

THE OFFICE OF RAIL AND ROAD
140th BOARD MEETING
09:00 -12:30 TUESDAY 24th OCTOBER 2017
ONE KEMBLE STREET, LONDON WC2B 4AN

Non-executive members: Stephen Glaister (Chair), Tracey Barlow, David Franks, Anne Heal, Bob Holland, Michael Luger, Justin McCracken, Graham Mather

Executive members: Joanna Whittington (Chief Executive), John Larkinson (Director Railway Markets and Economics), Ian Prosser (Director Railway Safety), Graham Richards (Director Railway Planning and Performance).

In attendance: Dan Brown (Director Strategy and Policy), Russell Grossman (Director Communications), Freya Guinness (Director Corporate Operations and Organisational Development), Juliet Lazarus (Director Legal Services and Competition), Tess Sanford (Board Secretary),

Other ORR staff in attendance are shown in the text.

Item 1 WELCOME AND APOLOGIES FOR ABSENCE

1. The chair welcomed everyone to the meeting.
2. There were no apologies for absence.

Item 2 DECLARATIONS OF INTEREST

3. There were no new declarations of interest in relation to the planned business.

Item 3 APPROVAL OF PREVIOUS MINUTES AND MATTERS ARISING

4. Two corrections were made to the minutes. The chair would sign the corrected version.
5. The update on matters arising was noted.

Item 4: MEETING WITH NR

6. Before taking the executive updates, the Board reflected on their discussions with NR's Chair and Chief Executive the previous afternoon.
7. The board had heard from NR about their progress towards route devolution in CP6 and particularly how the Strategic Business Plan (SBP) would be developed following the announcement of the E&W SoFA.
8. That meeting had also discussed:
 - NR's approach to three important areas of safety risk (train accident, level crossing and workforce) and the importance of local capability in each route;
 - Progress made at route level on performance measurement, particularly around scorecards;
 - NR's emerging thinking about the management of financial risk across the company;
 - The contribution which good planning makes in delivering renewals efficiently and the current profile of planned work;
 - The functions of the system operator and existing capability within NR;

For publication

- The future of Infrastructure Projects (IP) functions;
 - The challenges inherent in major organisational change of this scale and the likely timescale for completion;
 - The importance of a long term view of the network in setting priorities for asset investment;
 - The importance of clarity around the operational framework so that the regulatory framework could develop appropriately.
9. The board discussed what they had heard, focusing particularly on the challenges facing NR and the regulatory issues around the central functions to be delivered by the System Operator. The Chief Executive would write to Network Rail to set out what information ORR needs on NR's emerging thinking around IP, SO, route services and the other central functions to enable continuation of the development of an appropriate regulatory framework. The letter would be circulated to Board members [Action]

Item 5: HEADLINES AND REGULAR REPORTS

10. **Ian Prosser** updated the Board on: the successful prosecution of the West Marina case and other enforcement activity; forthcoming reports on the multi-fatality Sandilands tram accident; and industrial action on the network. He would include six monthly headlines on health and safety in the industry to the next board meeting as part of his monthly report. The board discussed the challenges of vegetation management on the network.
11. **Graham Richards** reported on the recent publication of KSI¹ statistics by Highways England and a number of high profile motorway closure incidents which had generated public comment about HE's incident management. The board noted that the Highways Committee would be looking at this issue and the effectiveness of related KPIs.
12. Graham also reported on IEP authorisations, progress on the major Thameslink timetable update, and disruption following the blockade at Waterloo.
13. **John Larkinson** reported on NR's progress with property disposals and ORR's role in them; support to the Wales government on relevant parts of its franchise process; work on timetable changes in Scotland due in May 2018.
14. **Joanna Whittington** reported on meetings with ministers and members of the Transport Select Committee; new senior personnel at DfT; and work going on to consider the implications of changes to complaints processes for consumers.
15. She reported that under a delegation from the board the ARC had agreed a change of internal auditors from Grant Thornton to Mazars.
16. **Dan Brown** reported on the BNC's recent meeting with Eurotunnel.
17. **Freya Guinness** highlighted the financial position shown in the Q2 business review, progress on service standards, and described steps being taken to address resource risk around skills shortages and vacancies.

Item 6 ECONOMIC ENFORCEMENT POLICY - RAIL

Liz McLeod joined the meeting by phone for this item.

¹ Numbers of killed and seriously injured on the network

18. Revisions to the policy were necessary to reflect changes to GB legislation by the transposition of the European Access and Management regulations. A separate policy for Northern Ireland (which had been added to ORR's remit recently) would be brought to the board for agreement in November.
19. The board noted the importance of clarity for bodies brought into our jurisdiction by these changes and the limited nature of the changes proposed. The amended policy was approved.
20. David Franks reminded the board of his previously declared role as CEO of Irish railways which would be a relevant conflict of interest in considering the NI policy at the next meeting.

Item 7 FOLLOW UP TO BOARD AWAYDAY

21. The board had held a strategy awayday earlier in October which was felt to be useful in setting the medium term agenda for the ORR.
22. Dan Brown reported that feedback on the day would be shared with SCS in ORR and that actions arising would be built into a plan for review at the November board.
23. The non-executive members agreed that meeting stakeholders helped them be more effective as board members and asked for more opportunities to meet informally. The board noted that we had not undertaken stakeholder events in London, where many of our key stakeholders were based, and agreed that an annual awayday should be planned at an appropriate point in the calendar.
[Action: Board secretary]

Item 8 PR18 FINANCIAL FRAMEWORK

Paul Darby joined the meeting for this item

24. John Larkinson highlighted four crosscutting issues for the financial framework of PR18 and for NR.
 - The implications of reclassification of NR in terms of public finance rules and resulting continuing change;
 - The importance of transparency around ORR's plans for financial monitoring in PR18 and of engaging with a wider audience on those measures;
 - The wide range of outcomes still possible in terms of the level of government supervision around the detailed allocation of the funding settlement for NR; the setting of the E&W SoFA was only part of the process.
 - Questions around how regulation could work and the usefulness of traditional regulatory tools, like a RAB, in the new financial context.
25. ORR would publish a letter in December describing these issues and giving important context for the next stage of work. The board asked for an update at their November meeting [forward programme].
26. The board discussed the importance of maintaining measures in the regulatory architecture that enabled ORR to consider and protect the long term interests of the future users of the network.

For publication

27. The board discussed the recent seminar with the supply chain, and noted the importance of competition within that market to deliver efficient spend.
28. The November Monitor would describe new approaches to the monitoring of NR's efficiency in CP5.

Item 9 UPDATE ON OPEN ACCESS

Rob Plaskitt joined the meeting for this item.

29. John Larkinson introduced the item which described the background to access applications between Southampton and Waterloo from the franchisee and an open access operator. Work on assessing these applications was continuing – for example there remained questions around timetabling, capacity and performance.
30. There were some aspects of these applications which were novel and therefore the final decision would be brought to the board.
31. The board discussed the importance of timely decision making and noted the report.

Item 10 FEEDBACK FROM COMMITTEES

32. Bob Holland reported on Audit and Risk Committee business not already covered which include a 'deep dive' into risks around IT and people resources.
33. Michael Luger reported on Remunerations and Nominations Committee which had discussed SCS succession planning and in-year awards and a slight shift in approach to performance management.

Item 11 ANY OTHER BUSINESS

34. Two items of AOB had been circulated:
 - A. The board noted the report on the language of the legislation around ORR's role in arbitration for HS2. They agreed the approach to secure changes to the explanatory notes on the High Speed Rail (London to West Midlands) Act 2017.
 - B. The board delegated to Juliet Lazarus the signature of an updated leniency protocol with the CMA.
35. The Board noted the board forward programme and two sets of minutes from HSRC and Highways committee, approved in September.

Signed: Stephen Glaister

November 2017