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

Dear Andrew,

RAIB Report: Fatal accident involving a track worker at Saxilby, 4 December 2012

I write to provide an update¹ on the action taken in respect of recommendation 4 addressed to ORR in the above report, published on 28 October 2013.

The annex to this letter provides details of the action taken regarding this recommendation, the status of which is now '**Implemented**'. We do not propose to take any further action in respect of this recommendation, unless we become aware that any of the information provided becomes inaccurate, in which case I will write to you again.

We will publish this response on the ORR website on 8 April 2016.

Yours sincerely,

Oliver Stewart

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

1. All 4 recommendations were addressed to ORR when the report was published on 28 October 2013.
2. ORR wrote to RAIB on 13 October 2014 to report recommendation 3 as 'implemented' and recommendations 1 and 2 as 'implementation on-going'.

Recommendation 4

The intent of this recommendation is to enhance the welfare of witnesses attending industry investigations into serious incidents and accidents.

Network Rail, in consultation with other industry partners as appropriate, should review its processes and examine ways of improving their practices for interviewing witnesses who have been involved in serious incidents and accidents. Taking account of best practice from specialists in this area, it should develop guidance on planning for interviews and techniques for dealing with such witnesses. Training should be provided for individuals who are involved in industry investigation panels or conduct interviews as part of an investigation.

ORR decision

3. Network Rail have reviewed and revised their processes for interviewing witnesses involved in serious incidents and accidents. As part of this process, Network Rail, in collaboration with RAIB, have run a training course on investigative interviewing for their senior staff that lead investigations. The revised process has been used following a number of subsequent incidents.
4. ORR in reviewing the response provided by Network Rail has concluded that in accordance with the Railway (Accident Investigation and Reporting) Regulations 2005, it has:
 - taken the recommendation into consideration; and
 - has taken action to implement it

Status: Implemented

Previously reported to RAIB

5. On 13 October 2014 ORR reported to RAIB that Network Rail had reviewed its processes for interviewing witnesses involved in serious incidents and accidents and had worked with the RAIB to develop additional training for those involved in such activities.

Update

6. Network Rail provided ORR with a closure statement on 10 December 2015 containing the following information:

Network Rail has undertaken a review of its processes for interviewing witnesses who have been involved in serious incidents

and accidents and has entered into discussions with RAIB concerning the output from this review.

The review concluded that the processes defined in NR/L3/INV/3001/RIM205 is suitable for managing the investigation process when applied to take suitable account of witnesses who have been involved in serious incidents and accidents.

All incidents and accidents that involve witnesses who have been involved in or directly witnessed an event that is likely to have resulted in shock are deemed a 'serious accident'. This includes:

- fatality to any person in a train accident (other than suspected suicide or trespass), i.e. workforce (e.g. train crew) or public (e.g. passenger, level crossing user);
- collision between trains on a running line where there is injury to at least one person or significant damage (i.e. greater than €2 million) to the infrastructure or the train;
- derailment of an 'in service' passenger train. except where the derailment occurs at low speed (i.e. less than 20mph);
- fatal or life changing injury to a member of the workforce employed by or contracted to Network Rail whilst at work/on duty.

In such circumstances the process allows the Corporate Investigation Manager to act as DCP for the accident. Where witnesses who have been involved in or directly witnessed an event that is likely to have resulted in shock then the Corporate Investigation Manager has taken this role for all such events since the autumn of 2013 and is now policy. This is evidenced in the handling of the staff electric shock at Stafford on 5 November 2013 and the lookout fatally injured at Newark on 22 January 2104.

The Corporate Investigation Manager now agrees the interview strategy with the lead investigator for such accidents and incidents which takes into account the needs of the interviewees. For example following the Newark fatality arrangements were made for the two members of the ultrasonics team who witnessed the accident to be interviewed as a 'group' separate from the main investigation team meetings.

The interview comprised the Lead Investigator, Network Rail's Principal Occupational Psychologist, a Lead Trade Union Health and Safety Rep and the two witnesses. Feedback from all involved was that this was both a sensitive way of managing the interview from the

interviewees' perspective and productive in terms of evidence gathering for the investigation.

7. After receiving the closure statement, ORR wrote to Network Rail to request further information about how the training was carried out; who it was delivered to; and how competence would be maintained in those that have been given the training.
8. Network Rail wrote to ORR again on 10 March 2016 confirming that the training was carried out by RAIB and given to Network Rail's three Senior Investigators, Ergonomics/industrial psychology specialist, three route based safety specialists and the Corporate Investigation Manager. Network Rail and RAIB are discussing how best to carry out refresher training and practice exercises.
9. The aims of the training were stated by RAIB as:

This workshop has been designed to share good practise and provide investigators with the tools and techniques to gather evidence and information from interviewing voluntary, uncooperative and vulnerable or intimidated witnesses. It will also provide practical recorded exercises for the interviewers to learn from self-critique and peer review. The practical exercises wherever possible will be based on interview scenarios from previous accident scenarios.

The importance of interview preparation can sometimes be forgotten. The course will highlight the importance of good preparation, formulating an interview strategy, taking effective notes, working in teams, use of visual and physical aids and the effective closure of an interview.

The course is designed to use questioning techniques and styles from both cognitive style interviews and recognised investigative techniques used by other agencies.

Previously reported to RAIB on 13 October 2014 regarding recommendation 4

The intent of this recommendation is to enhance the welfare of witnesses attending industry investigations into serious incidents and accidents.

Network Rail, in consultation with other industry partners as appropriate, should review its processes and examine ways of improving their practices for interviewing witnesses who have been involved in serious incidents and accidents. Taking account of best practice from specialists in this area, it should develop guidance on planning for interviews and techniques for dealing with such witnesses. Training should be provided for individuals who are involved in industry investigation panels or conduct interviews as part of an investigation.

1. Network Rail, in its initial response to ORR on 18 February 2014 stated:

Network Rail will initiate a dialogue initially with RAIB and then incorporating other agencies to establish what options there are for minimising the stress caused to witnesses where multiple agencies wish to interview them, including the advice that may be given to witnesses on what action they may be able to take to minimise repeat interviews.

Following this dialogue, amendments will be made to the Network Rail guidance explaining the role of each agency to make this more usable for investigators and include practical guidance on what can be done to minimise the stress caused to witnesses.

Guidance will be developed on who Network Rail consider to be vulnerable witnesses and what measures should be taken when managing interviews undertaken as part of the Network Rail investigation.

Consideration will be given to the practicability of training a core of specialised interview leads that would be able to manage the interviews of vulnerable witnesses; Network Rail will implement any actions resulting from this consideration.

A review will be undertaken following a suitable investigation where revised processes are in place to determine effectiveness.

Timescale: 30 April 2014

2. On 25 March ORR wrote to Network Rail requesting details of the outcome of its review. On 13 May 2014, Network Rail stated that:

Network Rail has undertaken a review of its processes for interviewing witnesses who have been involved in serious incidents and accidents and has entered into discussions with RAIB concerning the output from this review.

The review concluded that the processes defined in NR/L3/INV/3001/RIM205 is suitable for managing the investigation process when applied to take suitable account of witnesses who have been involved in serious incidents and accidents.

All incidents and accidents that involve witnesses who have been involved in or directly witnessed an event that is likely to have resulted in shock are deemed a 'serious accident'. This includes:

- *fatality to any person in a train accident (other than suspected suicide or trespass), i.e. workforce (e.g. train crew) or public (e.g. passenger, level crossing user);*
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- *fatal or life changing injury to a member of the workforce employed by or contracted to Network Rail whilst at work/on duty.*

In such circumstances the process allows the Corporate Investigation Manager to act as DCP [Designated Competent Person] for the accident. Where witnesses who have been involved in or directly witnessed an event that is likely to have resulted in shock then the Corporate Investigation Manager has taken this role for all such events since the autumn of 2013 and is now policy. This is evidenced in the handling of the staff electric shock at Stafford on 5 November 2013 and the lookout fatally injured at Newark on 22 January 2014.

The Corporate Investigation Manager now agrees the interview strategy with the lead investigator for such accidents and incidents which takes into account the needs of the interviewees. For example following the Newark fatality arrangements were made for the two members of the ultrasonics team who witnessed the accident to be interviewed as a 'group' separate from the main investigation team meetings.

The interview comprised the Lead Investigator, Network Rail's Principal Occupational Psychologist, a Lead Trade Union Health and Safety Rep and the two witnesses. Feedback from all involved was that this was both a sensitive way of managing the interview from the interviewees' perspective and productive in terms of evidence gathering for the investigation.

The members of the investigation team not participating in the interview agreed to the approach and were asked for subject areas that they wanted to be covered during the interview.

Although it is anticipated that the approach outlined above is suitable to manage the risk identified by the recommendation; Network Rail has decided to create a small team of investigators that are additionally trained to manage the interview of vulnerable witnesses.

To this end Network Rail has worked with the RAIB to develop additional training which will be undertaken 16 – 18 June 2014 with the following objectives:

A small team of accident investigators was created in January 2014; the team consists of the three Senior Investigators and two members of the Ergonomics team. It will be supplemented by two or three additional members later this year [2014]. This team will be able to manage the interview of 'vulnerable witnesses'. These interviews are likely to be in the days rather than the hours after the event.

These interviewers will be able to:

- *Plan the interview.*
- *Be aware of the other agencies that may have interviewed the witness and the purpose of these interviews.*
- *Seek subject areas for interview from interested parties.*
- *Conduct the interview such that the most accurate account available is obtained without creating undue stress for the interviewees.*
- *Have an appreciation of the benefits and difficulties of family liaison.*

It is anticipated that as the specialist interview team is small that biennial training and the materials from this will form suitable guidance for the activity.