

Office of Rail Regulation Railway Industry Advisory Committee (RIAC)

1 Purpose of report

- 1.1. To record for information the proceedings of an external body at which London TravelWatch was represented.

2 Recommendation

- 2.1. That the report is received for information.

3 Information

- 3.1. The minutes of a meeting of the Office of Rail Regulation Railway Industry Advisory Committee meeting held on 2 June 2009 are attached as Annex A.
- 3.2. These minutes have been prepared by RIAC. No responsibility for their content or format rests with London TravelWatch.

4 Equalities and inclusion implications

- 4.1. Not applicable – report is for information only.

5 Legal powers

- 5.1. Section 248 of the Greater London Authority Act 1999 places upon LondonTravel Watch (as the London Transport Users Committee) a duty to consider - and where it appears to the Committee to be desirable, to make recommendations with respect to - any matter affecting the functions of the Greater London Authority or Transport for London which relate to transport (other than of freight). Section 252A of the same Act (as amended by Schedule 6 of the Railways Act 2005) places a similar duty upon the Committee to keep under review matters affecting the interests of the public in relation to railway passenger and station services provided wholly or partly within the London railway area, and to make representations about them to such persons as it thinks appropriate.

6 Financial implications

- 6.1. This report has no financial implications for London TravelWatch.

**Office of Rail Regulation Railway Industry Advisory
Committee (RIAC)**

Minutes of the 81st RIAC Meeting

Tuesday 2 June 2009

Room 2, One Kemble Street, London

Present:

Ian Prosser	Acting Chair, director, railway safety, ORR
Dave Bennett	ASLEF
John Cartledge	London TravelWatch/Passenger Focus
David Chalkley	TSSA
Paul Clyndes	RMT
Mike Cocks	(Chair of the Infrastructure Safety Liaison Group, and Managing Director, Osborne Rail)
John Collins	Angel Trains
Robert Gifford	FACTS
Garry McKenna	Department for Regional Development NI
Rob Miguel	Unite the Union - Amicus Section
Caroline Minshell	BP Exploration (till 1520)
Rod Reid	Network Rail
Bob Rixham	Unite the Union - Amicus Section
Andrew Sharpe	RSSB
Mike Strzelecki	LUL
Richard E West	DPTAC
David Wildbore	British Transport Police
Alastair Young	Transport Scotland
Michael Beswick	ORR
Ken Young	ORR
Moira Jones	ORR
David Morris	ORR
Brian Hatfield	ORR, RIAC Secretary
Dilip Sinha	ORR, RIAC Assistant Secretary
Jen Ablitt	ORR (Item 8)
Chris McEwan	ORR (Item 8)
Ian Gooday	ORR (Item 5)

Item 1: Welcome, introductions and apologies for absence

1. Ian Prosser welcomed everyone to the meeting, particularly Richard E West (representing DPTAC) and Caroline Minshell (BP Exploration). Ian explained that the former Chair, Jim O'Sullivan, had stepped down from the ORR Board and he was therefore acting as Chair of RIAC until a new appointment. The RIAC Secretariat would inform members of progress made on a new appointment as soon as possible.
2. Ian reported that the Secretariat had received apologies for absence from Francis How (Railway Industry Association), Ann Bates (DPTAC), Steve Bence (Association of Train Operating Companies), Bill Hillier (Heritage Railway Association), Julian Lindfield (Network Rail), Mike Lunan (passenger interest representative), Stuart Voller (Department for Transport), Anson Jack (RSSB) and Mick Cash (RMT).

Item 2: Actions/matters arising from the last meeting (10 February 2009)

3. Ian Prosser reported that several actions from the previous meeting were marked as ongoing; they were all making good progress.
4. David Morris intervened to apologise that he had not yet been able to provide the update he had promised TSSA on ATP. He would do so as soon as possible.

Item 3: ORR Business Plan 2009-10, including assorted organisational changes

5. Ian Prosser and Michael Beswick, ORR's director, rail policy, introduced this item. Michael explained that ORR had reorganised its internal structure on 14 April. The changes were designed to ensure ORR operated as a unified safety and economic regulator. He would give an overview of the new structure and ORR's Business Plan for 2009-10. Ian Prosser would then set out in detail the changes within Railway safety directorate (RSD).
6. Michael said that the ORR Board had thought carefully about how it could work to help the railway succeed. It had developed a vision which had several elements, as follows:
 - **Health and safety:** Zero workforce and industry-caused passenger fatalities, with an ever decreasing overall safety risk;
 - **Needs of users:** Satisfaction levels of passengers and freight users equivalent to the best in railways and in other forms of transport; and
 - **Efficiency:** Efficiency equivalent to that achieved by the best comparable railways across the world.
7. To achieve this vision, the Board had decided to concentrate on seven work "themes". These were selected to allow ORR to test the level of industry success and to secure delivery of the objectives in ORR's Corporate Strategy 2009-14.
8. Michael briefly reviewed the seven themes:
 - **Focus on passenger and freight customers now and in the future:** designed to deliver outputs specified by the Periodic Review 2008, and to achieve high levels of customer satisfaction for both types of customer;
 - **Excellence in health and safety culture and risk control:** this year's main activity is on level crossings, the rule book and workforce safety;
 - **Excellence in asset management:** ORR intends to have an integrated workplan for safety and economic issues. The focus in 2009-10 is on Network Rail activities;

- **Improved industry planning and timely and efficient delivery of major projects:** ORR needs to ensure the current major projects succeed, and to ensure that the future is planned for;
 - **Efficient use of capacity on the mainline network:** activity this year is around timetabling, access issues and ERTMS;
 - **Development by the industry of the capabilities of its people:** ORR is looking this year for industry progress on long-term skills planning, monitoring of occupational health and training of front-line supervisors; and
 - **High quality data and information for key decisions:** designed to ensure that information available in the industry is useful, and that ORR statistics meet National Statistics requirements.
9. Ian Prosser introduced the changes made to RSD. He reviewed its business plan for 2009-10, which has the following main elements:
- six audit/inspections of dutyholders. RSD has determined its approach to audits, and is increasing audit/inspection from 30% to 50% of inspector activity, to enable ORR to get “under the dutyholder's skin”;
 - work on developing a safety culture and occupational health approaches within ORR and the industry;
 - ORR would look to Network Rail to progress the recommendations from RAIB in respect of Grayrigg and other investigations. Particular attention should be being paid to common, strategic issues emerging; and
 - work to improve trackworker safety, and partnership with RSSB.
10. Ian then mentioned RSD’s internal organisation changes. He explained that some work was now no longer RSD based, but was ORR-wide e.g. asset management and information/intelligence gathering. He had organised the structure of RSD largely on a route/geographical basis, to ensure proper coverage of dutyholders nationally and inspection targeting. There were also dedicated teams – e.g. working with RSSB, freight companies and on system safety. RSD management had generally been reduced by one layer.
11. Ian Prosser concluded by talking about the three new divisions of RSD: Network Rail, which would lead on that company; Railway Operators, which would work with train operating companies, freight operators, and heritage rail/tramways; and Policy, which would lead on issues like legislation, RAIB, Government relations and European affairs.
12. Richard West asked whether a document showing the high-level structure was available. Ian Prosser replied that he believed one had been circulated to RIAC members, but he would arrange for Richard to receive another copy.

Action: Secretariat (*Secretariat note: this action has been completed*)

13. John Cartledge asked about ORR's expanded role in relation to accessibility. David Morris responded that responsibility for Rail Vehicle Accessibility Regulations work had transferred to ORR because of the European TSI. ORR was still developing its policy, and would then implement it.
14. John then asked whether ORR shared the passenger bodies' concern about situations in which the requirements for safety and accessibility appeared to be in tension, e.g. where a station foot crossing provided the only practicable step-free route to a platform. David agreed that it was a challenge to balance the issues. Nonetheless, ORR would work to ensure increasing accessibility.
15. Dave Chalkley asked which strategic issues Network Rail should be progressing. David Morris replied that these could probably be inferred from issued RAIB reports, ORR's safety culture work and the ORR vision, among other sources. Ian Prosser agreed, commenting that his personal priorities included asset management, precursors and leading indicators, Network Rail's internal assurance process and staff competence, etc.
16. Richard West asked if improvements were possible to help mobility-impaired pedestrians e.g. at half-barrier level crossings. David Morris replied that they were designed to provide a balanced interface between road and rail traffic – but did not do much for pedestrians. ORR would discuss the issues further with DPTAC to see how things could be improved.

Action: RSD/David Morris

Item 4 – Safety culture and international benchmarking

17. Robert Gifford (PACTS) introduced this item. He explained that at the last meeting he had agreed to give a presentation setting out ideas on safety culture and international benchmarking. However, Robert stressed that he did not wish RIAC to believe that he was “an expert” and that his points should not be questioned. He was, rather, hoping to set out some views based on his own experiences in sectors such as aviation and seek a discussion.
18. Robert began with a quote from HSE on safety culture. He believed the essential elements were understanding, willingness to communicate, on both sides of industry, and trust.
19. Robert then discussed the difference between culture and climate. In his view, culture was permanent, whereas climate was a transient thing, dependent upon the current issues at any time. Robert offered 3M and Volvo as companies with successful safety cultures. He suggested RIAC members may wish to refer to HSE's Research Report 367, which reviewed the literature on the subject. It could be found at <http://www.hse.gov.uk/research/rrhtm/rr367.htm>.

RIAC Secretariat note: Also interesting is HMRI's report on a safety culture inspection toolkit at <http://www.hse.gov.uk/research/rrhtm/rr365.htm>.

20. Robert gave examples of management best practices, such as visible senior level commitment and staff/safety representative competency. He referred to RSSB research reports T114 and T397, which were of specific interest to RIAC members, both available via <http://www.rssb.co.uk/research/allsearch.asp>.
21. Robert believed that a just culture was better than a no-blame one. A just culture should lead to an organisation becoming a high reliability one. But it was important to note the need to have properly skilled local leaders in order to allow the culture to flourish in practice.
22. Concluding, Robert briefly turned to benchmarking. He said the medical sector's work on quality of patient care was worth looking at. There was also RSSB work on similarities of risk between those involved in trackworking and roadworks on highways.
23. Ian Prosser thanked Robert for the presentation. He said his experiences in various sectors led him to believe the same things - .i.e. that safety culture was "how we do things around here".
24. Rob Miguel said that there were sometimes difficulties with how such a system worked in practice, with employees being asked to discuss other employees. David Morris agreed this could happen, but felt a just culture was when one was sure appropriate action was taken rather than just a person being blamed. Dave Bennett noted that ASLEF would be running a rail reps course in August/September on just culture.
25. Turning to safety culture tools, Andrew Sharpe said that RSSB's tool continued to receive interest, but others were also available if more suitable. He would be happy to provide RIAC with more information on RSSB's ideas in future.

Action:Secretariat

26. Mike Strzelecki said that it was best not to go overboard. LUL had used HSE's culture tool in the past, but if management had confidence from demonstrable continuing improvement in business performance that culture issues were being dealt with, there was not always a need to use a specific tool.

Item 5: Occupational health: good practice by non-railway employer

27. Caroline Minshell, BP Exploration's Health Director for the Middle East, South Asia and Africa gave a presentation on "Health Matters to BP". It set out examples of good practice in a non-railway sector employer, to allow RIAC to consider if the rail industry could learn from other industries.
28. Caroline said BP viewed having "safe, reliable and responsible" operations (the words of BP's CEO) as very important. Her presentation would set out BP's structure, explain BP's historical

background related to health function, where it was heading and how it intended to determine that it had arrived.

29. Caroline detailed the scope of BP's operations. She explained that the company was decentralised, with 32 group companies making their own management decisions. The group employed over 96,000 staff and 250 health professionals. Some 300,000 contractors were also involved in BP's work.
30. Caroline referred to the Texas City accident. BP had seen huge changes as a result, with many recommendations on process and behavioural safety issues culminating in the development and implementation of an operating management system to mitigate risks to employees and its business, from losing its operating licence in some countries if accidents recurred at the failure end, to excellence in productivity and wellness at the success end. The company has dramatically reduced the number of occupational fatalities and injuries; however occupational illnesses are evident and rising significantly across industry and commerce. UK statistics noted 2.1 million work related illnesses and 299,000 injuries annually – a 6:1 ratio of illness to injury. There was a parallel 4:1 ratio in working days lost. Asbestos related deaths are peaking now across the industry.
31. BP's health performance model details health management from prevention of illness and protection of health (minimising losses (deaths/injury) primarily by regulation to promoting health and wellness - maximising gain (wellness/behaviour). One example of why health management is good business was a \$200,000 case management investment in the USA that led to savings of \$5m annually. The point was, therefore, that the model allowed the company to ensure that interventions were targeted, costed, effective and appropriate.
32. Caroline said that BP had set priorities for healthy people, healthy plant, healthy process and healthy performance. These were to be achieved through compliance, capability improvement, consistency and communication. Advice is provided by health professionals to the group companies using simple, visual tools designed to allow them to see current performance and where improvement was needed 'at a glance'. This allowed group companies to get on with their business with a deeper understanding of the issues, and what they needed to do to manage risk.
33. Ian Prosser thanked Caroline for her presentation. Opening the discussion, Rob Miguel asked whether he was right that there were lots of measuring tools detailed, but there was little emphasis on preventing exposure of workers to risk.
34. Caroline agreed that preventing exposure was key. BP had teams focusing on preventative measures such as risk assessment, proactively checking plant (e.g. noise assessment) and providing training.

35. Mike Strzelecki asked if a BP Board member dealt with the issues directly. It was easier to get resources, he believed, when this was the case. Caroline responded that there was a dotted reporting line to the executive management team from the head of the health function, and the BP Board was receptive to requests for resources if a plan of action was presented.
36. Discussion then focused on whether it was more difficult for smaller companies to do this kind of work. John Cartledge and Robert Gifford both suggested this, if they were not large enough to be able to justify developing the necessary specialist knowledge. David Morris commented that there were some models which saw SMEs group together to deal with issues, to save them having to recruit expertise. Mike Strzelecki agreed, but said that he was convinced that the process more than paid for itself in results achieved.
37. Dave Bennett expressed trade union caution about emphasis on behavioural safety. Sometimes there were cases where people failed to carry out actions, but management was unwilling to take the blame for incorrect procedure. The British Safety Council was looking to do some international benchmarking of occupational injury and illness issues. HM Government had announced a consultation on moving from sicknotes for ill staff to wellnotes – something which would need occupational health expertise to implement. Perhaps it was appropriate for the rail industry to respond to the consultation, for example drawing attention to the implications of workers being sent back to work for 'light duties'.
38. Ian Prosser concluded by thanking all for their contributions, which he felt reinforced the fact that good safety is good business.

Note to RIAC members: Caroline Minshell made enquiries and confirmed to the Secretariat that the smartcards would not themselves contain medical information.

Item 6: Blacklisting of construction workers: health and safety implications for railway maintenance/renewal work

39. Rob Miguel introduced this discussion. He said that construction companies – including otherwise reputable, large ones - had been subscribing to an organisation which maintained a blacklist of workers. These workers were then finding it impossible to get work in construction.
40. Rob had heard of a possibility of smartcards being introduced which would contain health information. This increased the risk of blacklisting. He had raised the issues with HSE via an advisory committee, but met some reluctance to deal with the issue. However, Lord Mandelson had announced that the Government intended to consult and then legislate to outlaw the practice of blacklisting, so the issues were being approached. What Rob wanted from this discussion was for RIAC to be aware of the risks blacklisting involved.
41. A short discussion followed. David Morris confirmed that BERR intended to take action as Rob had mentioned. He was encouraged

that a recent prosecution by the Information Commissioner had been sent to Crown Court by the magistrates for sentencing. Dave Bennett, however, commented that he had found that employers who had agreed to work with him on projects had been found to be subscribing to the blacklist. So sometimes companies talked the talk without walking the walk.

42. At the end of the discussion, Rob Miguel agreed to provide Mike Strzelecki, and other members on request, with a list of companies who had been subscribing to the blacklist.

Action: Rob Miguel (*Secretariat note: this has now been circulated to RIAC members*)

Item 7: TUC's Charter for change for worker safety representatives – update on development of railway industry version

43. Paul Clyndes introduced this item. He had agreed at the last meeting to propose a version of the TUC document appropriate for the rail industry. He explained that the TUC developed the charter as part of a health and safety strategy to enhance the role of safety representatives (safety reps). The version he was presenting was modified to take into account ORR's role as regulator.
44. Paul explained that the four rail unions had about 2,500 safety reps on the network. The former DTI estimated that industry safety reps prevented up to 13,000 workplace accidents and 8,000 work-related illnesses. Also, union presence reduced accidents in a workplace by 24%. HSE figures suggested that consulting unions led to significant reductions in risk, ranging up to 50%+, e.g. for falls and musculoskeletal disorders.
45. In the light of these figures, Paul said that RIAC should be concerned that ORR was not enforcing consultation. ORR does encourage consultation, but has treated it as an industrial relations issue in the past. Paul was aware of an HSE document on worker consultation but was not aware of the advice ORR issued to inspectors.
46. Unions were finding that getting time off to act as a safety rep was a problem, even though it was a right. Paul suggested that, in view of the statistics he had already given, ORR should take a more active role. This would include:
- ORR asking employers how they consult workers, developing a campaign to encourage consultation and reminding employers of their legal duties;
 - increased training for ORR inspectors, more support for safety reps and greater enforcement of the consultation regulations; and
 - for the future, a duty for employers and enforcing authorities to respond to concerns raised by safety reps, a duty for employers to consult on risk assessments and allowing safety reps the right to stop unsafe/dangerous work.

47. Ian Prosser thanked Paul on behalf of RIAC for the presentation. He, and David Morris, undertook to respond to the concerns about ORR's approach at the next meeting between ORR and union leaders. But safety reps' complaints were always important, and he would be concerned if they were not being investigated properly. However, achieving changes to legislation could be politically difficult, and it was right to maximise the benefits of the existing system.

Action: issue to be discussed at ORR meeting with TU general secretaries

Item 8: RIAC/09/05 – ORR's engagement in the European Rail Agency's work programme

48. Jen Ablitt (Manager, European Safety Policy team, ORR) and Chris McEwan (European Safety Policy Team, ORR) introduced this regular update on ORR involvement in European business.
49. Jen said she would like to concentrate on those workstreams that had greater implications for the future:
- there had been discussion on the eventual amalgamation of the current Part A & B safety certificates. Part Bs would eventually become unnecessary as requirements were subsumed into the Part A and duty holders' SMS. ERA has been asked to provide a timeline for movement towards single safety certificates by 2011. Making the project work would depend on cross-state harmonisation, and would probably take 20 years;
 - cross acceptance – it has been proposed that countries should be grouped into geographical interest groups to harmonise and agree equivalences between national rules. The UK is likely to join the existing BENELUX group;
 - the work on the first set of Common Safety Targets was now almost finalised, and actual numbers will be published in September; and
 - the peer review process had provided increased transparency and highlighted various different approaches when issuing Part A certificates.

Item 9: Chief Inspector's update

50. Ian Prosser briefly updated RIAC on several issues:
- *European Safety Week* would take place in October and focus on risk assessment. The idea was to encourage safety reps to provide simple, workplace based risk assessments;
 - *European Level Crossing Day* would be on 25 June. Network Rail and BTP had a programme in place to target the most misused crossings. ORR would have an inspection programme, working to learn users' concerns at user worked crossings and to educate them in crossing use; and

- *Chairman of ORR*: Anna Walker would replace Chris Bolt in July. Anna had wide civil service experience in regulation, including recently in the healthcare sector.

Item 10: Any other business

51. Issues raised were:

- Tasers: BTP were now issuing these to officers. Work with the Home Office found that they were safe to use, with slight risks if used near overhead wires. David Wildbore offered to give a presentation to a future meeting if so requested, and invited RIAC members to contact him with any concerns; and
- Potters Bar and Grayrigg: In answer to a question from John Cartledge, David Morris said there had not yet been an announcement from the Secretary of State on the way forward in relation to inquests or a public inquiry.

Next Meeting

Tuesday 6 October 2009, from 1230-1600 at One Kemble Street

Dilip Sinha

RIAC Assistant Secretary

July 2009