

**HEALTH AND SAFETY COMMISSION
RAILWAY INDUSTRY ADVISORY COMMITTEE (RIAC)**

**Minutes of the 67th RIAC meeting
Thursday 8 July 2004
Carlton Hotel, Edinburgh**

Present:

Margaret Burns	Independent, Chair
John Abbott	Network Rail
Paul Abbott	Network Rail
Allan Baker	ROSCO
Steve Bence	Assoc. Train Operating Companies
John Cartledge	London Transport Users Committee/RPC
Phil Dee	National Union of Rail, Maritime & Transport Workers
Mick Cash	National Union of Rail, Maritime & Transport Workers
Richard Gostling	Railway Industry Assoc.
David Woodhouse	Heritage Railway Association
Mike Lunan	Rail Passenger Council
Roger Taylor	Rail Safety and Standards Board
Bill Pigram	AMICUS
Mike Strzelecki	London Underground
Andrew Steel	Travel Midland Metro
Paul Hadley	Office of Rail Regulator
John Balmforth	Rail Passenger Interest
Ronnie Mellis	British Transport Police
Allan Sefton	HSE
Robin Foster	HSE (item 7)
Elizabeth Gibby	HSE (item 7)
Paul Howarth	HSE (item 7)
Peter Hornsby	HSE (item 7)
Alan Bell	HSE, RIAC Secretary
Gordon Thomas	HSE, RIAC Assist. Secretary
Calum Webster	HSE, RIAC Minute Secretary

Welcome, introductions and apologies for absence

- 1.1 Margaret Burns (Chair) welcomed everyone to the meeting. She introduced Paul Hadley in his capacity as permanent ORR representative; Liz Gibby, Robin Foster, Peter Hornsby and Paul Howarth from HSE attending for item 7, and Alan Bell and Calum Webster of the RIAC Secretariat.
- 1.2 Apologies for absence were received from Gerry Doherty (TSSA); Dave Chalkley (TSSA); Mick Blackburn (ASLEF); Dave Bennett (ASLEF); Rob Andrews (SRA); Chris Leah (Network Rail) represented by John Abbott; Peter Hilton (BTP) represented by Ronnie Mellis; Aidan Nelson (RSSB) represented by Roger Taylor; Paul Reuter (AMICUS) represented by Bill Pigram; and David Madden (Heritage Railways) represented by David Woodhouse.

Minutes of 66th meeting on 24 February 2004 and matters arising

- 2.1 The draft minutes (version 2) were agreed as an accurate record of the meeting. There were no matters arising.

Occupational Health Working Group (OHWG) – Letter from Chair

- 3.1 Margaret Burns explained that the OHWG consider they will be unlikely to meet their objectives in light of the RSSB board decision not to treat health issues in the rail industry as a priority. Unless funding could be found to pay for a full time facilitator who would take forward the specific tasks identified in the OHWG action plan the group may not be able to justify continuing its work. A letter from Tommy MacDonald Milner, Chair of OHWG, fully explaining the position was attached as an annex to the below the line paper Written updates from RIAC working groups (RIAC 04/08).
- 3.2 Members of the OHWG in attendance told the meeting a member of the group was in the process of drafting a job specification for the proposed role. This would be based on the community safety initiative in which a similar post is funded by RSSB.
- 3.3 Margaret Burns explained that other Industry Advisory Committees were carrying out initiatives on occupational health, some exploring funding for Occupational Health (OH) advisors. HSC's overall strategy concentrated on selling the business case and offering support on how to establish OH systems. There had been some success in getting employers associations to accept the business case in relation to addressing OH.
- 3.4 RIAC gave their endorsement for the important work of the OHWG, and their support for taking forward the plan of work. The committee will return to the issues raised after the White Paper on the rail review has been published and the position of the bodies in the industry is clearer.

Review of Public Meeting

- 4.1 Margaret Burns summed up the meeting saying there had been good presentations and that it had been a success in terms of eliciting the views of the public on several issues. Although the issues were not easy to resolve it was useful to hear the range of views. The key point to come from the discussion on level crossings was that nothing would improve without all interested parties working together.
- 4.2 Margaret felt the broader debate on "Are the railways safe enough?" showed that overall people attending thought that they were safe, but there is still public uncertainty on whether risks are being managed. The key messages she took from the debate were: risk needs to be managed in a holistic way; interested parties had to work together and pragmatic solutions need to be found.

4.3 Members were then asked for comments on the meeting. Points raised included:

- A suggestion that the focus should have been on what else could be done to improve safety rather than consideration of where we are now;
- Phil Dee informed the meeting that he found one of the presentations offensive, and thought it did not treat fatalities sufficiently seriously;
- It was felt the public have a grasp of the legal position in relation to private crossings but disagreed with it in principle;
- It appeared the general public do not in some cases recognise the holistic approach to safety taken by the rail industry;
- It was agreed that there should be a review of the purpose of the meetings and whether they were succeeding. Some members thought that the meetings were an important way of explaining what RIAC does and showing that its work is open and transparent. Others wondered if the aim of the meetings might be achieved more effectively by different use of resources. These issues were to be looked at in more detail before another public meeting was arranged.

4.4 Mike Lunan confirmed that as a result of the public meeting he was committed to highlighting the particular Scottish issues in relation to level crossings at the National Level Crossing Safety Group (NLCSG) and asking them if they agreed with the suggestion of a Scottish sub-group.

ACTION: MIKE LUNAN

Worker Involvement Statement

5.1 Margaret Burns introduced this item and stated that HSC saw this issue as having fundamental importance given the evidence to show that worker involvement is effective in improving health and safety. Margaret thanked Phil Dee for raising this issue in the context of the HSC statement and seeking RIAC members views on how to secure commitment to apply this in the rail industry.

5.2 Phil Dee informed members that the Trade Unions (TU's) had put a paper to RIAC 4 years ago showing that safety representatives were an underused resource. Action had been deferred while HSC reviewed the general position on worker involvement. Phil went on to say that he believes HSE, TU's and employers have to work together in order to secure meaningful worker involvement. Phil proposed that RIAC set up a Working Group on how to deliver, spread and move forward the message in the HSC statement.

5.3 John Abbott (Network Rail) supported what Phil Dee said and told the group that Network Rail would like to get involved with this work. He stated that training would be needed on both sides to get the most out of worker involvement initiatives.

5.4 John Balmforth queried how the strategy would reach non-union members, and stated that he felt a radical change of view from employers was necessary to move forward the worker involvement message.

- 5.5 The group backed the suggestion of a working group to explore the issues identified by Phil. It was suggested that this be left with the Secretariat to prepare a draft remit before the next meeting.

ACTION: SECRETARIAT

Railway Inspectorate Annual Report

- 6.1 Allan Sefton (HMRI) gave an oral presentation on Rail Safety Performance April 2003 – March 2004. The main points covered were:

- The key indicator of the mainline rail industry's performance to reduce catastrophic accidents shows a real improvement this year at 84.5 (against the base of 100 set in 2002/03), though still above industry's target of 81;
- Total fatalities in 2003/04 are down 7% compared with 2002/03, though railway employee fatalities are the highest since 1994/95;
- SPADs continued to fall this year, but the recent levelling out indicates we will get little further improvement from recent engineering changes;
- On level crossings, the rail industry and HSE should continue collaborative efforts to improve level crossing management and road user discipline; level crossing misuse carries approximately one third of the total risk of catastrophic event;
- The number of fatalities associated with route crime fell again this year;
- The industry must seek to understand more about the impact of "irregular" working, and reduce the number of contributing incidents as this area carries approximately 15% of the overall catastrophic risk;
- The success of RIMINI is supported by the fact that none of the 9 railway employee fatalities were the result of being struck by a train;
- 2003/04 has seen changes to the architecture of railway safety, including the establishment of the Rail Accident Investigation Branch (RAIB) and the Rail Safety and Standards Board (RSSB);
- HMRI is adapting to meet the challenges of the European Rail Safety and interoperability directives, and their current Rail Delivery Programme of change will also radically improve their working arrangements;
- It is vital that the rail industry maintains its focus on developing a new collaborative safety culture and more modern approach to risk management.

- 6.2 Phil Dee highlighted the fact that while there have been no fatalities, trains have still hit workers and he would not like the impression to be given that RIMINI has eliminated risk. Allan Sefton confirmed that there is no room for complacency. The headline figures show a rise in the number of worker fatalities. The upward trend in recent years will be highlighted in the HMRI annual report, but it is very difficult to identify a single cause due to the different nature of the accidents. Allan suggested that cross fertilisation of ideas from other sectors, such as construction, may help the rail industry.

- 6.3 It was noted that the HMRI annual report was valuable as it covers the entire railway industry while the annual RSSB report only covers the mainline. It was also explained that the HMRI annual report was published online last year in line with government policy in order to save money as only a small number of copies had been sold in previous years, and to make it readily accessible electronically.
- 6.4 Mick Cash voiced concerns about worker safety. He hoped that HMRI would not become over focussed on advice while there was still a need for effective enforcement. He commented that assaults are a big issue for union members and they would like to see action taken by employers. He also felt there needed to be a clear link between problems and solutions to make reporting of incidents more worthwhile.
- 6.5 Mick Cash also expressed concerns over the rise in non-train related fatalities. He had specific concerns relating to the Tebay incident where 4 Carillion track workers were killed on the West Coast main line in Cumbria in the early hours of Sunday 15 February 2004. Mick was concerned there has not been a Public Inquiry into this incident, and an interim report had not been published by HMRI as in the case of Hatfield and Potters Bar when there were public fatalities. The workforce believed there had been a lack of openness and transparency and that things are going on behind closed doors. He also did not feel that systemic failures had been addressed.
- 6.6 Allan Sefton offered reassurance that the same process would have been applied by HMRI had there been passenger fatalities. He understood the concerns about lack of openness but the nature of the BTP investigation being carried out limited the information that could be given to ensure proceedings were not prejudiced. He emphasised HMRI understood the systemic failures and root causes of the Tebay incident and have taken action to prevent a reoccurrence. He was disappointed the TU's feel that the action taken has not been clear given that HMRI have engaged closely with Carillion, Network Rail (NR) and the unions throughout the investigation. He felt there can sometimes be a misconception that action is not taken until inquiries are complete. Linda Williams was leading the investigation for HSE and would publish a report after consideration of possible criminal offences had been concluded. Allan Sefton agreed to ensure the current information on the investigation so far was up to date on the HSE website.

ACTION: ALLAN SEFTON

- 6.7 Mick Cash stated he was not confident that such an incident would not happen again. The workforce and community did not have confidence the industry had learnt the necessary lessons.
- 6.8 John Abbot said that he did not recognise the situation described by Mick, and listed actions taken by Network Rail in the aftermath of this incident, including a ban on and modification of equipment, control measures and workshops all of which had been shared with the RMT. He felt strongly that there has been open and transparent action taken on this matter and it has been focussed on addressing underlying issues. An industry formal inquiry report will be published by RSSB in due course.
- 6.9 It was agreed that more dialogue was needed on these issues between RMT, NR and HMRI (outside the meeting).

Legislative Reform

- 7.1 Elizabeth Gibby (HSE) presented a paper (RIAC 04/05) on Proposed New Railway Safety Management Regulations, along with members of her team. RIAC was asked to comment on the draft Consultative Document (CD) and associated annexes, at the meeting, in order that comments could be incorporated into a further version of the draft CD for HSC consideration on 3 August. The proposals for new regulations are designed to cover all railway and other transport systems, with appropriate differences applied to ensure the regulation is proportionate to the risk of the operation. The proposed regulations will enable the UK Government to implement the safety management aspects of the EC Railway Safety Directive (2004/49/EC) (RSD). EU member states are obliged to implement the RSD's provisions by 29 April 2006.
- 7.2 The proposed single set of regulations will fulfil the UK Governments obligations to implement much of the RSD. The remainder will be implemented by DfT in the main through forthcoming regulations on the working methods of the new RAIB. By the HSC proposing the single set of safety regulations, three sets of regulations introduced at privatisation of British Rail will be revoked over time. (Railways (Safety Case) Regulations 2000), Railways (Safety Critical Work) Regulations 1994, and Railways and Other Transport Systems (Approval of Plant, Work and Equipment) Regulations 1994).
- 7.3 Under the RSD only dutyholders who were part of the interoperable railway had to produce an annual safety report. Liz Gibby asked the meeting if other dutyholders who are required to have a safety certificate/authorisation should also produce a safety report? Mike Strzelecki thought it would be inappropriate to regulate and HSE might be criticised for doing so, but it would not be a problem for London Underground as they produced a report already. He felt that HSE guidance for "non-interoperable" companies to produce an annual report would be sufficient. Members expressed concern over putting unreasonable burdens on businesses while recognising that operators should publicly account for how they manage their risks.
- 7.4 John Cartledge asked if it was possible to agree reduced reporting requirements for those not within the scope of the Directive. Robin Foster thought this might be possible. John said that he felt the principle of transparency required all operators to report on their health and safety performance, but the principle of proportionality demanded that this requirement should not be made more onerous than was appropriate to the nature of their operation.
- 7.5 There were comments regarding schedule 3 and the Common Safety Indicators (CSI's), mainly that some of these would generate meaningless statistics because they were normalised against inappropriate divisors. RIAC was told that the indicators include "total" as well as one form of "relative" statistics, so there was scope to present the data generated in different ways. As schedule 3 substantially reproduces an Annex of the Directive there is presently little leeway in transcribing this into national law, but in the future these will be reviewed and developed by the European Rail Agency (ERA). John Abbott was concerned that other countries may not produce any data.

He felt that the UK leads Europe in safety reporting statistics. There needs to be a way of ensuring EU partners report or there will be no way to make meaningful comparisons.

- 7.6 Steve Bence reported that the TOC's are sympathetic to the architecture outlined in the CD and consider it well thought through, but raised concerns that DfT, RAIB and HSC will all be consulting on European requirements. ATOC would like to see all three consultations aligned so that their members can comment on them as one process. Liz Gibby replied that Ministers had not requested this. Delay would mean slowing all consultation to the slowest package – interoperability. This would mean that RAIB would not be able to operate for another year, and there would be no transition period for the safety certification requirements of the RSD.
- 7.7 HSE are working closely with DfT to align coming into force dates so that their definition of the interoperable network flows into the legislation being discussed. There is also work going on to ensure that the interoperability Directive applies to the entire heavy rail network. Several members were nevertheless strongly of the view that a common timescale for consultation was the way to proceed, as the Interoperability and Safety Directives are inextricably associated with one another in their application.
- 7.8 Members thought that the proposed title of the regulations could lead to them being confused with the old ROTS regulations. It was hoped that the lawyers could be persuaded to change the wording.
- 7.9 Network Rail supported the package, but had some concerns regarding Common Safety Targets (CST's). These have to be taken into account in the Safety Management System, but it is not yet clear what they will be. Other issues that would benefit from clarification were the role of the infrastructure manager; what HSC consider to be a serious accident; and the requirement to record the cost of accidents and incidents. It was thought the RIA needed more information on; how the cost of accidents over the last 10 years was calculated; how implementing these regulations would reduce this; the derivation of figures for average worker fatalities; and the cost of serious injuries seemed low and might need to be reconsidered. Margaret Burns stated that the RIA is still being developed and that HSC would like industry's help in developing it, while Liz Gibby informed members that the values were taken from published statistics and Treasury guidelines, but she would ask the economists to include an explanation of how they were arrived at.
- 7.10 Members were informed that there would be some kind of explanatory document available when Ministers agree the regulations. Full guidance would follow when the regulations come into force in response to the needs of dutyholders. Richard Gostling said that eventually the guidance regarding high-speed interoperability that will be produced by the SRA, DfT and HSE should be published as one document.
- 7.11 The members agreed the HSE team had produced a remarkable product and deserved praise for tackling such a complex piece of work in the face of many diverse views. RIAC acknowledged the package as an outstanding piece of work.
- 7.12 RIAC supported the package and the CD, subject to the comments made during the meeting.

Non-regulatory reform

- 7.13 Peter Hornsby led a discussion on the development of non-regulatory industry schemes for the licensing of train driver and signallers and for the accreditation of suppliers of safety critical products and services to the rail industry. HSE had undertaken a study to see how such schemes could be developed to implement several recommendations made during the Ladbroke Grove Rail Inquiry.
- 7.14 HSC had previously decided that regulation in these areas was, at present, not necessary, and that industry owned and run systems would be more appropriate. In relation to **supplier accreditation**, industry had made good progress in taking forward HSC's proposals. A cross-industry Steering Group, chaired by RSSB, has secured broad agreement to work towards establishing an industry owned, voluntary accredited certification system for railway suppliers. A sub-working group is currently developing common principles for a framework for the scheme, which is expected shortly. For **Signaller licensing**, Network Rail has continued with its proposals to further develop and improve its signaller competence management system. It has already 'licensed' signaller assessors, trainers and signaller briefers through its SENTINEL licensing system and established a national syllabus for signallers. Signal managers will be licensed by the end of the year and all signallers should be licensed by June 2005. Network Rail has given a verbal agreement to HSE to look at the feasibility of UKAS accreditation of SENTINEL in relation to signaller licensing. For **Driver licensing**, DfT is leading on the proposed European Directive. ATOC (Steve Bence) is chairing a cross-industry steering group considering the EC and HSE proposals. The Group has considered a number of options on driver licensing, one of which was the HSC/E proposals. Peter Hornsby stated that early indications are that the Groups preferred option was to support 'two-party driver licensing'. 'Two party driver licensing' is for train operators to issue 'licences', as required by an existing ATOC Guidance Document.
- 7.15 Peter Hornsby asked Steve Bence if it would be possible for a multi-discipline team consisting of Policy, HMRI, and UKAS to look at the driver management systems of a small number of TOCs to better understand the independence and impartiality of the TOC driver management systems and to also help the industry to better understand what accreditation requires and the benefits it can give.
- 7.16 Steve Bence said that he recognised what Peter had said and that all parts of the rail industry prefer a two party system of licensing rather than a third party system. They consider that their Competence Management Systems are already sufficient. The Group was working with RSSB to see if the railway group standard needs strengthening in any way and that the issue of transferring driver records needed looking at. He stated that there were lots of interested parties and therefore requested that consultation with TOC's should take place via the Driver Licensing Steering Group. Peter Hornsby offered to submit a formal proposal to the Group regarding the multi-discipline team.
- 7.17 Margaret Burns thanked the members for their comments. These would be conveyed to the Commission for their consideration.

Any other business

HSC/E Race Equality Scheme Below the line paper (RIAC 04/10)

- 8.1 Margaret Burns said the Commission was looking for co-operation on this matter which is not just a rail issue, but was being carried out across all areas of HSE. Alan Bell explained there was a duty on HSC/E to gather this information, and this was a request for help from RIAC. If the information was not available HSC/E would make more direct approaches to dutyholders. RIAC members asked for some more details on the information that would be helpful.

ACTION: SECRETARIAT

Written updates from working groups (RIAC 04/08)

- 8.2 Roger Taylor felt the paper mentioned above misrepresented RSSB's position on OH. The paper stated "that RSSB's board have decided not to get involved in health issues in the Railway industry, but rather to focus only on safety issues". He informed the meeting the RSSB board said they would not be treating OH as a priority, but they did not say that they would not be involved at all.

Date of next meeting

- 9.1 The date of the next meeting is Tuesday 2 November (am) Rose Court, Globe Room.

RIAC Secretariat
July 2004