying areas for improvement, with experiences differing across utility sectors;
- Whether 'net satisfaction' and 'net dissatisfaction' would be useful metrics;
- Whether the current metrics were aligned with users' needs; and
- Whether there was an opportunity for National Highways to publicise its performance in the areas users care about.

15. Richard thanked the panel for their useful suggestions.

16. There then followed a discussion on occasional challenges in the rail sector with licence holders accepting ORR data as evidence of non-compliance. The panel suggested considering the following approaches:

- Requiring licence holders to carry out their own surveys;
- Obtaining authoritative third-party endorsement of ORR data collection; and
- Setting up a board sub-committee to examine customer service metrics, as TfL has done.

17. Jacqui thanked the panel for their helpful contributions.

## Future of regulation

18. Dan Roberts introduced this item, which followed an earlier discussion at the April 2022 panel meeting. He explained that ORR was considering the risks to regulators and the regulatory framework in the current policy environment, providing the example of CAA becoming subject to independent review.

19. In the subsequent discussion the panel noted the following:

- The new Better Regulation framework has meant a change in policy in central departments, with more focus on considering non-regulatory options before developing new regulations, and more consideration of unlikely events with a large impact;
- There has been a move to 'outcomes-based' regulation, such as the FCA's consumer duty, noting that the FCA can be held to account by commentators for matters outside its regulatory scope;
- While reducing burdens on business is important, consumers must remain central to good regulation, particularly as regulators take on responsibility from government for consumer protections; this was not reflected in the material provided to the panel;
- Risk-based approaches can be effective, even if a strict 'precautionary principle' approach is not pursued;
- ORR may find it beneficial to work across the transport sector, e.g. with CAA on carbon emissions (a guidance document for the CAA developed by its consumer panel was provided to the panel following the meeting); and
- ORR should continue to encourage the effective deployment and analysis of data in the sector.

20. Dan thanked the panel and agreed to consider the opportunities for ORR to be more transparent and collaborative in its approach to regulation.

## **AOB & Close**

21. The panel reflected on the meeting and welcomed the opportunity for a more strategic discussion of the challenges facing ORR, making use of the panel's experience across other sectors. The panel also welcomed the format of recent meetings, with the ability to review material in advance.

22. The panel agreed to include a review of its recent Network Rail stakeholder engagement work in the agenda for the December 2022 meeting.

23. The panel noted that the dates of the meetings to take place in 2023 would need to be agreed before the next meeting, and offered to provide its assistance on an ad hoc basis before then if circumstances required.

Next Meeting: 14 December 2022

**END**