

**THE OFFICE OF RAIL AND ROAD  
220<sup>th</sup> BOARD MEETING**

**Tuesday 24 September 2024, 09:00 – 15:00  
At ORR, 25 Cabot Square, London, E14 4QZ**

**Non-executive members:** Declan Collier (Chair), Madeleine Hallward, Anne Heal, Justin McCracken, Daniel Ruiz.

**Executive members:** John Larkinson (Chief Executive), Richard Hines (Director of Railway Safety).

**In attendance:** Feras Alshaker (Director of Planning and Performance), Fiona Bywaters (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), 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. Apologies for absence were received on behalf of Catherine Waller, Bob Holland and Xavier Brice. The meeting was confirmed as quorate.

**Item 2 DECLARATIONS OF INTEREST**

2. There were no declarations of interest.

**Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING**

3. The minutes of the meeting held on 23 July 2024 were approved.
4. A brief update was provided on actions arising and completed from previous meetings:
  - Richard Hines (RH) provided an update on Action 04/01 regarding progress on drainage asset inventory surveys by Network Rail, with a further update due in early 2025.
  - Elizabeth Thornhill (ET) provided further update on Action 07/02, stating that feedback regarding delays in the court system, given ORR's role as a prosecuting authority, had been taken into account following a previously-circulated draft.
5. As per Board Procedure Rule 35, the Board noted a decision undertaken by correspondence in August, namely that relating to SCS Performance 2023-24.

**Item 4 CHIEF INSPECTOR'S QUARTERLY REPORT**

6. Richard Hines (RH) introduced the report, referring to discussions at the meeting of the Health and Safety Regulation Committee (HSRC) the day

prior, namely: reactive interventions across the sector, noting a recent freight train derailment; testing the adequacy of a process introduced by Network Rail's (NR) North West & Central region to amend speed restrictions for operation over cracked rails at switches and crossings; escalating concerns that lessons from Colton Junction are not being effectively embedded; formal enforcement action over the summer; concluded and ongoing prosecution work; and an update on stranded trains.

7. Further reference was made to a below the line paper at HSRC, providing a six-monthly update on Channel Tunnel activities. Justin McCracken (JM), as Committee Chair, referred to discussions on the importance of stakeholder management in the context of enforcement. The Committee had also proposed that discussions on aspects of the report referring to strategic relationships with NR and budgetary position be held at Board level.
8. The Board discussed strategic relationships with NR, noting enforcement data and correspondence circulated ahead of the meeting (between the Director of Railway Safety and Group Safety & Engineering Director, Technical Authority (NR)). ET also provided an update in the context of a recent guilty plea submitted by NR (in the Margam prosecution), where the Board expressed their support for the work being undertaken to progress the prosecution.
9. Further update and discussion related to:
  - structural analysis of London Victoria station central concourse roof;
  - an Improvement Notice served in the heritage sector;
  - ongoing work regarding stranded trains;
  - wellbeing in the railway sector;
  - incidences of unauthorised entry into rear train cabs;
  - update on the Light Rail Safety and Standards Board ((LRSSB) with Madeleine Hallward (MH) invited to attend the December meeting of HSRC, given the external speakers invited from the organisation); and
  - trade union relationships.
10. JM provided further update on the HSRC meeting, referring to a paper on Signals Passed At Danger (SPADs); assurance on the ORR's weather resilience strategy; and a welcomed update on risk profiling and work planning in the Railway Safety Directorate (RSD).

#### **Item 5 CHIEF EXECUTIVE'S REPORT**

*This report is redacted from the published version as time-sensitive and covering confidential issues.*

11. [...]

#### **Item 6 HOLDING TO ACCOUNT – QUARTERLY REPORT**

15. Feras Alshaker (FA) introduced the quarterly report, which was the first such report to Board in this format. Particular reference was made to performance

concerns in the NR Eastern Region. Further consideration would be given to extended use of the data summarised in the quarterly report.

16. The Board welcomed the new report, referring to its concise nature and format; inclusion of p-coding; and analysis of freight growth. Use of plain English and analysis summarising areas for attention were encouraged as future improvements.
17. The Board further discussed financial performance (with reference to over-programming and risk) and Service Affecting Failures (SAFs).

## **Item 7 NATIONAL HIGHWAYS**

*The below paragraph [text in square brackets] is partially redacted from the published version as time sensitive and confidential:*

18. Feras Alshaker (FA) introduced the report, referring to discussions at the meeting of the Highways Committee (HiCo) the day prior, namely: [...]; National Highways' (NH) budgetary constraints and upcoming infrastructure review; and future funding of the Highways Team with subsequent impact on delivery capacity. The Board expressed their concerns regarding future funding of ORR's highways work (particularly that originally arising as a result of Transport Select Committee (TSC) recommendations), and the associated risk of loss of talent within the organisation, should it decrease.
19. Madeleine Hallward provided further update on the HiCo meeting, referring to discussions on the annual safety assessment (including the National Emergency Area Retrofit (NEAR) programme and smart motorway technology outages); committee's concerns over technology obsolescence; and the external guests invited from NH.
20. The Board further discussed the NEAR programme and how its implementation may influence data expressed in the annual safety assessment, advising that this be taken into account.

## **Item 8 ORR DATA STRATEGY – ONE YEAR UPDATE**

*Richard Coates (Deputy Director, Railway Planning and Performance) and Vikas Dhawan (Head of Data Strategy) joined the meeting for item 8.*

21. Feras Alshaker (FA) briefly outlined the report with Vikas Dhawan (VD) providing an overview of progress and inviting comment.
22. The Board welcomed the progress illustrated and congratulated the team. A question was raised however, as to whether IT and data activity were effectively integrated. Assurance was provided of complimentary working, including participation of the Associate Director of IT & Digital Services at the Data Strategy Steering Group, whilst Vinita Hill (VH) confirmed that disjointed working had been identified as a potential risk, with appropriate monitoring and control in place.
23. The advanced nature of implementing a data lakehouse was commented upon, with assurance provided of upskilling staff and adequate resource in place. The Board also discussed how the Implementation Plan contained

projects related to the potential uses of Artificial Intelligence (AI), with reference made to the work of an internal AI Working Group.

24. The Board discussed risks to delivery of the implementation plan and noted the potential impacts of resource constraints, in particular from managing the overall budgetary position. It was flagged that some reprioritisation of the implementation plan may be needed through business planning.
25. The Board further recognised the work highlighted in case studies of 'One Big Thing' and an RSD inspection app, as well as the growing data maturity within ORR.

## Item 9      **PR24: DRAFT DETERMINATION**

*Howard Taylor (Head of Asset Management), Debbie Daniels (Delivery Manager), Steve Fletcher (Deputy Director, Engineering & Asset Management), Carl Hetherington (Deputy Director, Regulatory Economics and Finance) and Gordon Cole (Head of Regulatory Finance) joined the meeting for item 9.*

26. Feras Alshaker (FA) briefly introduced the item, whilst ET outlined the legal framework of the decision at hand.
27. Howard Taylor (HT) guided the Board through the individual decisions outlined in the report and accompanying slides (which had previously been circulated for a board teach-in earlier in September):
  - 1) *Efficiency of route operation and maintenance costs*
28. It was explained that ORR determined the annual fixed price which HS1 may charge operators for Operations & Maintenance. An assessment of efficiency and best practice had indicated the efficient cost was approximately £3m/year lower than HS1's plan. Questions of clarification were raised regarding the efficiency assessments; accounting for improved weather resilience; influence of asset management plans; and areas of proposed efficiency.
29. The Board raised access to Temple Mills depot, but this was confirmed to be outside of the asset base concerned as a train maintenance depot leased by HS1 to the current international train operator on the network. The Board noted that the Draft Determination decisions did not encompass this separate matter, but that systemic pinch points might arise in future (affecting assumptions for forecast market growth). HT noted that ORR can discuss Temple Mills as a risk to future growth, as part of the PR24 consultation with stakeholders in October and November.
30. **The proposal regarding adjusted route operation and maintenance costs for efficiency was approved for inclusion in the Draft Determination.**
  - 2) *Efficiency of the route and stations 40-year renewals plans*
31. The uncertainty in costs of renewals was outlined and it was noted that HS1 had applied a new methodology to estimate 40-year risks and opportunities. The new methodology was recognised as logical but it was suggested that further efficiencies could be made. In response to a question around the skillsets and tools needed in HS1 to deliver efficiencies, reference was also made to a bespoke enterprise asset management system.

32. **The proposal regarding an efficiency challenge on 40-year renewal estimating was approved for inclusion in the Draft Determination.**

*3) Removal of “underfunding factor” in route annuity*

33. The Board were reminded that in PR19, concerns of historic underfunding of the route escrow account in CP1&2 had been raised. HS1 had included an “underfunding factor” in its PR19 annuity model, to recover this underfunding, which was retained in its PR24 model.

34. It had been assessed that the concerns were no longer present and proposed that the underfunding factor be removed from the model (with a small negative balance permitted toward the end of the 40 years). The Board discussed managing uncertainty and opportunities to reassess in future periodic reviews.

35. **The proposal regarding removal of an underfunding factor in the annuity model was approved for inclusion in the Draft Determination.**

*4) Recommendation for an HS1 Ltd-led system review of incentives (including of escrow investments)*

36. It was noted that in 2023, a review had been conducted by ORR of risks, uncertainty and incentives in the HS1 system which identified several opportunities for efficiency. The Board asked questions of clarification as to how escrow was invested, noting the limitations of the concession agreement in terms of seeking higher return and the reasons in favour of relaxing these limitations in the future.

37. **The proposal that HS1 leads system reviews of incentives was approved for inclusion in the Draft Determination.**

*5) Weighting the stations renewals annuity to reflect forecast traffic growth*

38. HT explained the proposal to apply a weighting factor to some stations assets, to be consistent with Route growth assumptions, which was deemed as novel. The Board welcomed the proposal, following questions raised at the July board meeting.

39. **The proposal to apply a weighting factor to some stations assets was approved for inclusion in the Draft Determination.**

*6) Implementation decisions (access terms changes)*

40. HT explained that HS1 and operators had proposed a list of changes to the Access Terms, which had subsequently been reviewed by ORR for a preliminary assessment of whether they would be approved. The assessment, and ORR’s position, was proposed for inclusion in the Draft Determination, followed by a stakeholder consultation, with a position determined via the Final Determination.

41. The Board requested that a teach-in be organised on the Final Determination, approximately a month ahead of the decision with a particular focus on access terms changes. **[Action 09/03]**.

42. **The proposals regarding changes to Access Terms were approved for inclusion in the Draft Determination.**

*7) Reallocation of freight charges through clarification of fixed and variable costs*

43. The proposal to remove £0.60m from fixed freight charges (leaving only the costs of using Ripple Lane), on the basis that these are “common costs” rather than “freight, avoidable costs” was noted as consistent with best practice asset management, and the Access and Management Regulations on charging.

44. **The proposal regarding reallocation of freight charges through clarification of fixed and variable costs was approved for inclusion in the Draft Determination.**

*8) Scope challenge on specific stations renewals in the five-year workbank*

45. HT explained the proposal to adjust specific CP4 stations renewals via a 5% efficiency challenge, following a line-by-line review. The Board were content with the suggestion.

46. **The proposal regarding adjustment of specific CP4 stations renewals was approved for inclusion in the Draft Determination.**

*9) Deliverability reprofiling of five-year route renewals*

47. HT explained the proposal to reprofile deliverability of a specific project within the five-year route renewals and that this would have no material impact on the annuity charge and would reflect a more realistic, deliverable input to the annuity model.

48. **The proposal regarding deliverability reprofiling of five-year route renewals was approved for inclusion in the Draft Determination.**

*10) Five-year station asset management improvements*

49. It was noted that station asset management maturity had been assessed as low, relying heavily on judgement and expertise from individuals in HS1 and NRHS. The proposal was to set an action for HS1 in CP4 to develop a more robust and mature asset plan (enabling efficiency in later Control Periods) rather than adjust funding. The Board queried whether the proposal would specifically reference lifts and escalators, which was confirmed to be the case (and also covered under decisions 1 and 2). The Board recognised the importance of asset management improvements to user experience.

50. **The proposal regarding improvement of CP4 station asset management was approved for inclusion in the Draft Determination.**

*11) An adjustment between route fixed and variable costs;*

51. HT explained that NR(HS)'s route variable:fixed cost estimates had been reviewed, and for some asset types, assessment had differed in how much degradation was traffic-dependent. The proposal was to adjust the variable:fixed splits in the model, which would result in a 2% adjustment from fixed to variable charges.

52. **The proposal regarding adjustment between route fixed and variable costs was approved for inclusion in the Draft Determination.**

*12) Challenging operational improvements*

53. The Board noted the concerns raised over an ability to recruit, train and retain staff, which would present a challenge to operational improvements to support faster recovery from incidents. The proposal was to set an action for HS1 to demonstrate changes and benefits by Year 1 of CP4, or alternative improvements would need to be identified.
54. **The proposal regarding challenging operational improvements was approved for inclusion in the Draft Determination.**  
*13) A recommendation for focus on “safety by design”*
55. HT explained that as CP4 would see a large increase in life-expired assets, a focus on safety by design was sought from HS1 and NRHS. It was proposed that they be asked to review their approach and report at the end of Year 1 of CP4.
56. **The proposal regarding a focus on ‘safety by design’ was approved for inclusion in the Draft Determination.**  
*14) Challenging alignment between environmental strategies and plans*
57. HT explained that following analysis of HS1’s corporate strategy on environmental sustainability, delivery had been assessed as highly unlikely, unless HS1 can overcome contractual barriers with other stakeholders. Though ORR had no direct role in environmental sustainability, the management of the system could be challenged and evidence sought of convening stakeholders. ET referred to the best practice obligations of the general duty outlined in the legal framework. The Board discussed the relevant incentives for HS1, as well as business model and reputational risks.
58. **The proposal regarding challenging alignment between HS1’s environmental strategies and plans was approved for inclusion in the Draft Determination.**  
*15) Research and development governance, for consultation of affected stakeholders*
59. HT referred to a proposal by HS1 regarding changes to the governance of research and development. This was supported by ORR but concerns of stakeholders over the contributions to systemic benefits would be raised within the Draft Determination. The Board noted the absence of a dedicated R&D fund for stations and the limitations of ORR’s role in that regard.
60. **The proposal regarding research and development, for consultation of affected stakeholders, was approved for inclusion in the Draft Determination.**  
*16) Our approach to station cost allocation*
61. HT outlined the proposed approach to station cost allocation, to ensure renewals charges determined for train operators would only cover renewals for which operators are contractually obliged to fund. The approach would be outlined in detail within the Draft Determination for transparency and to mitigate the likelihood of future claims between stakeholders.
62. **The proposal regarding approach to station cost allocation was approved for inclusion in the Draft Determination.**

*17) Clarifying specified upgrades for signalling on the network*

63. It was explained that funding of specified upgrades fell outside the scope of a Periodic Review. As required by the Concession Agreement, ERTMS would be acknowledged within the Draft Determination as a future specified upgrade. Any HS1 funding for the project would require ORR approval under the relevant clauses of the Concession Agreement
64. **The proposal to clarify specified upgrades for signalling on the network was approved for inclusion in the Draft Determination.**
65. **The Board agreed that authority be delegated to the Director of Planning and Performance to approve the final Draft Determination documents for publication by 30 September.**

*The Board adjourned for lunch from 12:30 to 12:55.*

**Item 10a INTRODUCTION: EXTERNAL GUESTS**

*Scott Hamilton (Head of Ombudsman Sponsorship) and Laura Walkerdine (Ombudsman Sponsorship Manager, via MS Teams) joined the meeting for item 10.*

66. Stephanie Tobyn (ST) introduced the external guests and provided a brief overview of the Rail Ombudsman.

**Item 10b EXTERNAL GUESTS: KEVIN GRIX (CHIEF OMBUDSMAN) AND JUDITH TURNER (DEPUTY CHIEF OMBUDSMAN)**

67. The Chair welcomed Kevin Grix (Chief Ombudsman) and Judith Turner (Deputy Chief Ombudsman) and invited them to present the Rail Ombudsman to the Board.
68. The presentation referred to: issues within the scope of the Ombudsman and its wider remit; process overview; data insight; education and information; training; and sharing best practice.
69. Further discussion considered complaints deemed out of scope and the potential to broaden; the influence of ORR since it had begun contract management of the Ombudsman; the use of data insights to drive performance; the balance between efficiency and thoroughness; and the consumer and member panels.
70. The Chair thanked the guests for their attendance and presentation and suggested that they return in a year's time.

**Item 10c REFLECTION: EXTERNAL GUESTS**

71. The Board briefly reflected on the guests' contributions which would be further discussed in the context of item 13 (rail reform).



## Item 11 WALES AND WESTERN INVESTIGATION

*Richard Coates (Deputy Director, Railway Planning and Performance), Steve Helfet (Deputy Director, Railway Operations), Patrick Crowley (Senior Regulation Manager) and Sian Jefferies (Senior Legal Adviser, via MS Teams) joined the meeting for item 11.*

72. Elizabeth Thornhill (ET) briefly introduced the report, followed by Richard Coates (RC) who covered analysis of the improvement plan submitted by NR regarding the Wales and Western Region. RC referred to paragraph 21 of the report (alignment with specific order requirements), and Annex E in particular. It was recommended that the Board determine that Network Rail had satisfied the final order's specifications relating to the production of the plan. As a result of this decision, the reasonable sum would not be payable.
73. The Board welcomed the work undertaken and the impact it had made, and considered this to evidence effective regulation. The Board further discussed from the report:
  - Ongoing monitoring and delivery (noting regular progress meetings and check-in points at 6, 12 and 18 months);
  - Paragraphs 20 and 23 of the report, recognising a credible, robust and sufficiently-evidenced plan.
74. **The Board agreed that Network Rail's Wales & Western improvement plan (Date 30 August 2024) satisfied the requirements of the final order section F part 1a (i-iv), and therefore the reasonable sum (£3m) would not be payable.**
75. The Board recognised the extensive work undertaken by the team and requested that they provide reflections (lessons learned) regarding the Wales and Western Investigation [**Action 09/04**]. This was supported by ET as General Counsel and report sponsor.
76. Finally, consideration was given to communication of the decision taken, with an update to the report that the intention was to make it public imminently. It was suggested that communication of the Improvement Plan recognised Network Rail's positive response.

## Item 12 NORTHERN IRELAND AGREEMENT

77. Richard Hines (RH) introduced the report, recommending that a new Agreement be introduced between ORR and the Department for Infrastructure Northern Ireland (DfI). The Board briefly considered the wider context of remit and relationships with devolved authorities and Northern Ireland.
78. **The Board:**
  - **Reviewed the proposed Agreement between ORR and the DfI at Annex A of the report;**
  - **Agreed that ORR enters into the proposed Agreement with DfI; and**

- **Agreed the process for finalising the Agreement, including that authority be delegated to the Director of Railway Safety for non-material amendments, as outlined at paragraph 20 of the report.**

### Item 13 RAIL REFORM UPDATE

*Paragraphs 80 to 82 are redacted from the published version as its disclosure is thought likely to prejudice the effective conduct of ORR's affairs as it relates to uncompleted policy development.*

*Anna Rossington (Deputy Director, Regulatory Strategy & Reform) and Lynn Armstrong (Head of Regulatory Policy) joined the meeting for item 13.*

79. Stephanie Tobyn (ST) introduced the report, providing an oral update on developments since circulation of the papers.
80. [...]
81. [...]
82. [...]
83. The Board requested that a briefing be provided on key areas of rail reform **[Action 09/05]**.

### Item 14 COMMUNICATIONS STRATEGY

*Adele Potter (Head of Internal Communications and Engagement) and Jennifer Webber (Head of External Engagement, via MS Teams) joined the meeting for item 14.*

84. Russell Grossman (RG) introduced the updated communications strategy, highlighting planned increases in social media and external engagement activities, as well as a recent internal audit of internal communications. Attention was also drawn to the intention not to conduct a stakeholder survey in this financial year, due to budgetary constraints.
85. The Board discussed parliamentary engagement, given the number of newly elected MPs. RG confirmed that the parliamentary survey was separate from the stakeholder survey mentioned above, and would take place between January and March 2025. Further discussion focussed on internal and external 'listening', as well as the connections between the communications strategy and that of the wider organisation. The Board welcomed the suggestion of a finance-focused webinar.

### Item 15 REPORTS FROM COMMITTEES

86. Madeleine Hallward reported on the meeting of the Road Expert Panel held on 12 September. A note would be provided in due course, but discussions had included a safety focus and the zero harm goal.
87. Committee reports regarding HSRC and HiCo were provided under items 4 and 7 respectively.

**Item 16 ANY OTHER BUSINESS**

88. The Board noted the dates of the next meetings and items below the line, namely: the Board forward programme and committee minutes approved since the last meeting
89. Further updates were provided regarding board agenda management software; the next regional visit of the Board; and a brief update on ongoing NED recruitment.

Meeting end: 3.00pm  
Approved: 22 October 2024