

**THE OFFICE OF RAIL AND ROAD**  
**MINUTES OF THE 118<sup>TH</sup> BOARD MEETING**  
**09:00-15:45, TUESDAY 22 SEPTEMBER 2015**  
**ONE KEMBLE STREET, LONDON, WC2B 4AN**

**Non-executive directors:** Anna Walker (Chair), Tracey Barlow, Mark Fairbairn, Bob Holland, Michael Luger, Stephen Glaister; Justin McCracken, Ray O'Toole

**Executive directors:** Richard Price (Chief Executive), Alan Price (Director of Railway Planning and Performance), Ian Prosser (Director, Railway Safety), Joanna Whittington (Director Railway Markets and Economics),

**In attendance, all items:** Juliet Lazarus (Director, Legal Services), Tess Sanford (Board Secretary),  
**ORR staff in attendance are shown in the text.**

**ITEM 1      APOLOGIES FOR ABSENCE**

- 1      There were no apologies

**ITEM 2      DECLARATIONS OF INTEREST**

- 2      Bob Holland reminded the Board of his previously declared interest in ECML – he would absent himself for that item.

**ITEM 3      APPROVAL OF DRAFT MINUTES**

- 3      There would be some corrections to the minutes submitted: in particular the policy discussion around PR18 did not need to be so detailed.

**ITEM 4      ACTIONS OUTSTANDING NOT TAKEN ELSEWHERE ON THE AGENDA**

- 4      The report was noted. There were four red-flagged items which the Chair would pursue with the Board Secretary.

**ITEM 5      MONTHLY SAFETY REPORT**

- 5      Ian Prosser drew out some headlines from his report. Eurotunnel were appealing against an enforcement action relating to risk assessment.
- 6      We had previously agreed to review the circumstances under which we would publish notices and we suggested that there could be consistency between these notices and case to answer letters on the economic side (where we currently always publish).
- 7      Ian reported on the launch of the Health and Safety Regulators' network which he would chair for the first two years. Transparency was a focus of the first meeting.
- 8      Ian said that the PIM<sup>1</sup> was at its lowest ever level - helped by a benign weather pattern. He described the work being done to manage track faults in Network Rail (NR) – which was also a major focus of our track inspection regime.

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<sup>1</sup> Precursor indicator model

- 9 The Industry was close to finalising their draft Industry Health and Safety strategy (which he would circulate to HSRC<sup>2</sup>). This was a positive development as it will address areas where collaboration is needed between duty holders: TOC/NR etc.
- 10 He asked the Board to agree to use a small resource to work with the UAE on rail safety: roughly 1 man week over each year. They covered all our costs and he believed it was good professional development for our inspectors. The Board were content with this proposal.
- 11 The Chair congratulated Ian on the recent annual RSD conference – which had taken the opportunity of the 175 anniversary of HMRI to reflect on a proud tradition. She and others had been very moved to hear Pam Warren speaking about the significance of the work the Inspectorate do.
- 12 Stephen mentioned the increase in bridge strikes, which he speculated could be the result of drivers using satnavs in unfamiliar areas. Bridge strikes interrupted services and could lead to real damage to the asset. He wondered whether there was any more ORR or the industry could do to supply accurate information on things like low bridges to satnav suppliers to reduce these events. He referred to a discussion at the Highways Committee in which it had become clear that HE's website, which had previously been a source of useful information to the public, had been embedded in the .gov framework and had lost a great deal of helpful functionality.
- 13 We discussed the [reported transport issues at the] Rugby World Cup and heard that the incident at Twickenham on the opening night was being investigated: at the moment it appeared to be accidental. We also talked about coverage of problems at other stations: these seemed to be about crowd control outside the stations, and there was no immediate issue for us as the regulator.
- 14 Ian updated us on the RSSB review which has to be done every three years. ORR had been given an oversight responsibility in the Cullen report and this had not been altered, so the review would be done in 2016/17. We asked our HSRC to consider what resources we need to carry out the best review and to consider the terms of reference for the review, which we thought should include financial efficiency of the technology funds.
- 15 We asked for an update on the Govia Thameslink class 700 evacuation safety risks mentioned in the report. Ian thought that the issue would eventually be resolved, he would revert to us if it became problematic.

## **ITEM 6 NR MONTHLY TRACKER**

*John Larkinson joined the meeting for the next two items*

- 16 Alan Price introduced the tracker. Passenger performance was stable and freight performance was still good.
- 17 He drew our attention to an analysis of train lateness which showed how many trains missed the PPM<sup>3</sup> threshold by a small margin (less than 1 minute). He said that the data demonstrated that improved traffic management in key nodes would make a huge difference to overall PPM.

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<sup>2</sup> ORR's Health and Safety Regulation Committee

<sup>3</sup> Passenger performance measure

18 We discussed the tension for NR between investment for small but significant local gains now, and the drive to build resources for their long term plans for the wider digital railway.

19 Alan pointed out that unplanned TSRs<sup>4</sup> had risen significantly and said that this reflected an increase in long term track geometry faults. This was now a rising trend over three years and was a general indication that NR are not on top of maintenance - linked to a backlog in renewals.

*paragraphs 20-23 have been redacted from the published version as part of current regulatory process*

## **ITEM 7 NR BUSINESS PLAN**

24 John Larkinson briefed us on the broad situation without specific figures. We had previously noted that the detail of the enhancements programme should be decided by government. Once it was known then ORR would have extensive involvement in the delivery and oversight process: we expected to see better change control than previously.

25 John described NR's emerging plans on outputs, property and renewals, (where safety and sustainability were key questions for us). Their capability improvement plan was our baseline for monitoring progress.

*Paragraphs 26-48 have been redacted from the published version as part of current regulatory process*

49 We agreed that the pace at which we were having to move was an undesirable result of the urgency with which DfT was pursuing funding reductions. Speed reduced the opportunity for proper analysis for these important decisions: and that applied to us as much as to DfT/NR.

50 We agreed that Richard Price should talk to the NR Chief Executive, Mark Carne to ask about the outcome of their Board meeting today.

## **ITEM 8 PERFORMANCE PENALTY**

*Andrew Winstone and Nigel Fisher joined the meeting for this item*

51 Alan Price briefed us on NR's response to the penalty notice and particularly discussions he had had on potential mitigations on the London Bridge situation.

*Paragraphs 52-62 have been redacted as part of a current regulatory process*

## **ITEM 9 ENHANCEMENTS INVESTIGATION**

*Andrew Wallace and Andrew Winstone joined the meeting for this item*

*Paragraphs 63-80 have been redacted as part of current regulatory processes*

*[We deferred items 10 and 11 from the agenda to next month: Innovation and Technology in the Railway Sector and Freight update]*

## **ITEM 10 PR18 PUNCTUALITY AND RELIABILITY TARGETS**

*Nigel Fisher and Lynn Smith joined the meeting for this item*

80 Joanna Whittington introduced the paper and asked for views.

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<sup>4</sup> Temporary speed restrictions

*The rest of this item (paragraphs 81-86) have been redacted as policy development*

## **ITEM 11 SPENDING REVIEW**

*Tom Taylor and Lucy Doubleday joined the meeting*

- 87 Tom Taylor updated us on the position on highways funding where the team were waiting for a response from DfT to their submission.
- 88 Tom explained the work that had been done to consider how to respond to HMT's proposal that ORR implement a 15% cut in resources. Rail regulation is funded through the industry so a reduction would not reduce the public deficit, but it would reduce the regulatory burden on the industry.
- 89 Tom said that, due to unavoidable pressures, ORR would need to find savings of £3.8m in real terms by the final year to meet the HMT target. He had developed three scenarios stepping up to an 11% reduction as set out in the paper. To achieve more than 11% would require cuts in headcount.
- 90 Given the levels of uncertainty for the Office now – particularly with Nicola Shaw's review of the structure and funding of NR – the executive's recommendation was that the Board might want to consider whether to reserve its position. If government restructured the railways that might have obvious implications for ORR's size and capability.
- 91 The executive had proposed a middle way: achieve cuts in year 1 consistent with HMT's desired trajectory but reserve the Board's position on subsequent years until it was clear what statutory activity ORR needed to perform in the light of the reviews.
- 92 We questioned Tom about details underpinning the figures.
- 93 Tom made clear that achieving 11% would be very challenging but was possible. Achieving the full 15% would require a reduction in full time posts and it was not clear how that could be achieved while fulfilling our statutory role. This was particularly difficult given the cyclical nature of the NR price review where resources need to increase to deliver the associated activity.
- 94 We noted that relative to other economic regulators we are already thinly resourced, and that we also undertake safety regulation.
- 95 We acknowledged that considering a reduction in fte posts would be hard, but we should also consider whether it would be sensible in the longer term – and was there anywhere we could invest to save, for example?
- 96 We could not know now what changes government might make to the railways next year and therefore it would not be sensible to commit to medium term reductions in budget: we needed to know that we could fund and deliver our statutory functions effectively in any new landscape. We were a lean regulator in a large industry and we must have sufficient resources to do our job. Our unique status as a combined safety and economic regulator meant that we already had some economies of scale and important synergies.
- 97 We also acknowledged that our new Chair would expect to take part in decisions of such magnitude.
- 98 We noted that our level of resourcing could be reduced as behaviours and culture improved in the industry – particularly around safety.
- 99 We agreed to the executive proposal of offering up a 3.8% reduction in 2016-17, but to reserve the Board's position on future years until the outcome of the reviews were clear.

## **ITEM 12 IT ISSUES UPDATE**

*Tom Taylor and Suzanne Hope joined the meeting for this item*

- 100 Tom introduced the paper, which responded to a request from the Chair. It described key problems with our IT systems including: speed and stability in the network, confidence in Mosaic, responsiveness of Capita, external connections.
- 101 Tom described the major decisions for the executive to resolve these issues particularly around PSN<sup>5</sup> membership and document management issues. We talked about the length of time that a migration away from the PSN would take.
- 102 We discussed current thinking on re-tendering for the IS contract – there was likely to be a very different contract model in future. However the current issues were not just about the contractor (who was meeting their service standards), they were also about an ageing infrastructure.
- 103 Richard said that the team were also looking at any areas where a small amount of expenditure might deliver improvements.
- 104 We asked Tom to keep staff informed both on plans for future availability and current performance.
- 105 We noted that the Mosaic issue generated a lot of internal discontent – as we had heard in face to face sessions with staff. Richard pointed out that what impacted staff was not always about Mosaic.
- 106 Tom explained how tightly the Capita contract was being managed and the constraint that the GSI environment added to our options for solutions.
- 107 We asked Tom to keep us updated through the CE's report.

### **ITEM 13 HIGHWAYS MONITORING FRAMEWORK**

*Peter Antolik and Richard Coates joined the meeting for this item*

- 108 Stephen Glaister briefed the Board on the previous day's Highways Committee. The consultation on our monitoring framework was coming to an end and the team were seeking agreement to the document for publication in October. The board agreed that the final form of the Monitoring Framework should be signed-off for publication by Richard Price and Peter Antolik.
- 109 ORR's first quarterly report had been produced and well-received by DfT. The second quarterly report (half yearly report) will be published. Some remaining gaps in the data were being filled slowly.
- 110 It seemed likely that Highways England (HE) will overrun their capital budget by 8% this year but it was not yet clear whether that would be overspend or deferred spend. Some schemes were opening on time, others were delayed. The team were considering whether the Monitor should welcome any 'on time openings'. Arrangements were in hand for an expert panel meeting to discuss supply chain on highways but with read-across to rail.
- 111 Stephen highlighted two issues. He had already mentioned that HE have been forced to incorporate their web presence into .gov.uk and he was concerned this reduced their ability to deliver information for the travelling public.
- 112 HE's KPIs included 'killed and seriously injured' numbers (KSIs). It was not clear why KSIs were rising – it might be as simple as the growth in traffic but more data was needed to understand the issues.
- 113 HE would have to work very hard keep the current levels, and much harder to reduce them as they need to do to meet the KPI. HE had a plan, but it would

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<sup>5</sup> Public sector network

need to be high impact. Stephen thought that ORR should be looking for assurance that HE considered safety as a whole system, in the same way as we look at safety on rail as a system.

114 Today's cars were safer but travelled faster than when most roads were designed. There is very little data collected on incidents and HE did not yet understand what was causing the uplift in numbers of KSIs.

115 Stephen was concerned that there was no-one charged with learning lessons from these incidents. HE should be encouraged to take a lead on data collection to enable better understanding. Peter said that HE have a safety strategy which they will publish this year but it did not link their actions with planned changes in risk.

116 Peter said that the team would produce a paper on potential synergies in road and rail for Board discussion.

117 The six month HE review would come to the Board in November, after scrutiny by the Highways Committee.

118 The Chair reported on her meeting with the HE Chair. He had asked that we develop a process which did not make public any regulatory issues until the HE had a chance to respond to them. This was a fair request and in line with ORR's priorities. Generally the HE chair said that he thought relationships were good.

#### **ITEM 15 FORWARD PROGRAMME**

119 The programme was noted

#### **ITEM 16 CHAIR'S REPORT**

120 No Chair's report had been circulated. Anna had briefed the Board by email on her key meetings

#### **ITEM 17 CEs REPORT**

*John Larkinson joined the rest of the meeting*

121 John reported that the relationship with TOCs on consumers had improved following more engagement at all levels.

122 He reported on the ticket vending machine summit called by the Minister and the ORR's ongoing work on compliance.

123 John reminded the Board that they had discussed AEFA<sup>6</sup> at the last Board and it would be published in October. The Chair should see the executive summary and press release. It was likely that the section on REBs would be removed because the figures were still being finalised.

124 John drew our attention to the supplementary paper on the Schedule 8 error. DfT's agreement to the actual numbers (Schedule 8 and DfT/TOC numbers) had now been secured. As agreed at the last Board, John had written to TOCs on 15th September and their responses were awaited. The Board had also seen a letter from the Secretary of State, in the context of the impact on his funds, seeking our views on the quality of our assurance processes. In relation to those assurance processes, John had been asked what more could have been done and should be done in future. He felt that ORR already applied good practice, and the only way to further materially improve assurance would be parallel running of models. We had good, experienced

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<sup>6</sup> ORR's Annual efficiency and financial assessment of Network Rail

people who checked the models internally and our external assurance work was in line with usual practice. It was a matter of judgement and further analysis for PR18 on the most appropriate future assurance.

125 The Chair would write back to the SoS.

#### **UPDATE ON PROJECT MARSHALL**

*Annette Egginton, Steve Armitage joined the meeting for this item.*

*This item has been redacted in its entirety as relating to current regulatory action.*

*Bob Holland left the meeting*

#### **ITEM 18 EAST COAST MAINLINE**

135 John Larkinson explained that the update was only about progress with the application process. If all parties met the current timetable ORR might have all necessary information by mid November, although this would be very tight.

*Paragraphs 136-141 have been redacted as part of a current regulatory process.*

142 We emphasised the importance of a clean and transparent process to provide the Board with options for making informed choices as soon as practicable.

143 We agreed that we did want (if at all possible) to take the decisions in the round in December (ie before 2016) but the process must be properly run in the right timescale.

[ends]