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21 August 2018



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 update<sup>1</sup> on the action taken in respect of recommendation 1 addressed to ORR in the above report, published on 28 October 2013.

The annex to this letter provides details of the action taken regarding the recommendation, the status of which is now '**Implemented**'. We do not propose to take any further action in respect of the 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 22 August 2018.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Oliver Stewart', written in a cursive style.

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 1**

*The intent of this recommendation is for Network Rail to control the risk arising from the use of agency staff in safety leadership roles.*

Taking account of the findings of this investigation (particularly in respect of the actions of the COSS on site and the absence of any effective performance review applied to the COSS), Network Rail should identify and then implement, suitable controls to assure the adequate performance of agency staff in safety leadership roles and/or take steps to reduce its dependence on such staff.

### **ORR decision**

1. Network Rail have revised their standard for people working on or near the line that is open to traffic ('019') as part of the Planning and Delivering Safe Work (PDSW) initiative.
2. One issue PDSW sought to address was roles and responsibilities, which lead to the creation of the Safe Work Leader role (SWL). SWL's are required to either be Network Rail employees, from a principle contractor or holder of a Railway Contactors Certificate. Consequently, Network Rail should be able to reduce their reliance on agency staff in safety leadership roles and have greater confidence in the competency of those they do use.
3. ORR will monitoring implementation of the revised 019 standard through our usual inspection work.
4. After reviewing the information provided ORR has concluded that, in accordance with the Railways (Accident Investigation and Reporting) Regulations 2005, Network Rail 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 the following:

'Network Rail, in its initial response to ORR on 18 February 2014, stated that:

*From 6 January 2014, the new Sentinel Scheme Rules developed during 2013 have established the requirement for a single accountable Primary Sponsor for every trackside worker. Through a contract of sponsorship, the rules clarify the responsibility for competence management (and for investigation and remedial action following safety incidents) regardless of employment status.*

*The Roles and Responsibilities project will reduce Network Rail's dependence on agency staff in safety leadership roles by introducing a new role of Safe Work*

*Supervisor. The Safety, Health & Environment (SHE) Committee approved the following proposal in September 2013:*

- *Network Rail will have a core of permanent full-time, regularly used, Safe Work Supervisors.*
- *The Safe Work Supervisor must ALWAYS be an employee of Network Rail or a Principal Contractor.*

*The project aims to deliver on these points by 31 December 2014, subject to consultation. Network Rail will also introduce a revised skills development framework to support the new role.*

*Investment in non-technical skills development has been targeted at those workers more likely to meet the criteria as a Safe Works Supervisor.*

*Timescale: 31 December 2014*

On 25 March ORR wrote to Network Rail requesting an update on progress being made. On 8 August 2014, Network Rail stated that:

*The Roles and Responsibilities work – stream has been combined with the Control of Work element of the 10 point plan into the Planning and Delivering of Safe Work Programme [SWP].*

*The commitment remains:*

- *Network Rail will have a core of permanent full-time, regularly used, Safe Work Leaders.*
- *The Safe Work Supervisor must ALWAYS be an employee of Network Rail OR a Principal Contractor or holder of a Railway Contractors Certificate.*

*The project aims to deliver on these points by January 2015, subject to consultation and validation. To minimise risk, implementation of use of formal SWL competence will be on a single agreed date for Network Rail and contractors. This date requires Go-Live criteria to be met, including adequate numbers trained. The Non-Technical Skills programme will be part of the SWL assessment of competency. Safe Work Leader has now been approved by TOMSC [Train Operations & Management Standards Committee] for inclusion in the December 2014 Rule Book.*

*On 7 October 2014, Network Rail advised a revised timescale for the SWL programme: The SWL will now not go live until June 2015. This date has changed as the volume of training needs has been clarified.'*

## **Update**

6. Following timescale extensions, Network Rail provided a closure statement on 6 February 2018 including the following summary:

*The revised Network Rail standard 'NR/L2/OHS/019 - Safety of People at Work On or Near the Line' requires the person in charge is accountable and is appointed by the Responsible Manager to implement and manage the SSoW as detailed within*

*the Safe Work Pack. Person in charge is a capability as opposed to a competency or role and there is a requirement within the standard for the Responsible Manager to understand the person in charge capability when nominated them to implement those risk controls. As a result of the industry wide consultation on the standard revision, there has been a focus on establishing the importance of understanding capability, especially in respect to Responsible Managers and their part in capability management. This includes highlighting that capability includes understanding the behaviours and attitudes of those who may be nominated as person in charge. In addition, the requirement to mandate the inclusion of the person in charge within the planning and assurance of the Safe Work Pack highlights the accountability of both them and their Responsible Manager.*

## Previously reported to RAIB

### Recommendation 1

*The intent of this recommendation is for Network Rail to control the risk arising from the use of agency staff in safety leadership roles.*

Taking account of the findings of this investigation (particularly in respect of the actions of the COSS on site and the absence of any effective performance review applied to the COSS), Network Rail should identify and then implement, suitable controls to assure the adequate performance of agency staff in safety leadership roles and/or take steps to reduce its dependence on such staff.

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

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

*From 6 January 2014, the new Sentinel Scheme Rules developed during 2013 have established the requirement for a single accountable Primary Sponsor for every trackside worker. Through a contract of sponsorship, the rules clarify the responsibility for competence management (and for investigation and remedial action following safety incidents) regardless of employment status.*

*The Roles and Responsibilities project will reduce Network Rail's dependence on agency staff in safety leadership roles by introducing a new role of Safe Work Supervisor. The Safety, Health & Environment (SHE) Committee approved the following proposal in September 2013:*

- *Network Rail will have a core of permanent full-time, regularly used, Safe Work Supervisors.*
- *The Safe Work Supervisor must ALWAYS be an employee of Network Rail or a Principal Contractor.*

*The project aims to deliver on these points by 31 December 2014, subject to consultation. Network Rail will also introduce a revised skills development framework to support the new role.*

*Investment in non-technical skills development has been targeted at those workers more likely to meet the criteria as a Safe Works Supervisor.*

*Timescale: 31 December 2014*

2. On 25 March ORR wrote to Network Rail requesting an update on progress being made. On 8 August 2014, Network Rail stated that:

*The Roles and Responsibilities work – stream has been combined with the Control of Work element of the 10 point plan into the Planning and Delivering of Safe Work Programme [SWP].*

*The commitment remains:*

- *Network Rail will have a core of permanent full-time, regularly used, Safe Work Leaders.*

- *The Safe Work Supervisor must ALWAYS be an employee of Network Rail OR a Principal Contractor or holder of a Railway Contractors Certificate.*

*The project aims to deliver on these points by January 2015, subject to consultation and validation. To minimise risk, implementation of use of formal SWL competence will be on a single agreed date for Network Rail and contractors. This date requires Go-Live criteria to be met, including adequate numbers trained. The Non-Technical Skills programme will be part of the SWL assessment of competency. Safe Work Leader has now been approved by TOMSC [Train Operations & Management Standards Committee] for inclusion in the December 2014 Rule Book.*

3. *On 7 October 2014, Network Rail advised a revised timescale for the SWL programme:*

*The SWL will now not go live until June 2015. This date has changed as the volume of training needs has been clarified.*

#### **ORR Decision**

4. After reviewing information received ORR has concluded that, in accordance with the Railways (Accident Investigation and Reporting) Regulations 2005, Network Rail;
  - has taken the recommendation into consideration and
  - is taking action to implement it by 31 December 2014

**Status: Implementation on-going.** *ORR will advise RAIB when actions to address this recommendation have been completed.*