

For publication on ORR website

Office of Rail Regulation

Approved Minutes of the 25th ORR Board meeting held on 19 June 2006 (10:15 – 12:45) at ORR's Head Office, 1 Kemble Street, London, WC2B 4AN

Board Present:

Chris Bolt Chairman
Michael Beswick Director Rail Policy
Peter Bucks
Bill Emery Chief Executive
Jeffrey Jowell
Jane May
Jim O'Sullivan

In attendance:

Rob Andrews Director Rail Safety Policy
Shamus Kenny Board Secretary
Michael Lee Director Industry Monitoring & Analysis
Lynda Rollason Director Corporate Services
Linda Williams Chief Inspector
Tim Head Chairman of the Audit Committee (item 3)
Brian Warrener Deputy Director Corporate Services (item 3)
meeting before the end of his appointm

ent period due to other commitments.

2. The Board recorded its thanks to Chris Stokes for his significant contribution to ORR's work over the previous two years.

Item 2: Declarations of interest

3. There were no interests for Board members to declare relevant to the agenda.

Item 3: Audit Committee items

ORR annual accounts 2005-06

4. The Board noted and approved the annual accounts and the timetable for their publication, subject to the checking of one figure. The Audit Committee had reviewed the accounts on 12 June 2006 and NAO's audit found that there were no material weaknesses in the accounting and internal control systems. A management letter would be issued in due course. The Comptroller and Auditor General would be able to give clear "true and fair" and "regularity" audit opinions on the accounts.

5. The Board acknowledged the effort of staff to complete the accounts in accordance with HM Treasury's faster closing initiatives targets.

Audit Committee annual report to ORR's Board and Accounting Officer

6. The Audit Committee Chairman, Tim Head, reported on its activities over the last year. It had reviewed risk management processes and recommendations for improvement were being adopted. Internal control procedures had been audited and were found to be satisfactory and all weaknesses identified had been addressed through agreed action plans. Having received and challenged reports from ORR management, NAO and Internal Audit, the committee's judgement was that ORR's risk, governance and internal control framework were satisfactory and fit for purpose. The committee congratulated staff on these achievements, particularly given the inherent risks associated with the transition to a merged health and safety and economic regulator.

7. The Board noted the activity of its committee, supported its findings and noted the proposed future activity.

8. The draft minutes of the committee meeting on 15 June 2006 would be circulated to the Board shortly. In addition to the annual accounts and its annual report the meeting had discussed risk management, audit follow up reports and the role of internal auditors.

9. Tim Head would stand down as Chairman of the committee after two years on 4 July 2006 to be replaced by Peter Bucks. Tim Head thanked his committee colleagues and the staff who had attended meetings. The Board thanked Tim Head for his efforts for ORR and his help and support to members of the committee over the last two years.

10. The Board congratulated Brian Warrener on his appointment as Deputy Director of Corporate Services.

Item 4: Approval of minutes of the 24th Board meeting on 22 May 2006

11. The Board approved the minutes of its 24th meeting on 22 May 2006 and authorised the Chairman to sign them. The approved minutes would be published on ORR's website.

Item 5: Matters arising (not taken elsewhere on the agenda)

12. The Board noted progress on actions agreed at previous meetings and updated the table.

Item 6: Chairman's Report

13. The Board noted the Chairman's activities over the past month, which included:

- Meetings with Douglas Alexander the new Secretary of State for Transport; the ATOC Board (with other Board members); Peter Vass and Ian Bartle (CRI) to discuss regulators' approaches to sustainable development; G5; and separate meetings with the journalists Nigel Harris and Christian Wolmar.

- ORR events including the press briefing on the quarter four Network Rail Monitor and ORR's annual report; the roundtable event with industry and academic experts on incentives; and the Safety Regulation and Periodic Review Committees.
- Speaking at the RFG and Berlin Embassy sponsored conference on the British experience of rail restructuring and regulation; and the SBGK "Utility Regulation Seminar 2006".

Item 7: Chief Executive's report

14. The Board agreed to extend the delegated authority it agreed for HM Chief Inspector of Railways on 20 February 2006 to her deputy.

Resolution of the Office of Rail Regulation

The Office of Rail Regulation hereby authorises any employee for the time being holding the post of HM Chief Inspector of Railways or Deputy HM Chief Inspector of Railways:

- a) to perform, on behalf of the Office, any of its functions relating to its responsibilities for the enforcement of the relevant statutory provisions, as defined by section 53 of the Health and Safety at Work etc. Act 1974, subject to the condition that the performance by HM Chief Inspector of Railway of those functions is in accordance with any Health and Safety Enforcement Policy which the Office may from time to time approve;
- b) to authorise in writing any officer or servant of HM Rail Inspectorate (being an employee of the Office of Rail Regulation) to perform those functions on behalf of the Office, subject to the condition that the performance by the employee of those functions is in accordance with any Health and Safety Enforcement Policy which the Office may from time to time approve.

15. The Board also authorised the Chief Executive to sign the Memorandum of Understanding (MoU) between ORR and local authority organisations (The Local Government Association, The Welsh Local Government Association, The Convention of Scottish Local Authorities, and The Local Authorities Co-ordination of Regulatory Services). The MoU described the arrangements for co-operation between ORR and local authorities in relation to the regulation of health and safety on the railways following the introduction of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006, which existed alongside the Health and Safety (Enforcing Authority) Regulations 1998. As with other ORR MoUs, it would be reviewed periodically to ensure that it was fit for purpose.

16. The Board noted updates on industry safety developments including permission granted to ORR to intervene in the Potters Bar judicial review hearing at the High Court, London, on 19-21 July 2006; the intention to publish guidance on managing fatigue in safety critical work; and that the independent report on the Hatfield rail crash inquiry would be presented to the Board on 17 July 2006 prior to publication (the Chair of the inquiry would be invited to present the report if she was available).

17. The Board noted the other updates on key policy and office activities over the previous month. These included:

- Good industry performance had continued through May and national PPM had risen to an annual moving average of 86.7% (90.4% in the period). However, the Western route, and high speed Greater Western services in particular, continued to cause concern. ORR had completed the fact finding part of its investigation and would seek agreement to the development of a robust and quantified joint recovery plan at a meeting with Network Rail and First Group in July 2006. The Board noted the helpful summary performance graph that had been sent to NTF.
- Discussions with the Olympic Delivery Authority as national rail services will play a major role in moving audiences to and from the Olympics site.
- Preparation for the expedited hearing on the judicial review of ORR's decision on access rights on the east coast main line for four days in the week commencing 10 July 2006.
- ORR evidence to be submitted to the Transport Select Committee inquiry into franchising.
- Progress on the Periodic Review project.
- Monitoring and enforcement issues, including the internal governance process for determining whether Network Rail was in breach of its licence. The Board noted that the Wilmslow – Sandbach line was due to open to the public week commencing 26 June 2006 with a limited service.
- Office updates on integration arrangements and issues for the new ORR, including the launch of the values action plan to staff and a training needs analysis project as part of an overarching integration strategy. The Board also noted current budget information and progress against the business plan and the current vacancy and recruitment situation. In areas where there were a number of staff vacancies the work was being prioritised to ensure delivery of the corporate strategy.

Item 8: Chief Inspector's report

18. The Board noted the Chief Inspector's Board report. This provided information on; overall health and safety performance; HMRI work activities for 2006-07 to support its priorities; formal enforcement; significant meetings; industry progress reports; update on RAIB reports and recommendations, and RSSB formal inquiry reports; and joint working with other ORR colleagues.

19. The Board would be updated on procedures to respond to and monitor progress against RAIB recommendations.

Item 9: Chief Inspector of Railways' annual report on railway safety 2005

20. The Board noted the Chief Inspector of Railways' annual report, which would be published on 12 July 2006. The format of the report was consistent with previous annual reports but would be reviewed by ORR in 2007.

Item 10: Implications of devolution of specification and funding responsibilities for rail services

21. The Railways Act 2005 included legislative changes to implement the different role in service specification and funding for devolved governments in Scotland and Wales and regional and local bodies, envisaged in the Rail Review White Paper. The Board had previously discussed the implications of devolution of responsibility to Scotland. It now noted the current developments in specification and funding by devolved governments (Scotland and Wales), regional and local bodies and likely future developments.

22. ORR had specific duties in respect of Scottish Ministers, Transport for London and the National Assembly for Wales, and had arrangements in place (e.g. through consultation) to have regard to these duties when exercising relevant functions. Its approach in respect of other specifiers / funders had been to have regard to their views as an input to the discharge of its other section 4 duties (e.g. consulting them on access issues). Effectively ORR was ensuring a balance between specifiers / funders interests and other stakeholder interests.

23. The Board reaffirmed its support for decentralisation of decision-making, and for promoting market mechanisms and competition as set out in ORR's corporate strategy. It noted some of the tensions between these objectives when decisions were devolved to local funders. The Board agreed that ORR should continue to respond positively to devolved funding and develop a process for balancing its support for market forces with, for example, the desire of some funders to support multi-modal transport planning that met sustainable development objectives, but did not necessarily maximise commercial opportunities.

24. ORR would continue to develop effective dialogue with all stakeholders to identify conflicts and potential problems and would encourage the use of the regulatory framework to support this. For example ORR would encourage Network Rail to produce as many route utilisation strategies as it could prior to the periodic review. The high level output specification and periodic review should provide clarity on what services were being purchased and on who paid for increments or decrements to those services.

Item 11: Board committee minutes

25. The Board noted the minutes of its committees that had met since the last Board meeting.

Audit Committee: 15 June 2006

26. The Chairman of the committee had provided a summary of its discussions at item 3 above.

Periodic Review Committee: 18 May 2006 & 12 June 2006

27. The Board noted the draft minutes of the 18 May meeting, following the oral summary it had received on 22 May 2006.

28. The 12 June meeting had received a presentation from ATOC on its strategy in relation to HLOS and the PR08. It also considered feedback from the round table discussion on the incentives framework; the project plan for

assessing Network Rail's Initial Strategic Business Plan; and the initial thinking for a stations policy paper to be submitted to the Board in July 2006. Draft minutes of the meeting would be circulated to the Board shortly.

Safety Regulation Committee: 30 May 2006

29. The committee had discussed: emerging European policy; infraction proceedings; development of a level crossings strategy; discussions with RSSB; and industry safety reports.

Remuneration Committee: 22 May 2006

30. The committee had recommended pay and bonus awards for Senior Civil Service staff, which had subsequently been agreed by the Board in correspondence. The Cabinet Office had agreed the final recommendations.

Item 12: Any other business

31. There were no additional items of business.

Item 13: Date of next meeting

32. The next ordinary meeting of the Board was 17 July 2006 from 10:15

33. The appointment by the Secretary of State of a new non-executive member of the Board was expected before the next meeting.

Chris Bolt
Chairman

Minutes approved by the Board on 17 July 2006