

THE OFFICE OF RAIL AND ROAD

203rd BOARD MEETING

Tuesday 23 May 2023, 09:00 – 13:00

At ORR, Piccadilly Gate, Store Street, Manchester, M1 2WD

Non-executive members: Declan Collier (Chair), Xavier Brice, Madeleine Hallward (via MS Teams), Anne Heal, Bob Holland, Justin McCracken, Daniel Ruiz, Catherine Waller.

Executive members: John Larkinson (Chief Executive), Ian Prosser (Director of Railway Safety)

In attendance: Feras Alshaker (interim Director of Planning and Performance), Fiona Bywaters (incoming Board Secretary), Will Godfrey (Director of Economics, Finance and Markets), Russell Grossman (Director of Communications), Vinita Hill (Director, Corporate Operations), Graham Richards (Director, TfL Analysis), Tess Sanford (outgoing Board Secretary), Elizabeth Thornhill (General Counsel), Stephanie Tobyn (Director, Strategy, Policy and Reform).

Other ORR staff who attended are shown in the minutes.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The Chair welcomed everyone to the meeting. There were no apologies for absence. Madeleine Hallward joined the meeting remotely.

Item 2 DECLARATIONS OF INTEREST

2. No new interests were declared.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

3. The minutes of the 18 April 2023 meeting were approved, subject to a minor typographical amendment. Two actions from the Board to the Health and Safety Regulation Committee (HSRC) were highlighted and noted as completed for Board purposes, namely:
 - [Action - 04/07] Class 800 interconnectors: reports to be discussed at HSRC upon completion.
 - [Action - 04/08] Fatigue management business plan deliverable: delayed pending work by the RSSB and to be discussed at HSRC.
4. The minutes of the 15 May 2023 meeting were noted, for approval at a future meeting of the Board. One action was highlighted for tracking under para 37 (cost reflective charging).
5. The Board considered information received from Savanta regarding stakeholder views on the ORR's role in improving sustainability and suggested a future discussion on the organisation's potential input to this area **[Action 05/01]**.

Item 4 CHIEF INSPECTOR'S MONTHLY REPORT

6. Ian Prosser (IP) reported on an anticipated judicial review from West Coast Railways (WCR); works at Nuneham Viaduct; the establishment of a safety standards board in the heritage sector; earthworks/drainage issues and asset register completion.
7. The Board requested further information from IP as to the identification of critical infrastructure points across the regions and any systematic prioritisation of their management. Detail was sought on the decision-making processes and strategic oversight involved, given the relevance to PR23 considerations **[Action 05/02]**.
8. Discussion focussed on safety at level crossings (para 7); excess speed incident (para 9); improvement notices (para 11); fatigue management (para 20); and escalator safety at South Kensington Tube station (previously reported). Regarding fatigue management, IP was due to meet with the RSSB and would provide an update to the HRSC in June, and the Board in September **[Action 05/03]**.
9. The Board expressed their concern at the software fault implicated in the excess speed incident. Assurance was received from IP regarding the robust communication and sharing procedures of such safety issues among relevant industry stakeholders. IP added that any powers around the original manufacturers and their safety responsibilities were also under consideration, and options were being considered to see whether changes to regulations were possible.

Item 5 CHIEF EXECUTIVE'S REPORT

Report redacted as time-sensitive and covering confidential issues.

Item 6 NATIONAL HIGHWAYS

17. Noting the recent meeting of the Highways Committee on 18 May, FA outlined the reported activity on National Highways (NH) and the Department for Transport (DfT) commission on the second phase of advice to inform the draft RIS3.
18. The Board welcomed inclusion of road user satisfaction among the reported KPIs. However, it was requested that consideration be given as to the clarity of its presentation for the next such update **[Action 05/04]**. It was also suggested that a KPI relating to journey time reliability be discussed with NH to define and understand performance in that area. It was agreed to provide further detail on related KPIs in the next report to see if that enhanced relevant analysis **[Action 05/05]**.
19. Drivers behind the reduction in the number of casualties were discussed, with a reduction in speed seen as the greatest contributor.
20. The Board queried the meaning behind the biodiversity KPI and whether confidence in delivery could be derived from the data. FA confirmed that relevant schemes had been discussed with NH in detail and a change in

approach after major schemes had suffered delayed in the Development Consent Order (DCO) process.

21. It was noted that since the circulation of the agenda, the DfT had commenced consultation on the NH's SRN Initial Report which was clarified as part of the statutory process in setting RIS3.

Item 7 PR23

Jennifer Genevieve (Deputy Director, Periodic Reviews and Monitoring) (via Teams) and Richard Coates (Deputy Director, RPP) joined the meeting for this item.

22. Will Godfrey (WG) drew the Board's attention to relevant items below on the line on the agenda, namely open access market segmentation and the managing change consultation. The update then focused on responses to Board feedback provided at its meeting on 15 May.
23. The board considered the paper on Variable Usage Charge (VUC), which, after considering the legal implications, set out a proposal to pursue Option 2 – to cap increases in freight VUC rates at the PR18 trajectory. WG explained both options would deliver more money to NR than assumed in their original planning, though Option 2 presented £27m less than Option 1. The Board agreed to proceed with Option 2 but requested that increasing variable costs be examined in further detail at a future date for improved understanding **[Action 05/06]**.
24. Feedback received on train service performance trajectories had also been considered with revisions made to on time, passenger cancellation, and freight cancellation trajectories – as outlined in the circulated slides. Pushback from NR was anticipated regarding cancellations in particular. The Board agreed with the proposed revisions.
25. WG confirmed that all required Board decisions on the draft determination had now been taken, with publication set for 15 June 2023 and appropriate engagement beforehand. The Chair complimented the work of the team.

Item 8 NETWORK RAIL ANNUAL ASSESSMENT

Elizabeth McLeod (Head of Network Regulation) and Richard Coates (Deputy Director, RPP) joined the meeting for this item.

26. FA introduced the report, which presented revised key messages for the Network Rail Annual Assessment following feedback received from the Board at its meeting on 18 April 2023. Amendments had been made to the document, for example in tone and clarity.
27. Regarding the first proposed message around pressures and challenges, the Board viewed this as context to be recognised rather than a key message.
28. Regarding the proposed message around overall safety of the rail network, it was felt that the desired pace of improvement should be included.
29. Further feedback received covered:

- Reprioritising safety to higher up in the order of key messages, especially with the release of the annual H&S report at a similar time;
 - Promoting the messaging on structures examinations (para 25) within its section, given the importance of remedial action;
 - Reassurance that efficiencies outlined in para 16 were derived from a robust process;
 - Possible enhancement of the value to passengers;
 - Potential strengthening of earthworks and drainage messaging at paras 33, 36 and 37; and
 - Increased clarity of expenditure and efficiency areas within the key messages.
30. The challenge of appropriate ordering of key messages, and the commonality of performance throughout, was recognised by JL. The Board underlined the need for consistency and connection between the annual assessment and PR23. WG remained mindful of the timing of relevant publications.
31. Russell Grossman (RG) agreed to circulate a summary of key messages to the Board and Executive once finalised **[Action 05/07]**. The publication timing was considered, in the context of resource capacity and appropriateness, then confirmed as 13 July 2023. In order to ensure clarity and consistency, WG agreed to circulate the PR23 summary document containing the key messages and draft decisions to the Board **[Action 05/08]**.

Item 9 NATIONAL HIGHWAYS ANNUAL ASSESSMENT

Iain Ritchie (Head of Highways Safety and Performance) and Sneha Patel (Deputy Director, Strategic Road Network Monitor) joined the meeting for this item.

32. FA introduced the report, which presented key messages for the NH Annual Assessment and had been discussed at Highways Committee on 18 May 2023.
33. Four key messages were proposed, relating to efficiency, enhancement, asset management and environment. Safety would be presented separately, following an earlier-agreed approach, though this required explicit statement within the assessment.

[Paragraph redacted due to commercially sensitive content.]

35. The Board debated the framing of the asset management key message, wanting to see effective management rather than effective report development. A full year of data would be required to determine whether asset management had improved, rather than the 6 months' worth collected so far. As it stood, the language of the key message was overly positive and the tone required adjustment to illustrate that progress was ongoing.
36. As per the NR Annual Assessment, the Board considered context versus key message. It was confirmed that NH were aware of the latest iteration of key messages ahead of a meeting on 25 May 2023 and to understand direction of travel. Further reflections centred on customers and users which could be

included to a greater extent within the key messages – and more broadly, performance against KPIs, particularly given earlier discussion on road user satisfaction.

Item 10 JOINT RAIL AND ROAD KEY MESSAGES

37. FA provided an oral update, initiating an opportunity for the Board to reflect on possible commonalities between the key messages of the NR and NH annual assessments. Attention was drawn to the levels of uncertainty faced by each organisation, the recent effects of inflation on their work and impact on user experience.
38. The Board recognised the impact of funding constraints on each organisation, the importance of delivery on safety and maintaining the existing asset base, as well as a focus on the pace of performance to the benefit of consumers. The Board noted the ORR's common role of oversight, assurance and insight toward NR and NH, whilst recognising the differences between each, particularly with regard to process maturity. Consideration was also given to how ORR's work added value to each organisation, and how this might contribute to future strategic work.

Item 11 HIGHWAYS – ORR'S ADVICE ON THE DRAFT RIS

Adam Spencer-Bickle (Head of Economics and Policy, Highways) and Sneha Patel (Deputy Director, Strategic Road Network Monitor) joined the meeting for this item.

39. Sneha Patel (SP) introduced the item, outlining the advice based on a high-level review of plans put forward by NH. The report contained commentary to be developed into draft advice to the Secretary of State, which would need to be consistent with the messaging of the Annual Assessment.
40. Feedback from the Board included further reference to the Lower Thames Crossing and registering concern at whether the innovation fund would be effectively applied.
41. It was recognised that the item had been discussed by the Highways Committee the week prior (18 May) and concerns raised as to whether the proximity to the Board meeting had allowed sufficient opportunity to respond to that initial scrutiny for a decision to be taken on the advice.
42. The Highways Committee had recognised the need for greater clarity on messaging and referred to the importance of organisational culture as well as effective planning and processes at NH, consistent with the Annual Assessment.
43. JL considered the purpose and audience of the advice, drawing attention to identified cost savings as a key message, with which the Board agreed. However, the Board also placed emphasis on a contextual summary of key messaging at the document outset, and it was agreed that the draft advice to the Secretary of State on the draft RIS be circulated to the Board for further brief comment before its final approval under delegated authority **[Action 05/09]** (noting the constraints of the submission deadline - 14 June 2023).

Item 13 STRATEGY

44. JL introduced the item and updated the Board on work to identify key themes from outputs of their strategy day. ST outlined the key themes as impact, outward focus and momentum, and invited comment from the Board.
45. The Board welcomed the work undertaken and appreciated the focused nature of the key themes, proposing that a description be developed for each as the next step to identify what good performance looked like in the positive evolution of the organisation. The Board invited future consideration of its role in the work and how it might best contribute. JL confirmed updates would be provided on a quarterly basis and that delivery of the plan would form part of directors' objectives, with specific actions to focus on.

Item 12 ORR'S CAPABILITY

Vikas Dhawan (Head of Data Strategy Development) and Richard Coates (Deputy Director, RPP) joined the meeting for this item.

46. Richard Coates (RC) introduced the item and outlined work related to continuous improvement activities such as increased automation and relevant training. It was intended to present a draft data strategy to the Board in October, for finalisation by December.
47. Vikas Dhawan (VD) referred to an assessment of the ORR data environment and organisational willingness to use data. Areas identified for improvement included accessibility, quality, analytical capacity, digitisation and focus on data literacy skills, particularly for non-analytical staff. Further work would be undertaken regarding staff engagement as well as a data maturity assessment exercise.
48. The Board welcomed early engagement on the strategy and recognised the extensive work undertaken. Existing good practice within the ORR was acknowledged, with the potential to improve upon meaningful commentary and insight both internal and external to the organisation. Feedback for the draft strategy included a greater focus on strategic planning, specific aims within the mission statement; enhancement of data capabilities for road, and suggestion as to how to best work with relevant partners.
49. The Board also suggested that further consideration be given to any staffing structure and whether analytical capability should be centralised or dispersed. RC referred to a centre of excellence whilst also raising data capability and analysis across the ORR.
50. The Board requested that the draft data strategy be presented at an earlier date, at its September meeting [**Action 05/10**]. Prior to the meeting, it was intended to undertake staff engagement via a survey and summer workshops.

Item 14 REPORTS FROM COMMITTEES AND REFLECTIONS ON THE
 STAKEHOLDER DINNER

51. Matters relating to the recent Highways Committee (18 May) were considered to have been discussed under Item 11.
52. Positive feedback was received on the stakeholder dinner, noting the importance of attendance by senior representatives of NR and NH.

Item 15 ANY OTHER BUSINESS

53. The board noted the items below the line.
54. Catherine Waller, Non-Executive Director (NED), provided a brief update on her support to the Regulators Network and highlighted an upcoming Q&A with ORR staff on her experience as a NED.
55. Approved by the board: 27 June 2023.