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4 November 2013

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,

**Road vehicle incursion and subsequent collision with a train at Stowmarket Road, on 30 November 2011**

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 21 November 2012.

The annexes to this letter provide details of the consideration given/action taken in respect of each recommendation where:

- Recommendation 2 should be implemented by 29 November 2013
- Recommendation 3 should be implemented by 31 March 2014; and
- Recommendation 5 is in progress

We do not propose to take any further action in respect of recommendation 2 unless we become aware that any of the information provided becomes inaccurate, in which case I will write to you again<sup>2</sup>. We expect Network Rail to confirm when recommendation 3 has been implemented and will advise you when this has been received. We will update you on progress with recommendation 5 by 28 February 2014.

Recommendations 1, 4, 6, 7, 8 and 9 were addressed to other public bodies. ORR wrote to these bodies, although it has no legal duty to do this.

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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)

The response from Suffolk County Council for recommendations 1 and 4 can be found in annex B.

No response was received from the Department for Transport.

We expect to publish this response on the ORR website on 15 November 2013.

Yours Sincerely

Chris O'Doherty

## **Initial Consideration by ORR**

Recommendations 2, 3 and 5 contained in the report were addressed to ORR when RAIB published its report on 21 November 2012.

After considering the report / recommendations, on 11 December 2012, ORR passed recommendations 2 and 3 to Network asking it to consider, and where appropriate, act upon them.

Recommendation 5 was addressed to The Office of Rail Regulation and the Health and Safety Executive.

RAIB also addressed recommendations 1, 4, 6, 7, 8 and 9 to other public bodies and authorities.

ORR wrote to the Department for Transport on 1 March 2013, seeking details of any measures it may have taken to address the recommendations 4, 6, 7, 8 and 9<sup>3</sup>: and Suffolk County Council responded directly to RAIB on 4 December 2012.

Details of considerations given and any actions taken, in respect of these recommendations are provided in the appendix to this annex.

ORR also brought the report, and specifically recommendations 2 and 3, to the attention of HS1 Ltd, London Overground Infrastructure, UK Tram Ltd, Tyne and Wear Metro, Docklands Light Railway, and London Underground Ltd as there are equally important lessons for other infrastructure managers. The Heritage Rail Association also brought this incident to the attention of its members.

## **Recommendation 2**

*The purpose of this recommendation is for Network Rail to improve the way in which it manages the risk from road vehicle incursions.*

Network Rail should review, and take actions to improve, the effectiveness of its processes for managing the risk from road vehicle incursions. Factors for consideration should include:

- the exchange and management of information between different departments within Network Rail;
- the profile of RVI within relevant working groups including those involving external parties;
- the effectiveness of communications with bodies outside of Network Rail including arrangements for the reporting of all incursion incidents to local highway authorities and police forces; and

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<sup>3</sup> In accordance with The Railways (Accident Investigation and Reporting) Regulations 2005: Regulation 12(4)

- arrangements for managing the relationship with local highway authorities and the monitoring of actions taken following assessments of road vehicle incursion risk.

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

1. Network Rail in its initial response on 22 January 2013 advised that:

*Network Rail will undertake a review of the processes used to manage the risks from vehicle incursions and implement through a Professional Head Letter of Instruction revised requirements to address any identified deficiencies:*

*Step 1: Undertake a joint civil engineering / operations / maintenance review of current processes and identify shortfalls. By 31 March 2013*

*Step 2: Review allocation of responsibilities between civils, operations and maintenance for managing vehicle incursions including exchange of information. By 31 May 2013*

*Step 3: Issue Professional Head Letter of Instruction to implement revisions to processes used to manage vehicle incursions and a supporting plan for implementing the improvements to the processes. By 30 July 2013*

2. At a meeting on 25 June 2013, Network Rail provided ORR with evidence of its actions taken to complete steps 1 and 2. Evidence of actions to complete step 3 has been requested and a further meeting between ORR and Network Rail is scheduled for October 2013.

Network Rail on 30 August 2013 advised that:

*Letter of Instruction NR/BS/L1/306 'Requirements for managing the risk of Road Vehicle Incursion' that captures the outputs of a cross discipline workshop held at the end of June 2013 to address Recommendation 2. The workshop completed Network Rail's actions for Steps 1 & 2 in response to Recommendation 2.*

*In summary, the Letter of Instruction contains:*

- *the overall process for managing the risk from vehicle incursions with the existing Network Rail standard NR/GN/CIV/0012 forming the key central part;*
- *the requirement to liaise internally within Network Rail and with external parties to receive and share knowledge on issues that affect the risk of vehicle incursion;*
- *an escalation process for where the highway authority initially does not agree to works;*
- *compliance dates which form the implementation plan.*

Network Rail provided ORR with a copy of Letter of Instruction NR/BS/L1/306; Issue date: 30 August 2013. Compliance date: 29 November 2013

### ORR Decision

3. After reviewing information received from Network Rail, 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.

**Status: *Implementation on-going*** – Completion date 29 November 2013

### Recommendation 3

*The purpose of this recommendation is for Network Rail to validate its existing list of locations with significant RVI risk.*

Network Rail should review its current data on road vehicle incursion sites, possibly making use of recent internet tools (e.g. Google Earth / Street View), to determine whether its knowledge of all current road vehicle incursion locations is complete and to assess any that had not previously been considered.

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

4. Network Rail in its initial response on 22 February 2013, advised that:

*Please note it is recommended that Step 2 below follows on from completion of Step 2 in the response to recommendation 2.*

*Step 1: Review current methodologies used to identify sites and potential sources of information to inform identification and risk scoring of sites. By 31 March 2013*

*Step 2: Following completion of step 2 in response to Rec 2, identify or engage resources to check identification of sites. By 30 July 2013*

*Step 3: Review and update current list of vehicle incursion sites. By 30 November 2013*

*Step 4: Undertake an initial risk scoring of sites not previously assessed. For sites exceeding the recommended threshold value, issue risk score to relevant road authority for road authority to check (timescales to be confirmed once results of Step 2 above known). Provisionally by 31 March 2014*

On 30 August 2013, Network Rail advised that:

*Please find below a summary of our actions to date relating to Recommendation 3:*

*Step 1 – Following a review of various potential data sources Network Rail has undertaken geospatial analysis using Geographic Information Systems (GIS) to identify potential RVI sites from neighbouring roads. Additionally, sources of non-civils data have been identified to assist in the risk scoring of sites in the event that we identify sites that have not been previously assessed. (Complete).*

*Step 2 – Resources have been allocated within Asset Management Services to check the adequacy of identification of sites. (Complete).*

*Step 3 – The review and update of the current list of vehicle incursion sites has commenced and remains on target for completion by 30 November 2013.*

*Step 4 – We will endeavour to complete the initial risk scoring of sites not previously assessed by 31 March 2014. This date will be confirmed upon completion of step 3, as outlined in our plan for addressing the recommendation.*

### **ORR Decision**

5. After reviewing information received from Network Rail, 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.

**Status: *Implementation on-going***– Completion date 31 March 2014

### **Recommendation 5**

*The purpose of this recommendation is to clarify which body has regulatory and enforcement responsibility concerning highway authorities' implementation of measures to reduce road vehicle incursion risk. Any changes to the existing arrangements will need to be reflected in amendments to the Memorandum of Understanding and will take into account relevant findings in the final report of the Law Commission on level crossings and any subsequent changes to legislation.*

The Office of Rail Regulation and the Health and Safety Executive should jointly review their current Memorandum of Understanding and amend it as necessary to define clearly the responsibilities of each party in relation to enforcing actions to mitigate the risk arising from road vehicle incursions onto the railway.

The revised Memorandum of Understanding should take into account the findings of the Law Commission on level crossings when published, and include:

- a clear definition of the circumstances under which each party takes responsibility for enforcement; and
- a mechanism for resolving disputes over enforcement responsibility.

The Health and Safety Executive and the Office of Rail Regulation should jointly define a time-bound programme for the development and implementation of the review and consider actions that should be taken in the interim period if an amendment to current legislation is required to achieve the desired outcome.

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

6. ORR has already advised RAIB that the recommendation cannot be implemented exactly as worded i.e. that the Memorandum of Understanding (MOU) is not the vehicle to clarify legally which body has the relevant enforcement responsibility. However, ORR continues to seek a solution that will provide greater clarity and has recently met again with HSE, 11 July 2013, and considered further the legal options.

The joint Law Commission report, draft Bill and regulations and supporting impact assessment were published on 25 September. ORR, together with DfT as joint sponsors of the project, need to provide an initial response within six months and a more detailed one within twelve months setting out how we intend to implement.

The report contained a number of recommendations across a broad range of level crossing related laws and processes. Some were then reflected in the legal wording of the draft Bill and regulations whilst others remained as recommendations in the report only. The recommendation around enforcement responsibilities – relevant to the Stowmarket RAIB report – is in the latter category.

ORR needs to work with DfT to decide how best to implement the Law Commission work in general and at this stage it is difficult to estimate which of the specific recommendations will be taken forward, how this will be done and to what timetable. Those requiring amendments to primary legislation – which this would – are unlikely to be progressed in this Parliament as there is no time. This position will not change until 2015/16. In the meantime ORR is continuing to explore with HSE other potential ways of securing the clarity the RAIB recommendation is intended to promote.

Taking all of the above into account ORR may be able to provide a better update to RAIB in 4 months' time but securing a definitive solution is likely to be a long term project.

**Status: *In-progress*** – ORR will update RAIB by 28 February 2014

## **RAIB Recommendations made to Other Public Bodies**

### **Recommendation 1**

*The purpose of this recommendation is for Suffolk County Council to validate, and where necessary improve, the way it manages all risk from road vehicle incursions.*

Suffolk County Council (SCC) should commission an independent review of the actions it has taken following the accident in order to assess their completeness and effectiveness. In particular this should address the following areas:

- The processes that are in place to ensure all road vehicle incursion locations are identified, assessed (possibly making use of recent internet tools (such as Google Earth / Street View)), acted upon (including consideration of low-cost mitigation measures as well as more expensive options), monitored and periodically reviewed.

If actions are identified, SCC should develop and implement a time-bound programme that will be shared with DfT and Network Rail and progress reported to those bodies. This process should be documented and supervised by senior SCC management.

- Staff are trained and procedures in place for undertaking and reviewing risk assessments of road vehicle incursion locations.
- Data management systems (Accsmap and SCC Indexing system) and associated documents are in place to ensure that all data relating to injury and non-injury accidents at road vehicle incursion locations can be captured and identified for analysis and review.
- Processes are in place to ensure that information about road vehicle incursion incidents is shared between all interested parties.
- Processes are in place to ensure that staff are aware of the Department for Transport guidance on the road vehicle incursion and risk assessment process.

Any areas for further improvement should be implemented. Progress with the implementation of identified risk mitigation measures should be reported to DfT and notified to Network Rail.

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

Suffolk County Council in its response to RAIB on 4 December 2012 advised that:

*Suffolk County Council fully accepts Recommendations 1 and 4 and commits to following them through.*

*Suffolk County Council has already taken steps to address the points made under Recommendation 1. In particular SCC has commissioned the Council's Internal Audit Service to carry out an independent review, as recommended, of the actions SCC has taken following the incident and the systems, processes and procedures SCC now has in place.*



*Suffolk County Council will be able to provide full feedback on its proposed actions, including the results of the review, in March of next year [2013].*

On 16 April 2013, Suffolk County Council provided ORR with a copy of its audit report titled 'Independent Review of Actions taken by Suffolk County Council following recommendations made by the RAIB' dated 18 January 2013, which it sent to RAIB on 28 February 2013.

The report concluded that:

*... controls and procedures operate effectively in most cases but there remains further work to be done.*

*There will always be a residual risk of road vehicle incursion to the County Council (i.e. the risk that remains after controls are taken into account).*

*It is proposed that a further audit on rail incursion sites will be carried out once all actions have been implemented. This will examine the effectiveness of the system; processes and controls put in place and will be planned as part of the overall Audit Plan of work for 2013/14.*

The report included a 13-point prioritised action plan to address identified deficiencies with a completion date of 30 September 2013.

#### **Recommendation 4**

*The purpose of this recommendation is to improve the flow of information to key parties in the county of Suffolk.*

Suffolk County Council should brief parish and district councils and Suffolk Constabulary on possible vehicle incursion locations to encourage the reporting of road traffic concerns at or near such places.

The way in which this information is managed should be captured within a SCC procedure.

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

Suffolk County Council in its response to RAIB 4 December 2012 advised that:

*Suffolk County Council fully accepts Recommendations 1 and 4 and commits to following them through.*

#### **Recommendation 6**

*The purpose of this recommendation is for the DfT to improve its intelligence on the number and status of road vehicle incursion sites.*

DfT should undertake a review of all outstanding road vehicle incursion sites and establish a regime to continuously monitor progress with the implementation of the required risk mitigation measures.

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

ORR wrote to the Head of Highways Maintenance Branch, Department for Transport on 1 March 2013, requesting proposed actions DfT may be taking to address the recommendation.

The Department for Transport (DfT) has not provided a reply.

### **Recommendation 7**

*The purpose of this recommendation is for the lessons learnt from this investigation to be disseminated to local highway authorities.*

DfT should implement a programme and forum to disseminate the key findings of this report to all local highway authorities. In particular, highway authorities should be reminded of the need to:

- ensure that time-bound programmes of action are taken to mitigate risk at known high risk road vehicle incursion locations;
- reliably capture all data on all road accidents that have occurred near the railway boundary;
- engage with Network Rail, British Transport Police and local police road safety units to ensure that there are processes in place to share intelligence relating to known or new road vehicle incursion locations; and
- ensure that all current and new staff are aware of the procedures relating to the risk from road vehicle incursion sites.

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

ORR wrote to the Head of Highways Maintenance Branch, Department for Transport on 1 March 2013, requesting proposed actions DfT may be taking to address the recommendation.

The Department for Transport (DfT) has not provided a reply.

### **Recommendation 8**

*The purpose of this recommendation is to achieve better co-ordination between databases so that relevant intelligence is shared.*

DfT should, in consultation with ACPO, undertake a review of existing data systems (e.g. Accsmap/Crash system/National Resilience Extranet) to improve the ways in which data relevant to the risk of vehicle incursions, can be exchanged and shared with interested parties such as Network Rail, highways authorities and the police.

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

ORR wrote to the Head of Highways Maintenance Branch, Department for Transport on 1 March 2013, requesting proposed actions DfT may be taking to address the recommendation.

The Department for Transport (DfT) has not provided a reply.

**Recommendation 9**

*The purpose of this recommendation is to achieve better exchange of data between Local Resilience forum 'responders' so that relevant intelligence on outstanding high risk locations is shared.*

The DfT should, in consultation with the Civil Contingencies Secretariat (Resilience, Capabilities and Risks) and Local Resilience Forums, incorporate into the local risk assessment guidance the need to consider the potential for serious accidents at high-risk road vehicle incursion locations (particularly those where mitigation measures have yet to be implemented).

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

ORR wrote to the Head of Highways Maintenance Branch, Department for Transport on 1 March 2013, requesting proposed actions DfT may be taking to address the recommendation.

The Department for Transport (DfT) has not provided a reply.