

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

**Minutes of the 95th RIHSAC Meeting
Thursday 27 February 2014
Rooms 1 & 2, One Kemble Street, London**

Present:

Richard Emmott	Chair, ORR Director of Communications
John Cartledge	Co-opted member
Mick Cash	RMT
Paul Clyndes	RMT
Steve Coe	TSSA
Jill Collis	London Underground Limited
David Davies	PACTS
Peter Davies	British Transport Police
Colin Dennis	RSSB
Chris Fenton	RSSB
Robert Gifford	London Travel Watch/Passenger Focus
Mick Holder	ASLEF
Francis How	RIA
Bill Hillier	Heritage Railway Association
Peter Lovegrove	ATOC
Mike Lunan	Passenger representative
Len Porter	RSSB
Richard Sharp	Murphy (ISLG representative)
Allan Spence	Network Rail
Stuart Webster-Spriggs	Volker Rail (ISLG)
Ian Prosser	Director, Railway Safety, ORR; HM Chief Inspector of Railways
Dilip Sinha	ORR, RIHSAC secretary
John Gillespie	ORR
Martin Cooke	ORR) item 3
Sally Williams	ORR) item 4

Item one: Welcome, introductions and apologies for absence

1. Richard Emmott welcomed everyone to the meeting. He explained that Tracey Barlow, the non-executive director who would normally chair the committee, was unfortunately unavailable today, and he had been asked to act as chair. In future, it was likely that Mike Fairbairn, the ORR non-executive director who chairs the organisation's internal safety regulation committee, would act as chair. However, ORR will confirm this in due course.
2. Richard reported that apologies for absence had been received from Chris Angell of DfT, Gary Cooper of ATOC, Alastair Young of Transport Scotland; Dave Bennett of ASLEF; John Collins of Angel Trains; Susan Murray of Unite the union; and Garry McKenna of DRDNI. He welcomed Len Porter and Chris Fenton of RSSB, along with Stuart Webster-Spriggs of Volker Rail, who were present to give presentations; Peter Davies of British Transport Police; and Stephen Chamberlain from the Welsh Government.

3. The committee reviewed the minutes from the October 2013 meeting. John Cartledge asked that the end of the final sentence of paragraph 20 be amended to read “only mandatory for new infrastructure”. Members also heard an update re paragraph 26 (RSSB’s PTI strategy group); paragraph 49 (ORR’s presentation to the Transport Select Committee); paragraph 51 (ORR’s consultation relating to the red tape challenge); and from ATOC on a presentation given at a previous RIHSAC meeting about stranded trains. The secretariat undertook to circulate ATOC’s revised guidance, which is currently being consulted on, to RIHSAC members for comment.

Action: secretariat to circulate ATOC guidance

Item two: Chief Inspector’s Update

4. Ian Prosser reported on developments since the last meeting. He reported that John Wright, a trackworker involved in an accident on 22 January, had died on the 31st. This was a reminder of why the trackworker safety item on today’s agenda was topical.
5. ORR held an all staff conference on Tuesday this week, themed ‘ORR 2020: from good to great’. Over 90 percent of our staff attended, as well as members of our Board. The conference looked at what we need to do to make sure that ORR is a fit for purpose regulator for the industry as the sector changes, with a snapshot date of 2020 chosen as the focus date. David Brown, Go Ahead’s chief executive and a NED of the Rail Delivery Group was the guest speaker. He gave an interesting presentation on how he sees the industry in 2020, and answered some questions from ORR staff. Tina Hughes, the mother of Olivia Bazlington, one of the girls killed in the Elsenham level crossing accident in 2005, had given a talk with Ian about level crossing safety, and this had been very successful.
6. Network Rail formally accepted the content of ORR’s final determination for periodic review 13 this month. That means that we and it can get to work straight away at the start of the next control period in April, following the publication of its delivery plan in March.
7. ORR held a stakeholder briefing workshop on Monday this week, which was attended by over fifty industry representatives, to discuss our draft business plan proposals for the work year starting in April. We’ll now consider the feedback from that before we publish the business plan. As usual, the committee secretariat will send a link to the business plan once it is published.
8. ORR launched a new website this month. It’s much more colourful, far better structured, and designed to make it easier for people to find information than was the case with the previous site. ORR would welcome any feedback from members.
9. Recently, the Court of Appeal ruled on Network Rail’s appeal against the fine it received for failures which led to the accident at Wrights Crossing. The court concluded that there had been serious offending by Network Rail. Local management culpability was serious and persistent, with failure to carry out risk assessment and risk control of the level crossing properly over many years. It upheld the fine of £500,000.
10. This sets a significant legal precedent which will allow courts to set fines at a level that genuinely brings home the seriousness of health and safety breaches. The

judge also called for directors' performance bonuses to take into account Network Rail's safety record.

Item three: Trackworker safety: what can we learn from each other?

11. Mick Cash, Assistant General Secretary of the RMT union, introduced this presentation. He thanked the committee for the chance to raise the issue, and gave details of a number of incidents that he thought showed that there is no room for complacency. These included:
 - the tenth anniversary of the Tebay incident, on 15 February – four workers died in this accident;
 - the death of two trackworkers in a road traffic accident at Newark following a 240 mile drive to do some work in Hertfordshire;
 - incidents involving lookouts at Whitehall Junction and Newark;
 - concerns about near misses and under-reporting of incidents.
12. Mick noted that there are approximately 88,000 people employed as track workers – 67,000 being in the contractor and agency sector. They are split between hundreds of contractors and agency companies, with an estimated 60,000 PTS holders on zero-hour contracts, which he described as “bogus self-employment”. Mick noted that Ian Prosser, the Chief Inspector, had commented that zero-hour contracts could lead to situations that are “not conducive to the development of a safe railway”.
13. Mick noted that the last three control periods have seen a total of over £100 billion in funding provided to Network Rail. He suggested this security of funding should cause people to ask whether, given this, there was a real need to have contingent labour, or to contract out so much work. Was the number of extra interfaces this created leading to the introduction of unnecessary risk on to the railway?
14. The news was not all bad, however. Mick said that there had been improvements under Sir David Higgins at Network Rail, and the current chief executive. These included more openness and transparency; better engagement with the unions and workforce; and trade union representation on the company's safety, health and environment (SHE) committee.
15. Mick then took the committee through various changes that have been or are taking place in management and control procedures; technology and culture. He explained how these had improved things for the workforce generally and for trackworkers in particular. He concluded with a plea that the pace of change should be appropriate, that risks should be properly assessed and controlled, and that the need for good performance should not lead to inappropriate systems being introduced for track access or other issues.
16. Richard Emmott thanked Mick Cash and Paul Clyndes for their presentation. In the discussion which followed, Ian Prosser thanked Mick Cash for the very constructive role he was playing on the NR SHE committee. Allan Spence echoed this on behalf of Network Rail. Ian said it was clear that mainline trackworker safety was still not good enough. Reporting of incidents had improved, but there was more to do. Safety critical workers need to act as leaders and drive culture improvement. ORR

has served over seventy notices on Network Rail in the last ten years for worker safety issues.

17. Allan Spence, speaking for NR, said there was nothing in Mick's presentation he would disagree with. Lots of change is taking place, and it is important to look at how it affects individuals. The new contract being introduced this year regarding supply of staff to NR would raise the bar – something he would be personally very pleased to see, as it would ensure that firms working for NR were good quality. It would be good to see new briefing material introduced that was not written, as it would be easier to brief out to gangs.
18. Jill Collis said that LUL had similar systems in place to NR. It was also looking at remote maintenance and similar improvements. For RSSB, Len Porter congratulated Mick Cash on an excellent presentation and explained the benefits of risk-based maintenance for the company and its workforce.
19. Richard Sharp and Stuart Webster-Spriggs then gave a presentation on behalf of ISLG. They explained the membership structure of ISLG, explaining that the wide range of bodies represented enabled a cross-railway view to be taken on important issues including those affecting trackworkers.
20. ISLG also participates in many other initiatives, including RSSB's health and welfare project; the road driving risk project; the track worker safe access strategy; and the roles and responsibilities and Sentinel 2 projects.
21. Recent completed ISLG workstreams include a common induction project, and a site access controller training package – which would refer proof of competence before going on strike, and would save site safety controllers having to repeat generic information to gangs rather than that related to the particular site concerned.
22. Richard Emmott thanked the ISLG delegates for their contribution to the trackworker discussion. Answering Mike Lunan, Richard Sharp said it was not likely to be possible to track second jobs that staff hold outside the railway.

Item four – ORR's complaints handling process

23. Sally Williams opened this presentation. She noted that ORR received complaints from a number of sources, including the workforce, rail passengers, and members of the public who were not passengers. ORR has an in-house process for handling complaints, and Sally has just completed the process of revising this and placing the new version on the ORR website. She wanted to take the time to explain the main changes to committee members.
24. Sally explained that the revised documentation introduces our policy on complaints; sets out factors to consider when deciding on a course of action; and refers to whistleblowers. It also gives guidance on the process to follow, and can be found on the ORR website at http://orr.gov.uk/data/assets/pdf_file/0016/6442/safety-complaints-policy-and-guidance-web.pdf.
25. Finally, Sally explained the situations where ORR may not investigate a complaint: for example where the complainant wishes to remain anonymous, withholds contact details and/or requests that we do not reveal that a complaint has been made; the issues have not been taken up with the company first (except for

whistleblower complaints); it is from a vexatious complainant; or does not raise issues under health and safety law.

26. Richard Emmott thanked Sally for the presentation. In the following discussion, Sally said that complaints provided ORR with good insight into companies' safety systems and attitude, but didn't always provide information that could be shared to encourage good practice. She said that ORR would not usually provide information to CIRAS, and when complainants alleged that train crowding was dangerous it would refer them to a RSSB research report for guidance on the risks (if any) this created.

Item five – The view from RSSB: two chief executives speak

27. Len Porter, RSSB's chief executive, introduced this item. He explained that he has now been in post for eleven years, and had dug out material from a presentation he had given ten years ago, after having been at RSSB for a year. He would now be looking back at that data, to see how far the railway has moved forward since then.
28. Len said he has written to the Secretary of State for Transport explaining that GB rail was in many ways doing much better than its international competitors. Changes were in place in GB that would allow for risk based improvements, a situation that was not mirrored in Germany, for example. It was now six years since the last fatal train accident – Grayrigg – and we have the lowest risk of passengers being killed in train accidents ever.
29. However, there are developing causes for concern. For example, the precursor indicator model has been flatlining since 2006, and some areas of risk were now actually increasing. Not all of these could be avoided: e.g. weather changes.
30. Len explained that in a previous job, in the oil/gas sector, he had worked to develop a standard business case setting out the objectives (to specification, volume and time) and the state that assets must be in for the objectives to be delivered. The only way to make progress is to work smarter and introduce a risk-based approach. This would avoid increases in both planned and unplanned asset availability, and reduce operating expenditure. It would also provide the opportunity to make the best use of time spent on capital expenditure, e.g. to introduce improvements.
31. Most modern industries are now looking at a risk based, whole life approach to assets. Performance and technical integrity of assets needs to be maintained at all times, and it is useful to have an independent audit and assessment regime.
32. Len believed that the main areas of concern in relation to the structure of the railway lay in the increasingly complicated structure of the industry. New bodies are constantly being added, and yet accident reports have made clear that increasing levels of complexity had caused accidents. He would like to see a proper integrity assurance process being introduced in future, looking in detail at crucial risk based areas and considering the design life cycle.
33. The industry doesn't, said Len, really understand risk related to expenditure. We need the right systems to ensure that the right amount is spent on the right risks. Only once we have correctly assessed the level of risk is it safe to cut expenditure; doing so earlier can, and will, lead to system failures.

34. Len concluded with a series of challenges for the industry: properly understand risk management and technical integrity; take a holistic system view; stop blaming standards or health and safety for cost increases brought about by poor project management; properly understand how to do technical specification and planning.
35. Chris Fenton, RSSB's Chief Executive designate, then took over. He gave details of his background as a materials scientist, and his previous work in the industry with Amey and Tube Lines. He felt it was a really exciting time to be joining rail, for reasons set out in his slides.
36. Chris said his first impressions were that there are a lot of challenges to face; that the industry is complex; and that while it was true that there is a lot of heroic work done day-to-day to keep the industry running, it's wise to remember that the people in the back room can have a long term beneficial effect, if they do the right work.
37. Chris explained RSSB's workstreams, and its focus on research and innovation. There is a strong people dimension to the work, demonstrated by the health and wellbeing strand.
38. Chris ended by saying that he thought RSSB is well regarded, with an evidence based approach based on gathering data; it is independent, has a dedicated staff and works well to promote co-operation among industry partners. But there are still challenges of course: managing innovation, setting priorities, proper engagement with member organisations and stakeholders.
39. Richard Emmott thanked both Len and Chris for their presentations. In the discussion which followed, Rob Gifford asked if Len agreed with the need for political buy-in, to achieve stability. Len Porter agreed that it was needed, but said that he felt DfT pushed accountability on to the industry without always passing authority along the line as well.
40. John Cartledge said that there had been almost constant regulatory and structural change for the first ten years after privatisation; but this had steadied in the last five years. But the industry had been described as "a loose confederation of warring tribes." He wondered if this allowed enough common ground for delivery? Responding, Len Porter said that the industry had become more complicated since McNulty. But he did support the Rail Delivery Group, which was taking an overall view. It's not just about the TOCs and Network Rail: companies like Bombardier and Alstom are long-term players and should be seen as having a stake in the future.
41. At the end of the discussion, Ian Prosser thanked Len Porter for his contribution to the industry. This was echoed by the other committee members, and Len then left the meeting.
42. Richard Emmott left the meeting at this point, and Ian Prosser took the chair.

Item six – RSD business priorities for 2014-15

43. Ian Prosser introduced this presentation, which gave details of ORR's health and safety priorities for the 2014-15 work year. Ian explained that there were no major changes, but that the main feature was a move towards more proactive inspection and audit, with less reacting to events. He estimated that the proactive work would form over 60 percent of all the work his teams would do.

44. Ian circulated a slide to members showing a list of activities that ORR will carry out under objective one of its business plan: 'drive for a safer railway'. That slide also sets out ORR's vision for what the industry will look like in 2030.
45. ORR's strategic risk priorities were placed on its website in 2012, and these are continually being reviewed and updated. Ian confirmed that ORR will continue to do all the work it is required to do under statute, and continue to inspect all varieties of dutyholder. In addition, it will do joined-up oversight work (safety/economic) of the implementation of the PR13 determination by Network Rail, with focuses on areas such as level crossings; trackworker safety; structures; and occupational health.
46. Ian explained that his directorate's Network Rail Division has been restructured, with specific project teams looking at track, structures, level crossings, and workforce safety. There would continue to be teams for each of the five routes, and they would look at ORR's other priority risk areas.
47. The Chief Inspector closed with a series of slides showing how his teams' work fits with other work done across ORR as an integrated regulator, and giving details of headcount figures.

Item seven – meeting review

48. Members explored possible agenda items for the next meeting. ORR agreed to review a recent article in Modern Railways magazine challenging the ORR's approach to safety management, and to consider inviting the author (Ian Walmsley) to give a presentation to the June meeting so that members could test the strength of his arguments. Members also agreed that the secretariat would invite suggestions for other areas of discussion, which should be in line with ORR's revised terms of reference and selected to allow the committee to explore an area of risk on the railway and provide advice to the regulator.

Next Meeting

Tuesday 10 June 2014, from 1230-1600 at One Kemble Street.

Dilip Sinha

RIHSAC Secretary

February 2014