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30 October 2012

Ms Carolyn Griffiths  
Chief Inspector of Rail Accidents  
Rail Accident Investigation Branch  
Block A, 2nd Floor  
Dukes Court  
Dukes Street  
Woking GU21 5BH

Dear Carolyn

**Bridge strike and road vehicle incursion onto the roof of a passing train near Oxshott Station, on 5 November 2010**

I write to report<sup>1</sup> on the consideration given and action taken in respect of the recommendations addressed to ORR in the above report, published on 4 August 2011.

The annex to this letter provides details of the consideration given/action taken in respect of recommendation 3.

I also attach to this letter the following information provided by Network Rail:

- A technical review, following the Oxshott vehicle incursion 05/11/10 – TR/OX3/01;
- Civil Examinations Framework Agreement (CEFA) – Autumn 2011 briefing; and
- Proposed guidance document – Raising CARRS Correspondence Items TR/OX3/01

Recommendations 1, 2, 4 and 5 were addressed to other public bodies and authorities. The ORR therefore does not propose to take any formal action as the Railways (Accident, Investigation and Reporting) Regulations 2005 place an equal obligation on these bodies or authorities to report directly to RAIB.

We do not propose to take any further action in respect of recommendation 3 unless we become aware that any of the information provided becomes inaccurate, in which case I will write to you again<sup>2</sup>.

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

<sup>2</sup> In accordance with Regulation 12(2)(c)

We expect to publish this response on the ORR website on 19 November 2012.

Yours Sincerely

Chris O'Doherty

## **Consideration by ORR**

All recommendations contained in the report were addressed to ORR when RAIB published its report on 4 August 2011.

After considering the report / recommendations we passed:

- recommendation 3 to Network Rail who provided its initial response on 5 October 2011

Details of measures being taken to implement these recommendations are provided below.

As RAIB also addressed recommendations 1, 2, 4 and 5 to other public bodies and authorities the ORR does not propose to take any formal action as the Railways (Accident, Investigation and Reporting) Regulations 2005 place an equal obligation on these bodies or authorities to report directly to RAIB.

ORR also brought the report and all 5 recommendations to the attention of Nexus, London Underground Ltd, HS1 Ltd, the Heritage Rail association.

## **Recommendation 3**

*The purpose of Recommendation 3 is to incorporate checks of visibility markings protecting railway overbridges within the existing structures examination regime, and to promote the reporting of vehicular damage to aid the identification of sites where risk mitigation may be required.*

Network Rail should include, within its annual examination of rail overbridges, the requirement for the structures examiner to identify and record any highway features which may increase the risk to the railway such as absence, obscuration or poor condition of parapet end markers. Network Rail should also improve its management arrangements for reporting such issues to the relevant highway authority, and when it becomes aware of damage to structures caused by road vehicles (paragraph 98b).

### **Details of steps taken or being taken to implement the recommendation**

1. Network Rail in its response of 5 October 2011 advised ORR that:

*Network Rail will review the scope and associated processes for visual examinations of overbridges to determine any necessary changes to improve identification of, or absence of, features within the vicinity of parapet ends that could increase the risk to rail users.*

*Network Rail will review its processes for reporting such issues to the relevant highway authority as part of this review.*

*Timescale: 1 April 2012*

2. ORR in reviewing the information received on 5 October 2011 ORR did not consider that Network Rail had fully addressed the recommendation and

wrote to Network Rail on 14 November 2011 requesting clarification on the scope of its review and the outcomes of the review when completed.

3. Network Rail in its response, on 13 December 2011, advised that:

*Having reviewed our response, Network Rail would like to propose the following amendment: Network Rail will review the scope and associated processes for visual examinations of overbridges to determine any necessary changes to improve identification of, or absence of, highway features on, or in the immediate vicinity of, the overbridge that could increase the risk to rail users. In addition, Network Rail will review the scope and associated processes for visual examinations of overbridges to determine any necessary changes to improve identification of vehicular damage to the overbridge.*

4. ORR in reviewing the information received on 5 October 2011 and 13 December 2011 wrote to Network Rail on 29 June 2012 requesting confirmation that the review had been completed and to provide a brief summary of the findings of the review, including reasoning, conclusions and any actions to be taken to address this recommendation, including any associated timescales.

5. Network Rail in its response, on 25 July 2012, provided ORR with:

- A technical review, following the Oxshott vehicle incursion 05/11/10 – TR/OX3/01;
- Appendix A of this review contains the Civil Examinations Framework Agreement (CEFA) Autumn 2011 briefing; and
- . Appendix B contains the proposed guidance document - Raising CARRS Correspondence items.

### **ORR Decision**

6. ORR noted that the purpose of the recommendation is restricted to checks of visibility markings and identification of vehicular damage to the overbridge but that the recommendation itself is much broader in it requires that the structures examiner identifies and records any highway features which may increase risk to the railway.

7. ORR also recognises that it is the highway authority that has primary responsibility for highway features and is concerned that the RAIB recommendation requires Network Rail to act beyond its responsibilities.

8. After reviewing all the information received from Network Rail, and taking into account RAIB's view, ORR concluded that, in accordance with the Railways (Accident Investigation and Reporting) Regulations 2005, Network Rail has:

- taken the recommendation into consideration;

- has reviewed the examination contract and is satisfied suitable arrangements are in place to address the requirement to identify and record highway features; and
- has taken action to address the requirement to improve its management arrangements for reporting to the highway authority.

ORR does not therefore propose to take any further action unless it becomes aware that the information above is inaccurate, in which case ORR will write to RAIB again.

**Status: *Implemented so far as is reasonably practicable***