

Office of Rail Regulation
Railway Industry Health and Safety Advisory Committee (RIHSAC)

Minutes of the 100th RIHSAC Meeting
Monday 12 October 2015
Rooms 1 and 2, One Kemble Street, London

Present:

Justin McCracken	Chair, ORR non-executive director
George Bearfield	RSSB
Dave Bennett	ASLEF
John Cartledge	Passenger representative (Co-opted member)
Paul Clyndes	RMT
Steve Coe	TSSA
Jill Collis	London Underground
David Davies	PACTS
Steve Hedley	Assistant General Secretary, RMT
Bill Hillier	Heritage Railway Association
Mike Lunan	Passenger representative (Co-opted member)
Mark Molyneux	ATOC
Roan Willmore	Network Rail
Alastair Young	Transport Scotland
Dilip Sinha	ORR, RIHSAC secretary
John Gillespie	ORR
Ian Prosser	ORR, HM Chief Inspector of Railways; Director, Railway Safety
Johnny Shute	ORR, HM Deputy Chief Inspector of Railways
Sally Williams	ORR, Team Manager, Regulatory Management)item five
Martin Jones	ORR, Head of Railway Safety Policy)item six

Item one: Welcome, introductions and apologies for absence

1. Justin McCracken welcomed everyone to the 100th meeting of the committee. He noted that the agenda was different from that of other meetings, in recognition of this anniversary. He also felt it particularly appropriate that the hundredth meeting should be in 2015 – the 175th anniversary of the founding of the Railway Inspectorate in 1840.
2. Justin hoped that members would take the opportunity of the discussion to look not only at how the committee has worked to date, but whether there were ways to make changes going forward so as to be even better.
3. Apologies for absence had been received from Susan Murray of Unite; Chris Angell of DfT; Alun Tomas of BTP; John Collins of ATOC; Robert Nichols of London TravelWatch and Transport Focus; and Lisbeth Fromling of Network Rail.
4. Justin welcomed Roan Willmore, standing in for Lisbeth, and Mark Molyneux, who was present in place of Gary Cooper (ATOC). John Abbott of RSSB would join the meeting later to give a presentation on the new draft industry health and safety strategy. Justin also introduced Johnny Schute, ORR's new deputy director for railway safety.

5. RIHSAC reviewed the minutes from June 2015, and accepted them with two amendments. One was from Justin McCracken, and had been passed to the secretariat. The other was an amendment to para 42, to record that RSSB is “continuing to develop” a portal for the road driving risk project.

Item two: Chief Inspector’s update

6. Ian reported on developments since the last meeting. He introduced Johnny Schute, who had joined ORR that day as Deputy Director of Policy and Planning in Ian’s directorate. Johnny has completed 32 years in the Army. In the last three years he was the Chief Environmental and Safety Officer, leading 120 health and safety specialists.
7. ORR published ‘Better health is happening’ on 29 June. It assesses progress on occupational health up to 2014 and is now [on the web site](#). The report supports a need for action on key occupational health risks, including hand arm vibration syndrome, musculoskeletal disorders, respiratory diseases, and mental health. In the report, ORR challenges the rail industry to build on the recent good progress by maintaining a constant focus on managing ‘health like safety’ and take action where there are gaps.
8. ORR published its [annual health and safety report](#) on 21 July. It contains several key messages for the industry: managing growth will bring challenges; the need to maintain a sustainable and safe infrastructure; an emphasis on including safety issues at the design stage; and ensuring worker health is considered as important as worker safety. ORR’s report and analysis shows that there has been a significant improvement in the rail industry’s management of worker health, however there is still more to do.
9. As Justin had said, ORR celebrated the 175th anniversary of the foundation of the Railway Inspectorate on 10 August this year. It has celebrated this internally, with stories and facts from staff on our intranet, and externally too – members may have seen some stories about the anniversary in the papers.
10. On 17 September, the Railway Safety Directorate met for its annual conference at the Tower of London. Ian and staff were joined by Pam Warren from the Paddington Survivors Group, who gave a powerful speech warning that complacency on safety results in tragedy.
11. On 20 August, ORR began [a consultation](#) on how we use our powers to carry out our regulatory enforcement responsibilities arising from health and safety and other relevant legislation. This closed in September, and ORR is considering next steps.
12. Last week, ORR published final guidance on complaints handling procedures for passenger licence holders (ie train operating companies). The new guidance provides direction on what ORR will look for when exercising our approval role and monitoring continuing compliance.
13. Replying to questions raised, Ian said that ORR has completed its investigation of a derailling incident at Clapham Junction in April. He agreed to send a synopsis of ORR’s findings to the committee via the secretariat.

Action: Ian Prosser

14. Ian restated his call for safety to be included at the design phase, answering a point by Steve Coe about what the industry was doing on deaf/blind accessibility. ORR needs to persuade the industry to take the time to plan properly up front, which would save money later.
15. Asked about the correlation between the number of staff available at stations and the frequency of accidents, Ian said he didn't know the figures. However, he would make enquiries and report back.

Action: Ian Prosser

Item three: RIHSAC past and future: an evaluation

16. John Cartledge, a co-opted member introduced this presentation, which was the first of a series of special presentations being made to mark the hundredth meeting. He noted that when we look back at the history of the Railway Industry Health & Safety Advisory Committee (RIHSAC), what we are doing in effect is to review the last 40-odd years of railway policy in Britain, and in particular, the safety and regulatory challenges that have been faced by the industry during those decades.
17. Many changes have taken place - partly as a result of institutional change, partly as a result of technical progress, partly as a result of evolving societal attitudes and expectations, and partly as a result of advances in the understanding and systematic management of risk generally.
18. John explained the background to the enactment of the Health and Safety at Work, etc. Act 1974 and the creation of HSE. He further explained that this committee, then named the Railway Industry Advisory Committee, had been created in 1974 as one of a series of HSE industry advisory bodies.
19. Subsequent accidents at Kings Cross and Clapham Junction had led to lengthy enquiries which had produced reports looking, inter alia, at the industry's safety management system. In due course, the then Railway Inspectorate was transferred to HSE in 1990.
20. Following privatisation of the railway, and in response to concerns about possible conflict between safety and profit, HM Railway Inspectorate produced a report called *Ensuring Safety on Britain's Railways* which put forward a new and much more elaborate system for safety regulation, enshrined in the safety case and safety critical work regulations. All major operators would have to prove their fitness by submitting a safety case for approval, demonstrating their capability and commitment to delivering safety effectively, and all staff employed in safety critical roles would have to be licensed.
21. John Cartledge continued by explaining the events following the Ladbroke Grove collision and the subsequent Cullen inquiry, the appointment and departure of Alan Osborne as HSE's Head of Railway Safety, and the creation of RSSB and RAIB. He explained that the last major regulatory change had taken place in 2006, when HSE's railway safety responsibilities had been transferred to ORR.
22. It is a remarkable fact that whereas 50 years ago the rate of passenger fatalities on the main line railways was running at roundly one a week, and of workforce fatalities at two a week, both are now down to low single figures in a year, in a

period when usage of the network has doubled. In the 1970s, there were an average of four fatal train accidents a year. It is now eight years since there has been one.

23. The tragedy is that the fatalities arising from public behaviour, principally trespass and suicide, has more often been up rather than down, and these are now close to one every day – a fact which excites virtually no media or public debate. This illustrates the fact that there is now an increasing need to understand the human factors that can lead to incidents as engineering solutions are not always possible.
24. Throughout these four decades, RIAC – now RIHSAC – has been a continuing presence. In 1978 it had eight members, four nominated by the Confederation of British Industry (CBI) and four by the Trades Union Congress (TUC), reflecting the corporatist structure of the HSC itself. In 2015 it has grown to 19 members and six observers. Its effectiveness has been and continues to be underpinned by the breadth of experience of its members, and the frank but respectful nature of its discussions.
25. Justin McCracken and the committee thanked John for his presentation, and he agreed that the text should be published on the internet and promoted to the media via ORR.

Action: Secretariat

Item four – Looking forward to a better, safer railway

26. This item consisted of a series of three presentations, each looking at issues that the railway should address in future, following on from John Cartledge's look at the position from 1978 to 2015.
27. Paul Clyndes of RMT opened on behalf of his own union, ASLEF, TSSA and Unite. He began by reviewing issues that were being discussed in 1978, including familiar topics like stress factors in signal boxes, ear protection, and authorised walking routes. He particularly noted the consistent issues arising in respect of trackworker safety then and now.
28. Looking at what the unions believe is currently still done incorrectly on the railway, Paul mentioned concerns about a return to risk based maintenance (BCR); fragmentation of the railway and possible changes to Network Rail, leading to loss of opportunities for ill-health and accident reduction; and the familiar questions of profit and production being treated as more important than safety.
29. The unions don't see the whole picture as negative, though. There is growing recognition that rail employers must address health as main issue, and a continuing tripartite approach including working with health and safety representatives. An example of this will take place on 3 November, at the fifth annual ORR/trade unions conference.
30. The unions would like to see improvements in several areas. These include more meaningful consultation; full time release for a safety rep in every company – acting as a fulcrum between employers and those they put at risk; and better understanding and improvements in managing fatigue – again, with worker involvement.

31. Paul concluded by noting that a TUC report said that if the 11 franchises due to be renewed by 2020 were renationalised £520m would be saved on shareholder dividends and £240m on dividends to Network Rail subcontractors. So this would increase the Treasury's income.
32. The next presentation, by George Bearfield of RSSB, was prepared in consultation with ATOC and Network Rail. George started by noting that the graph for train accidents with workforce / passenger fatalities continued to show a welcome long term decline in incidents. New technology had made big dents in the number of incidents taking place – for example the number of signals passed at danger was reduced by introducing train protection.
33. There were still some areas where the figures were not improving though, such as suicide and trespass. Making an impact on these and other risks is the challenge for the future, and better information with local decision making and appropriate investment should make a difference.
34. George presented a list of major accidents, and how they had enabled lessons to be learnt. But as Ian Prosser has said, learning afterwards is not good enough – the railway needs to be proactive in managing risk and not rely on fatal accidents needing to happen before improvements are brought in.
35. RIHSAC noted the key challenges we are facing: the welcome growth in traffic; risks from terrorism and cyber attacks; continuing trespass and suicide events; and appropriate innovation, investment and technology. RSSB believes the industry needs an agreed approach to risk based decisions, which needs to be managed on a long-term basis, and not treated as issues which could be managed by knee-jerk reactions.
36. Turning to what the industry wants from ORR as regulator, George asked that it demonstrate consistent and joined-up behaviour; evidence based interventions; and promotion by ORR of leadership and maturity in the industry.
37. Concluding, George believed that the railway has made progress it can be proud of, but needs to continue to show leadership and pursue safety excellence. That requires being mature enough to work together with long-term strategy and perseverance, supporting each other in this journey even as challenges arise.
38. The final short presentation was given by Jill Collis of London Underground. She opened by explaining that there are over 430 stations, and as many passengers' each day as the mainline railway. The largest investment programme in history is ongoing, and a reputation for investing successfully means the Underground is trusted to deliver. Continuing this investment means it can deliver more, and do it better.
39. Jill explained LU's focus on engagement and collaboration. It has been consulting people working for its suppliers, and the feedback has been constructive. LU wants to see an improved health and safety performance and better compliance; a just culture; and the safest projects in the industry.
40. LUL is working with ORR as it implements its five-year inspection programme. Work with the trade unions is improving, but there are still blockages in the middle management area which will need addressing.

41. Forthcoming challenges include possible additional cuts by the Treasury in the spending review; working to balance renewals and investments; introduction of new technology, and being sure to do the basics well.
42. Summarising the discussion, Justin McCracken thanked everyone for their very good presentations. He noted that there are different, equally valid perspectives on the state of health and safety, but also much common ground.
43. In the discussion which followed, Ian Prosser again undertook to look, with RSSB, at whether staff reductions may affect the number of accidents. The committee agreed that trespass and suicide issues should be a stronger focus in future, with a need to have the right conversations going on.
44. Dave Bennett noted that the current Trade Union Bill proposed changes which could affect safety. The Secretary of State would have power to decide spending for health and safety reps, which may reduce the amount of partnership working companies are doing with the unions. Ian Prosser undertook that ORR would make enquiries and make its views known to the government if it had concerns about the proposals.
45. There was a short discussion on cyber security. RSSB has been asked by DfT to develop its knowledge base on this topic. Ian mentioned that safety by design was important here too. We agreed to have an agenda item on this topic in a year's time.

Action: Ian Prosser

Item five – ORR's revised health and safety compliance and enforcement policy

46. Sally Williams opened this presentation. She explained that it is two and a half years since the last review of ORR's enforcement policy, so it has decided to update it. The review includes consideration of:
 - the results of a review by the Attorney General's Office;
 - a wish to make it more accessible - less "legal speak";
 - being more representative of all ORR regulatory tools – the current document has too much focus on formal enforcement;
 - highlighting our priority areas;
 - including reference to the Growth Duty from the Enterprise Bill;
 - laying out our processes for meeting the Victims Code and Killick judgement
 - BUT the principles of enforcement have not changed.
47. Sally noted that there has been a targeted consultation e.g. HSE, BIS, Whitehall Prosecutors Group, Govt National Investigators Group. There has also been a public consultation via the website.
48. Feedback has been very positive, welcoming the changes, but ORR received some advice re clearer drafting. Sally asked if members wished to offer comments, but there was no immediate response.

Item six – European update: focus on the Fourth Railway Package

49. Martin Jones, ORR's Head of Railway Safety Policy, introduced this presentation, which features at alternate committee meetings.
50. Martin noted that we have a good idea of what the forthcoming legislation is likely to look like. Formal adoption by the European Parliament is likely before end 2015, with a three year transposition deadline from adoption date. January 2019 is the current EU working date for implementation.
51. The presentation explained the three parts of the package: the technical pillar – the revised safety and interoperability directives, and the revised ERA regulation. Martin explained that the EU believes change is needed as it believes rail growth is not keeping pace with other transport modes. It also sees the certification and authorisation process as a barrier to market entry.
52. In future, the proposal is for a single safety certificate. There will be an ERA role in deciding cross-border applications, and an option for single nation applicants to use its service. The EU will provide a tick-box one stop shop for all applications, and ERA will be responsible for other issues, eg approving tenders for ERTMS.
53. But many things will not change, Martin explained. He went on to list a number of open issues that ORR is working on, including linking ORR and ERA supervision and assessment tasks, transitional arrangements for current certificate holders, and development of ERA competence, resource and IT systems.
54. Martin concluded by explaining ORR's planned next steps, which include chairing the ERA/NSA group developing co-operation mechanisms, and working with DfT and industry on revising regulations and transitional arrangements, respectively. He suggested that RIHSAC members may wish to input to ORR consideration of EU proposals, flag areas of concern, and participate in any UK consultation groups ORR sets up.
55. In the discussion of wider European issues that followed, Dave Bennett suggested that it was possible that train drivers could fail forthcoming eyesight tests and lose the right to drive. Martin Jones agreed to discuss the issues with him outside the meeting.

Action: Martin Jones

56. In answer to further questions, Martin noted a request from HRA to ensure that it is excluded when the directives are transposed. Mark Molyneux stressed the importance of being alert to the risks of EU standards or ERA approvals not being concurrent with UK safety levels and expectations.

Item seven – Update on the draft industry health and safety strategy

57. John Abbott of RSSB introduced this presentation, which Justin McCracken had requested following a discussion on the issue at the ORR board.
58. Explaining the reason for the draft strategy, John noted that there was a Rail Industry Safety Plan before, and that when the question 'Should there be one?' was asked of industry, the answer 'yes' was broadly unanimous.
59. Leaders recognise that a focus on promotion of leadership and commitment to a cross-industry collaborative approach to health and safety has potential for benefit,

and industry recognises it needs to work better together to deliver improved health and safety performance. ORR meanwhile is supportive.

60. John explained that the strategy will be developed for the long term and focussed on areas where collaboration can deliver benefits. It will use ambition driven goals, not quantitative targets, and be designed to clarify and signpost, not to replace existing strategies. It will cover the entirety of the main line GB railway, including depots and sidings.
61. Via a series of slides, John took the committee through the work done to prepare the strategy, and its milestones to date. He explained that it is out to consultation this month, and agreed to a committee request that it be circulated for members' input. The agreed version is due to be published in January 2016, and will then be used to inform the Initial Industry Plan for CP6. The secretary agreed to circulate the current consultation draft to members so that they could offer any comments they may have by the end of October.

Action: Secretary, and all member

Item eight – Performance review

62. The secretariat noted a request that, where possible, powerpoint presentations should be circulated in advance of the meeting, to allow members to review them and plan any points they wish to make
63. Members agreed to let the Secretariat have any proposed agenda items for February by the end of this month,

Next Meeting

Monday 8 February 2016, from 1230-1600 at One Kemble Street.

Dilip Sinha

RIHSAC Secretary

October 2015