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14 March 2022

Mr Andrew Hall  
Deputy Chief Inspector of Rail Accidents  
Cullen House  
Berkshire Copse Rd  
Aldershot  
Hampshire GU11 2HP

Dear Andrew,

**RAIB Report: Fatal accident at Frampton level crossing on 11 May 2014**

I write to provide an update<sup>1</sup> on the action taken in respect of recommendation 3 addressed to ORR in the above report, published on 28 May 2015.

The annex to this letter provides details of actions taken in response to the recommendation and the status decided by ORR. The status of recommendation 3 is **'Implemented by alternative means'**.

We do not propose to take any further action in respect of the recommendation, unless we become aware that any of the information provided has become inaccurate, in which case I will write to you again.

We will publish this response on the ORR website on 15 March 2022.

Yours sincerely,



Oliver Stewart

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<sup>1</sup> In accordance with Regulation 12(2)(b) of the Railways (Accident Investigation and Reporting) Regulations 2005

### Recommendation 3

*The intent of this recommendation is to provide the ORR input needed for effective implementation of recommendation 2 by Network Rail. The two recommendations are intended to improve level crossing signs, with regard to their conspicuity, message, content and clarity of information. The RAIB has already made a related recommendation to the ORR for user worked crossings.*

The Office of Rail and Road should utilise the findings from this investigation, and all available research (including the forthcoming RSSB research report T983), to update its guidance for signage, and other user guidance, provided at bridleway and footpath crossings. The updated guidance should take account of circumstances where another type of level crossing (eg a user worked crossing) is located at, or close to, the bridleway or footpath crossing. It should also take account of prohibitions (eg use of bridleway and footpath crossings by motorcycles) and circumstances when it is appropriate for pedestrians to use a telephone. The Office of Rail and Road should seek the assistance of the Department for Transport to enable the necessary legislative changes needed to implement the updated guidance

#### ORR decision

1. In June 2021 ORR published its new guidance for level crossings, 'Principles for managing level crossing safety'. This guidance followed a decision to move away from prescriptive guidance for level crossings, as we want the duty holder to understand the characteristics of each individual level crossing and the risks that need managing. It is for the duty holder to then decide what measures are needed at that level crossing, and balance out competing needs. This is a change in approach with our guidance, encouraging the duty holder to assess the risks, rather than just reach for standard control measures, such as set out in 'Level crossings: A guide for managers, designers and operators, Railway safety publication 7', which adopts a more prescriptive approach and has been perceived as standard setting. We will withdraw RSP7 after a transition period during which it will still be on our web site.
2. ORR's new guidance was therefore a substantial change from our previous guidance, taking a clear risk-based approach to managing safety at all level crossings. We also wanted to ensure there was thorough stakeholder engagement and input, for both the road and rail aspects of level crossings. Overall, this resulted in a lengthy but thorough project. The guidance was developed with the assistance of an external stakeholder steering group and there was also extensive consultation with a wide range of stakeholders. This has contributed significantly to the quality of the guidance and provided assurance that there is support for the move away from exhaustive prescription to assessing risk from first principles.
3. The new ORR guidance includes signage as a possible control measure to be considered at level crossings. However, because it is an administrative control, we state it should be used in conjunction with other control measures where this is reasonably practicable, as such measures place a heavy reliance on the user and do not actively manage the risks. As RAIB has identified in this investigation, heavy reliance on the user following signs is not an effective control measure.

4. We have worked with Network Rail and DfT on updating level crossing signage. DfT is responsible for the Private Crossings Signs and Barriers Regulations 1996 (PCSBR), and DfT is responsible for any replacement legislation. We have contributed to discussions about the updated regulations, but the final outcome is not within our control. It is not appropriate for ORR to provide guidance on the interpretation of PCSBR.
5. Network Rail also has its own signage standard, which includes guidance on what signage should be used at different types of level crossing and for different user groups. We provided input to Network Rail on the development of the signage. Whilst we do not promote signage as a risk control measure, due to its limitations, where it is present we are keen for its message to be as conspicuous and unambiguous as possible – so have contributed to Network Rail’s development of appropriate signage.
6. Level Crossings: A guide for managers, designers and operators (Railway Safety Publication 7), shows a layout for a combined UWC/footpath crossing and reproduced the signs from the 1996 Regulations, this has now been superseded by our new guidance and will be fully withdrawn in the near future. We are not planning to provide updated suggested layouts for UWC/ footpath crossings in any new guidance.
7. The new guidance promotes a risk-based approach and does not focus on individual crossing types, so the circumstances of another type of level crossing near a crossing has not been specifically raised. However, we have highlighted those principles that are relevant to this type of scenario (see update section).
8. There is no specific guidance on signage at bridleway and footpath crossings produced by ORR, as discussed above, but signage is referred to in our new guidance. The only circumstance in which we would provide guidance on signage is in relation to level crossing orders, a statutory function we undertake on behalf of DfT. In this circumstance we may produce signage layouts for common types of level crossing protection on public vehicular roads. Network Rail is also producing its own standard for signage at level crossings. There is a limit to how much ORR can influence the new regulations. It is up to DfT to decide what will be in the final regulations.
9. Recognising the significance of the change of approach in our guidance, we have developed a number of case studies to demonstrate the practical application of the principles and bring out how managers and designers of crossings might weigh competing factors in order to arrive at an optimal option for any particular crossing. We will continue to develop the suite of case studies and will consider whether we can create an example that includes the situation where different crossing types are adjacent and suitable signage is a challenge.
10. The action taken demonstrates that ORR has taken the recommendation into consideration, but has implemented it by alternative means, in accordance with the Railways (Accident Investigation and Reporting) Regulations 2005.

**Status: Implemented by alternative means.**

### Previously reported to RAIB

11. On 13 May 2016 ORR reported the following:

ORR will ensure any relevant guidance it produces takes account of the findings of this RAIB report, RSSB research and the actions taken by Network Rail to address recommendation 2. Any guidance provided will need to be mindful of the legal status of the signage and if appropriate we will work with the industry and DfT to facilitate any legislative changes needed.

### Update

12. The ORR *Principles for managing level crossing safety* was published on 15 June 2021. The following extracts are applicable to the recommendation:

*User Principle 1 includes factors about considering the actual usage of the crossing, which includes all users. Two of these factors are provided below as an example:*

(a) use a variety of quantitative and qualitative methods to gather evidence in order to get a good understanding of who uses the level crossing, how they use it and the frequency and pattern of use e.g. daily, weekly, seasonal variations and times of peak usage;
(b) nearby local facilities, e.g. stations, schools, care homes, national leisure routes, seasonal attractions or event venues and their foreseeable users e.g. people with luggage, children and elderly people;

*User Principle 2 includes factors on how the layout of the crossing can affect how users cross, and how actual usage of the crossing should be considered. This includes all users. The two most relevant factors for this recommendation are provided below, but other factors may be relevant at similar crossings.*

(a) gather data on how users behave at the level crossing, including when there are known problems, e.g. through the use of incident data and technology such as cameras;
(b) why some users may not follow the expected route over a level crossing, e.g. local factors including layouts, the proximity of structures such as signal boxes, nearby footpaths, behaviour when there is a station nearby, or pubs/clubs are nearby;

*The new guidance does not explicitly identify circumstances in which pedestrians should use a telephone to gain permission to cross, as it does not seek to specify solutions. User Principle 5 addresses the need to provide information to enable users to safely cross at the level crossing, which could include telephones for pedestrians if this would be a reasonably practicable solution.*

(a) <i>how, when and where users need to receive information to make decisions about when it is safe to cross or whether they should wait;</i>
(b) <i>communicate information and cues in the correct sequence, so the user clearly understands what they need to do. The surrounding environment, mode of transport and the importance of physical controls such as barriers and gates should be taken into account;</i>

*However, the guidance states that engineering controls should be considered (para 30). At a crossing with such poor visibility that a pedestrian would need to call the signaller, a miniature stop light system, for example, might be more effective as a reasonably practicable control measure.*

## Previously reported to RAIB

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The Office of Rail and Road should utilise the findings from this investigation, and all available research (including the forthcoming RSSB research report T983), to update its guidance for signage, and other user guidance, provided at bridleway and footpath crossings. The updated guidance should take account of circumstances where another type of level crossing (eg a user worked crossing) is located at, or close to, the bridleway or footpath crossing. It should also take account of prohibitions (eg use of bridleway and footpath crossings by motorcycles) and circumstances when it is appropriate for pedestrians to use a telephone. The Office of Rail and Road should seek the assistance of the Department for Transport to enable the necessary legislative changes needed to implement the updated guidance

### ORR decision

1. ORR will ensure any relevant guidance it produces takes account of the findings of this RAIB report, RSSB research and the actions taken by Network Rail to address recommendation 2. Any guidance provided will need to be mindful of the legal status of the signage and if appropriate we will work with the industry and DfT to facilitate any legislative changes needed.
2. After reviewing information received ORR has concluded that, in accordance with the Railways (Accident Investigation and Reporting) Regulations 2005, ORR has:
  - taken the recommendation into consideration; and
  - will take action to implement it if and when the need arises.

**Status: Progressing.** ORR will provide a further update to RAIB when the status of this recommendation changes.