

For publication on ORR website

Office of Rail Regulation

**Approved Minutes of the 18th ORR Board meeting held on 21
November 2005 (09:45 – 13:25) At 1 Waterhouse Square,
138-142 Holborn, London**

Board Present:

Chris Bolt	Chairman
Peter Bucks	
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	(from item 9)
Michael Beswick	Director Rail Policy	(from item 9)
Michael Lee	Director Industry Monitoring & Analysis	(from item 9)
Sarah Straight	Director Rail Markets, Passengers & Freight	(from item 9)
John Thomas	Director Regulatory Economics	(from item 9)
Linda Williams	Chief Inspector (Designate)	(from item 9)
Paul McMahon	Deputy Director Regulatory Economics	(item 10)
Brian Kogan	Deputy Director Rail Markets, Passengers and Freight	(item 12)

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 and agreed that the only conflicting interest was on the Crossrail access options. Chris Stokes had not been sent the paper and would withdraw from the meeting for the discussion of the Crossrail access options.

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

**Item 3: Approval of minutes of the 17th Board meeting on
17 October 2005**

4. The Board approved the minutes of its 17th meeting on 17 October 2005, subject to two minor amendments, and authorised the Chairman to sign them.

Item 4: Chairman's Report

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

- Speaking at the Adam Smith Institute 'power lunch' and conference on Asset Management and at ORR's industry conference on merging economic and safety regulation.
- Giving evidence to the Public Accounts Committee hearing on stations.
- Individual meetings with transport journalists to discuss current issues and ORR's strategy.
- Meeting with the Secretary of State for Transport.
- Meeting with Mike Mitchell DfT. The Board noted that Bill Emery would attend future meetings in place of Chris Bolt.
- Individual meetings with franchisees. Common issues would be raised with Network Rail.
- Visit to Scotland with Bill Emery to meet both Transport Scotland and HMRI staff.
- Meeting Lord Denis Tunnicliffe and Len Porter (RSSB), with Bill Emery.
- Meeting with the Better Regulation Executive to discuss the Better Regulation Bill.

6. The Board agreed that the range of meetings with all stakeholders enabled ORR to do its work effectively. The Board was clear and committed to ensuring that these meetings did not diminish ORR's ability to be critical of the issues put to it by stakeholders, particularly government, as this was key to its role as the independent regulator.

Item 5: Periodic Review Committee: draft terms of reference

7. The Board agreed the proposed terms of reference for the Periodic Review Committee. The Committee would meet shortly and the Board agreed that it should sign off the December 2005 Periodic Review publication discussed at item 10 below.

8. The terms of reference of the Periodic Review and the Safety Regulation Committees would be reviewed after approximately three months to ensure that they were appropriate.

9. The introduction of Board Committees meant that Non-Executive Director (NED) involvement in internal policy development groups would stop at the start of 2006. Ad hoc policy discussions on issues outside the remit of existing committees that required NED input would be arranged and staff at all levels would be invited to attend.

Item 6: Safety Regulation Committee

10. Jim O'Sullivan updated the Board on the discussions from the first meeting of the Safety Regulation Committee held on 18 November 2005. The minutes of all meetings would be circulated to the Board for information but due to the nature of the discussions they would not be published.

11. The Committee had discussed its terms of reference, the memorandum of understanding with HSE and the ROGS and Enforcing Authority Regulations. It noted the work being undertaken to validate ORR's safety transition work and would receive the summary reports provided to the Chief Executive. The Board noted that the validation reports were favourable and there were no issues to be brought to its attention.

12. The Committee supported the use of industry data with minimal tailoring for safety reports and incident reporting to itself and the Board.

13. The Board agreed that ORR should be a signatory to the Work Related Death Protocol and authorised the Chief Executive to sign it off.

14. The Board had previously discussed the need for strategic safety management training. Arrangements would be put in place for a condensed one and a half day training event for the Board and key staff in February 2006.

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

15. The Board noted progress on actions agreed at previous meetings.

16. The Safety Regulation Committee would discuss wider stakeholder involvement in December 2005.

17. The Board noted that the ad hoc case review Committee had considered the appeal by Silverlink against the 2004-05 LOC. After full consideration of the facts before it, the Committee had agreed not to uphold the appeal. The decision would be issued to all parties shortly.

Item 8: Chief Executive's report

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

- Industry developments including: current performance figures, which continued to show an upward trend; current safety incidents; and details of the first Route Utilisation Strategy (RUS) consultation produced by Network Rail for the South Western route out of Waterloo. ORR would make a formal response to the RUS consultation.
- Policy considerations from ORR's internal policy groups.
- Office updates on expenditure, human resources, communications and progress against the business plan.
- Progress on safety transition funding; the outcome of the safety levy consultation; London accommodation; and proposed values for the new organisation, which would be developed by joint workshops with HSE Rail staff.

19. **Land disposal.** The Board agreed the policy principles in ORR's approach to consent to the disposal of land by Network Rail under Condition 26 of the Network Licence. ORR would publish a consultation document in December 2005.

20. **Network Capability** The Board noted the progress that Network Rail had made on addressing capability concerns raised by ORR. However, ORR was assessing whether the concerns amounted to a breach of licence, if they did the Board would consider enforcement action.

21. **EWS competition case** The Board noted progress on the EWS competition case and that the ad hoc case review group of Chris Bolt, Jeffrey Jowell and Bill Emery would consider the next steps once advice had been received from Counsel.

22. **Network Rail Monitor** The Network Rail Monitor and its subsidiary reports would be published in December 2005 with a press release.

23. **Delegated authority** The Board added to its schedule of delegated authority for Rob Plaskitt, Head of Licensing, "(v) Anything authorised or required by or under the Railway (Licensing of Railway Undertakings) Regulations 2005". This would apply from the date of implementation of the regulations on 28 November 2005.

24. **Human Resources** The Board would consider a paper on human resource issues at its January 2006 meeting.

Item 9: Update of Corporate Strategy

25. The Board agreed the structure of the updated corporate strategy on 17 November 2005. It discussed the current draft and agreed to give detailed drafting comments to the Director Rail Policy.

26. The executive summary, vision and draft budget would be signed off by the Board in correspondence. Non-executive directors would be advised of the programme of stakeholder events being arranged to support the consultation.

Item 10: Periodic Review: Initial CP4 assessment - update

27. The Board commented on the progress, results to date and presentation of ORR's initial assessment of the CP4 revenue requirement ahead of the finalisation and publication of the December 2005 document. It agreed the content and issues to be discussed in the financial framework consultation and endorsed the plan for finalisation and publication of the document, including media and stakeholder engagement.

28. It was noted that careful presentation and media handling was required to ensure that readers understood the messages in the document, what the document did and did not cover and the caveats and assumptions (particularly around passenger growth and train miles) made in the initial assessment.

29. Separate chapters and tables would be produced on the expenditure assessment and the financing issues before they were brought together.

30. The document would be amended and considered by the first meeting of the Periodic Review Committee before it was published on 15 December 2005.

Item 11: Medium-term signalling review final conclusions

31. The Board endorsed the key points for the final conclusions on the medium term signalling review, which would provide Network Rail with an additional £175m in CP3 for signalling work. ORR would continue to monitor Network Rail to ensure that the funds were used efficiently and effectively in CP3.

32. The Board also agreed to the timetable for the long-term review being amended. This would allow longer for Network Rail to complete a robust submission following on from the medium term review and to fit better with the timescales for the HLOS / SOFA process while still reporting well before the conclusions of the Periodic Review 2008. However, the Board expected Network Rail to undertake proper long term planning and should not expect ORR to undertake separate signalling reviews in future.

Item 12: Crossrail access options

33. Chris Stokes left the meeting during consideration of this item (see item 1 above).

34. The Board considered the access options proposed by DfT and the issues that these raised for ORR. ORR would write to EWS on its proposed new track access contract setting out the Board's line on contracts that had the potential to conflict with Crossrail views.

Item 13: Any other business

35. There were no additional items for discussion.

Item 14: Date of next meeting

36. The Board agreed to move its next 19 December meeting to 13 December 2005 (14:00 – 17:00). The Safety Regulation Committee on 12 December was also moved to 13 December 2005 (11:00 – 13:00).

Chris Bolt
Chairman

Minutes approved by the Board on 13 December 2005, with one minor amendment.