

**For publication on ORR website**

**Office of Rail Regulation**

**Approved Minutes of the 19<sup>th</sup> ORR Board meeting held on 13  
December 2005 (14:00 – 17:40) At 1 Waterhouse Square,  
138-142 Holborn, London**

**Board Present:**

Chris Bolt	Chairman
Peter Bucks	(from item 4)
Bill Emery	Chief Executive
Jeffrey Jowell	
Jane May	
Jim O'Sullivan	
Chris Stokes	

**In attendance:**

Shamus Kenny	Board Secretary	
Juliet Lazarus	Head of Legal Services	
Rob Andrews	Director Rail Safety Policy	(Items 1 - 10)
Michael Beswick	Director Rail Policy	(Items 1 - 10)
Michael Lee	Director Industry Monitoring & Analysis	(Items 1 - 10)
Sarah Straight	Director Rail Markets, Passengers & Freight	(Items 1 - 10)
John Thomas	Director Regulatory Economics	(Items 1 - 10)
Linda Williams	Chief Inspector (Designate)	(Items 1 - 10)
Tim Head	Chairman of Audit Committee	(Item 5)
Jessica Walters	Senior Legal Adviser	(Item 11)

**Item 1: Welcome and apologies for absence**

1. There were no apologies for absence.

**Item 2: Declarations of interest**

2. Chris Stokes was a Director of Superlink Ltd and currently undertaking consultancy work for the Greater Manchester Passenger Transport Executive. The Board considered his interests in relation to the items on the agenda. It agreed that the only item where he may be required to withdraw from the meeting would be if it were appropriate for parts of the discussion on conflicts of interest (item 12). (Note: He was not asked to withdraw during that item).
3. The Board noted that the brother of Peter Bucks was an editor at Sky News. It agreed that this would not represent a conflict of interest when discussing a Freedom of Information Act request (item 11) from a Sky News journalist. Peter Bucks would not have to withdraw for any part of that item.
4. There were no other interests for Board members to declare relevant to the agenda.

### **Item 3: Approval of minutes of the 18<sup>th</sup> Board meeting on 21 November 2005**

5. The Board approved the minutes of its 18th meeting on 21 November 2005, subject to one amendment, and authorised the Chairman to sign them.

### **Item 4: Report of Periodic Review Committee (PRC): 7 December 2005**

6. Bill Emery, the Committee Chairman, summarised the discussions of the first PRC meeting on 7 December 2005. PRC agreed amendments to ORR's initial CP4 assessment document and the signing off process prior to publication. The assessment would be launched at a press conference on 15 December 2005, at the same time as the consultation on the updated Corporate Strategy was launched.

### **Item 5: Report of Audit Committee: 8 December 2005**

7. Tim Head, the Committee Chairman, summarised the discussions of the sixth Audit Committee meeting on 8 December 2005. A summary and action note had also been circulated.

8. The Board noted the good progress on risk management. The Committee would see the HSE Rail risk register (or if available a merged ORR risk register) at its next meeting.

9. The Committee had noted progress against the internal audit plan for 2005-06 and with ORR staff implementing recommendations from audit reports. Internal audit had provided substantial assurance on the risk management, control and governance procedures surrounding business planning.

10. The Board agreed the annual resource accounts timetable supported by the Committee and noted the NAO audit plan. The final audited accounts would be presented to the Board for agreement on 19 June 2006.

11. The Committee had also: noted the current position with the Safety Levy Regulations and other transition issues; agreed to review the role of internal audit; and discussed the outcome of the HM Treasury financial management review and follow-up work to be done to ensure robust financial and business planning systems were in place.

12. The Committee has also met with its internal auditors and NAO with all ORR staff absent except for the Board Secretary. Both internal audit and NAO were positive about their relationship and dealings with ORR staff and the operation of the Audit Committee, saying the quality of papers and information compared favourably to other organisations that they worked with. Both would be seeking more engagement with the senior team in 2006-07.

### **Item 6: Report of Safety Regulation Committee (SRC): 13 December 2005**

13. Jim O'Sullivan, the Committee Chairman, summarised the discussions of the second SRC meeting on 13 December 2005.

14. The Committee had noted its revised terms of reference and agreed proposals for a forward agenda, including the level of industry safety data it required. It had reviewed progress on transition issues, including legislation, and confirmed that the HMRI workplan already developed for 2006-07 would not be changed but would be reviewed during the year so that future years saw the benefit of being a combined health and safety and economic regulator.

15. The Committee had also discussed safety issues in relation to the HLOS, but would discuss this further at a future meeting.

### **Item 7: Matters arising (not taken elsewhere on the agenda)**

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

### **Item 8: Chief Executive's report**

17. The Board noted the report, which updated it on key policy and office activities over the previous month. These included:

- Industry developments including: current performance figures and ORR's work to address particular poor performance in Scotland; current safety incidents and that decision of the Secretary of State that there would be no public inquiry into the Potters Bar incident; details of the second Route Utilisation Strategy (RUS) consultation produced by Network Rail for Cross London services; and details of the Integrated Kent Franchise awarded by the Government to GoVia.
- Policy considerations from ORR's internal policy groups.
- Office updates on expenditure, human resources, communications and progress against the business plan and the development of the risk register.

18. **South Western Route Utilisation Strategy (RUS) consultation.** The Board recognised that this was the first RUS produced by Network Rail and that the content and process for future RUSs would be developed. ORR's formal response would address what broad content and consultation it expected to see for future RUSs. For this first RUS the response would say what further work was required to make the RUS fit for purpose before its submission to ORR in February 2006. The draft response would be circulated to all Non-Executive Directors for comment before Bill Emery signed it off.

19. ORR would discuss with Network Rail prioritising specific RUSs to inform the High Level Output Specification process.

20. **Performance Regime Final Conclusions** The conclusions were in line with the policy agreed by the Board in February 2005. The Board noted the reasons for and effect of a recalculation of Schedule 8 payment rates which represented an increase over current payment rates and the circumstances under which ORR would approve a cap on Schedule 8 bonus payments to Network Rail. The Board agreed to the publication of the final conclusions, which would be implemented from 1 April 2006.

21. **Regulatory approach to MerseyRail** The Board discussed its regulatory approach to MerseyRail, should it take over the MerseyRail network from Network Rail.

22. **King's Cross station redevelopment costs** The Board approved, in principle, an addition to the RAB in respect of the King's Cross station redevelopment (including the Northern Ticket Hall), based on a revised submission from Network Rail and DfT. However, it would be made clear in a published letter that third parties benefiting from enhancements should generally contribute to their cost.

23. **East Coast Main Line Open Access applications** The Board noted the work being undertaken to assess the applications and that it would expect to make a final decision at its January 2006 meeting.

24. **EWS Competition Case** The Board agreed that Chris Bolt, Bill Emery and Jeffrey Jowell would review the next stage of the documentation before Bill Emery signed it off.

25. **ORR's monitoring framework** The Board agreed that it would receive a paper in March / April 2006 on ORR's monitoring framework and programme to check Network Rail's compliance with its licence conditions.

26. **Budget** Bill Emery laid round a proposed budget for 2006-07 and indicative budgets for the following two years. The Board agreed that indicative figures for combined safety and economic costs would be included in the Corporate Strategy consultation. The initial increase in ORR costs was noted but the Board expected to see firm proposals for reducing these over future years prior to formally signing off the budget in March 2006. It would receive further papers on the budget process in January and February 2006.

#### **Item 9: Any other business**

27. There were no additional items for discussion.

#### **Item 10: Date of next meeting**

28. The next ordinary meeting of the Board was 23 January 2006 from 09:45.

#### **Item 11: Freedom of Information Act request**

29. The Board discussed a Freedom of Information Act request from a journalist. After careful deliberation, it agreed not to disclose the information. The reasons would be set out in full in the letter to the journalist.

#### **Item 12: Conflicts of interest**

30. The Board noted the legal principles relating to conflicts of interest and considered the practical implications for the conduct of decision making given the increasingly demanding tests developed by the courts for when an interest held by someone who participates in the decision making of a public authority may give rise to an appearance of bias.

31. The Board wanted to achieve a balance whereby its rules were strict enough to preclude any apparent bias in its decision making while not being so strict as to require the Board to lose the benefit of the industry experience of Board members, which could affect not just the quality of decisions but ORR's credibility.

32. Changes to the conflicts of interest policy would be considered by the Board in January 2006 and included in revised Rules of Procedure..

### **Item 13: Chairman's Report**

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

- Speaking at the Beesley lecture on 15 November 2005 (text published on ORR's website) and the Institute of Occupational Safety and Health Conference on 6 December 2006.
- Completing the initial round of lunches with transport and other journalists and interviews with Public magazine and Transport Times.
- Completing the final franchisee / train operator meetings. A report on issues from all of these meetings would be passed to Network Rail.
- A presentation by RBS on its 'StationCo' proposal.
- Meeting with Nigel Stapleton (Chairman of Postcomm) on regulatory and Board governance issues.
- Giving evidence to the Transport Select Committee on ticketing issues on 23 November 2005, which covered why ORR had not taken enforcement action on T-12 (but with a recognition that the industry was now broadly delivering on its obligations) and the limitations of ORR's competition powers to control what were seen as excessive fares for some open tickets.
- Discussion dinners at the Cass Business School on the Government's future transport plans and at CRI on Ofwat and Ofgem's work on sustainable development.
- Two Indepen CHEFs events including one Chaired by Chris Bolt on developments in regulation.

34. The Board noted the draft objectives for Chris Bolt and Bill Emery and agreed to provide any comments in correspondence.

**Chris Bolt**  
**Chairman**

**Minutes approved by the Board on 23 January 2006**