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7 December 2020

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 update¹ on the action taken in respect of recommendations 2 & 6 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 recommendations and the status decided by ORR. The status of recommendations 2 & 6 is '**Implemented**'.

We do not propose to take any further action in respect of the recommendations, 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 8 December 2020.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Oliver Stewart', is written over a horizontal line.

Oliver Stewart

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

Recommendation 2

The intent of this recommendation is to improve level crossing signs, with regard to their conspicuity, message, content and clarity of information (the RAIB has already made a similar recommendation for user worked crossings).

Network Rail 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. Network Rail should also:

- liaise with the Office of Rail and Road to ensure that its updated guidance is compatible with the ORR's own version of good practice; and
- seek the assistance of the Department for Transport to enable any necessary legislative changes needed to implement the updated guidance

ORR decision

1. In its closure statement, Network Rail states it has produced two guidance documents for level crossing managers as part of its guidance suite for level crossings to address the recommendation: LCG 02 – Census Good practice (issue 3); and LCG 17 Signs Guidance.
2. LCG 02 has two sections (section 8 and 9) that focus on gathering intelligence when conducting a census for a level crossing, on usage that could be missed by a census. The guidance highlights various sources of intelligence such as use of websites, social media, definitive maps, local authority engagement and encourages direct engagement with user groups.
3. LCG 17 provides level crossing managers with the mandatory and non-mandatory signs at user worked, bridleway and footpath crossings, and where the signs should be positioned. The document highlights that at hybrid crossings (certain types of footpath/bridleway/user worked crossing), the signage for each type of crossing should be aligned at the route for that crossing. The guidance also states that the different types of signs should not be put on the same signpost but grouped by user type. The guidance also provides layouts specifically for UWCs that have public right of way crossings next to them.
4. Network Rail also has updated its level crossing signage, based on RSSB report T983. This work has produced new signage for footpath, bridleway and user worked crossings, and Network Rail is currently in the process of updating its signage standards for level crossings to include the new signage. Network Rail is also working with DfT to update The Private Crossings (Signs and Barriers) Regulations 1996. It identified the need for updated regulations and made representations to DfT, and it is now up to DfT to produce a new set of regulations.

While DfT updates the regulations, Network Rail confirmed in November 2020 that it plans to roll out the updated signage on the network as it delivers improved risk management. This delay did not affect the release of LCG 02 and LCG 17 and their use by level crossing managers.

5. Although Network Rail submitted the closure statement in December 2018, ORR wanted to see the finalised version of the updated signage and understand the process being put in place to roll out the updated signage before considering that the recommendation had been implemented. Originally DfT planned to update the regulations once the signs were agreed on, however this has been delayed to at least 2021. As discussed above, Network Rail is planning to roll out the updated signage to improve risk management.

6. 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.

Status: Implemented.

Previously reported to RAIB

7. On 13 May 2016 ORR reported the following:

'Whilst RSSB research project T756 identified that some proposed measures were considered to be best practice for the design of new level crossings, it also recognised that it was only feasible to implement them as part of a level crossing design when maintenance or an upgrade is carried out, or if a level crossing has a particular issue identified where it is believed the measure is practicable. T756 also recognised that a number of proposed measures would need to be subject to further research and development work (such as the proposed universal advanced level crossing warning sign) and / or written into legislation before they could be delivered.'

The output from RSSB research project T983 will also be subject to similar implementation constraints and therefore the actions to deliver recommendations 2, 3 and 4 of this report may either not be considered feasible to implement or take a considerable amount of time to deliver.'

Update

8. Network Rail provided the following closure statement on 18 December 2018:



Frampton Rec 2.pdf

9. Network Rail state the following:

*Network Rail has developed level crossing guidance document LCG17
'Provision and positioning of signage at user worked, bridleway and footpath'*

level crossings' and updated guidance document LCG02 'Census good practice'.

LCG17 provides clarity as to the provision and good practice positioning of mandatory and non-mandatory signage. It is supported by ergonomic research and recognises the importance of optimised sign positioning and a decluttered layout. In addition, the guidance supports conformance with legislation. The guidance has been adopted by level crossing managers as part of business as usual activity and will generate improved layouts, leading to greater asset conspicuity and improved opportunities for user comprehension.

LCG02 has also been strengthened to support increased identification of crossing use. In addition to promoting longer evidenced-based census, for example through deployment of cameras, section 8 specifically focuses on using intelligent sources of information to identify crossing activity that might otherwise be difficult to ascertain. Specific reference is given to the accidental fatality at Frampton level crossing on 11th May 2014 involving unauthorised use of a bridleway crossing with trail bikes.

The guidance promotes various intelligent sources such as use of websites, social media, definitive maps, local authority engagement and encourages direct engagement with user groups. Such intelligence will help improve our risk management of level crossings and guide other non-mandatory signage requirements. Both documents have been shared with ORR.

Network Rail, in conjunction with ORR and DfT, are working collaboratively to introduce new ergonomically designed level crossing signs onto the network. The project is based on the extensive research commissioned by RSSB. The starting focus of the work centres on user worked crossing signs, with significant progress already made in this area to finalise designs.

The project will expand to encompass footpath, bridleway and public road crossings. Whilst the original action plan supported that recommendation closure would conclude with progression of legislative change, a communication from the Minister of State, dated 25th May 2018, outlining the Governments response to the Law Commission level crossing review, has made this impractical.

The Minister of State concludes:

1. The reform will generate many issues relating to the balance between administrative efficiency and the rights of local communities and businesses to have their voices heard. There has been disagreement between stakeholders over this and we are clear that we would not want these rights to be diminished.
2. Network Rail has come a long way in recent years in its thinking and approach in relation to level crossings. Since 2010, it has closed over 1,000 of the higher risk level crossings, aided by a £109m ring-fenced fund from my Department. It has improved its own organisational capability by appointing 100 new level crossing managers at company and route level, which has enabled it to clarify roles and responsibilities and improve its own risk management controls.

Network Rail expects to focus less on closures in the future and is looking instead at making increasing use of technologies such as roadside enforcement cameras and overlay warning systems where these are appropriate. These technological developments offer scope for a step-change improvement in safety at level crossings as they become simpler and cheaper to install, enabling Network Rail to cover a higher proportion of level crossings on the UK mainline rail network than has been possible in the past. They should also help to reduce the operational impacts of the crossings on rail services. This is, in turn, expected to reduce the need for closures and major improvement works, which can often be disruptive to local communities as well as being bureaucratic and costly to administer.

3. *The ORR is looking in parallel at the extent to which the Level Crossing Order process could be operated more efficiently and more in line with a risk-based approach to health and safety regulation. This has the potential to create a simpler and less bureaucratic process within the current legal framework. DfT officials will also be exploring with the ORR the scope for changes to the Private Crossings (Signs and Barriers) Regulations 1996, to simplify and update signage at level crossings. Subject to this we would look to amend this Statutory Instrument when Parliamentary time allows.*
4. *In the light of these developments, I have concluded that best way of achieving reform is through the administrative changes outlined above rather than through legislative reform. Taking the above into consideration, Network Rail believes it has met the intent of the recommendation SFAIRP. We will continue to work with ORR and DfT colleagues to finalise and introduce new level crossing signage and, as and when parliamentary time allows, progress legislative change.*

Recommendation 6

The intent of this recommendation is to provide clear information about locations where public vehicular restrictions exist at level crossings that cross highways.

Network Rail should identify level crossings where safety management depends on the general public being aware that they are not allowed to use the level crossing with vehicles, including cars, motorcycles and trail bikes. For these crossings, Network Rail should:

- liaise with the relevant highway authorities to ensure their highway records, and any related documents and publications, clearly show the absence of a public vehicle route at the level crossing;
- share information about prohibitions with local and national organisations representing groups such as 4x4 vehicle drivers and trail bike riders; and
- arrange for signs to be provided on the highway approaches to the level crossing, and at or near the crossing itself, to show the prohibition that applies.

ORR decision

10. Network Rail have written to us setting out how they are working with local highway authorities to identify level crossings where safety management depends on the public being aware that they are not allowed to cross using vehicles, including cars, motorcycles and trail bikes. This was our main concern when Network Rail rejected the recommendation, so having taken steps to address this issue, we consider the recommendation to have been implemented.

11. 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.

Status: Implemented.

Previously reported to RAIB

12. On 13 May 2016 ORR reported the following:

Whilst ORR considers it is not reasonably practicable for Network Rail to nationally install and maintain vehicular prohibition signage on land which is not its own on the approach to private crossings, it considers that it is reasonable for Network Rail to do more to liaise with highways authorities to attempt to ensure that public documents (including maps) are clear on right of way status at such crossings.

ORR also considers that, whilst it may not be reasonable to expect Network Rail to cultivate and maintain relationships with every interest group that may use a level crossing, Network Rail should liaise with relevant organisations where an issue is identified (as was the case at Frampton Mansell), or when liaison with highways authorities reveals that vehicular prohibitions are not adequately indicated in public documents, including on maps used by the public and members of those organisations. Network Rail has indicated that it will consider these issues further.

Update

13. On 23 October 2020 Network Rail provided the following update:

I believe that Network Rail has developed partnerships that drive through more effective and pro-active relationships with the Institute of Public Right Of Way (IPROW) and Association of Directors of Environment, Economy, Planning & Transport (ADEPT). In 2019 we created a Memorandum of Understanding signed by all parties highlighting how we would work together in the future where level crossing risk management brought us together.

Since that time they have been invited onto the industry Level Crossing Strategy Group and have played an active part as key members of that group.

Our level crossing community take active parts in road rail partnership groups where required.

I therefore feel our relationships with highways authorities and local authorities are sufficient and we have sought to improve those over the years and therefore feel this matter is now closed.

Previously reported to RAIB

Recommendation 2

The intent of this recommendation is to improve level crossing signs, with regard to their conspicuity, message, content and clarity of information (the RAIB has already made a similar recommendation for user worked crossings).

Network Rail 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. Network Rail should also:

- liaise with the Office of Rail and Road to ensure that its updated guidance is compatible with the ORR's own version of good practice; and
- seek the assistance of the Department for Transport to enable any necessary legislative changes needed to implement the updated guidance

ORR decision

1. Whilst RSSB research project T756 identified that some proposed measures were considered to be best practice for the design of new level crossings, it also recognised that it was only feasible to implement them as part of a level crossing design when maintenance or an upgrade is carried out, or if a level crossing has a particular issue identified where it is believed the measure is practicable. T756 also recognised that a number of proposed measures would need to be subject to further research and development work (such as the proposed universal advanced level crossing warning sign) and / or written into legislation before they could be delivered.
2. The output from RSSB research project T983 will also be subject to similar implementation constraints and therefore the actions to deliver recommendations 2, 3 and 4 of this report may either not be considered feasible to implement or take a considerable amount of time to deliver.
3. 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 but has yet to provide a timebound plan for full implementation.

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

Information in support of ORR decision

4. In its response of 7 December 2015 Network Rail provided the following information:

The action plan for this recommendation shall be carried out in two phases.

Phase 1

Desktop research will be carried out to review the content of relevant legislation, company standards, industry research and guidance documents. This desktop research will allow us to determine the mandatory requirements and non-mandatory best practice relating to signage at level crossings. The following documents shall be included in the desktop research phase;

1. *RSP7 [ORR] Level Crossings; a guide for managers, designers and operators Railway Safety Publication No. 7*
2. *NR/L2/SIG/30015 Specification for Station, Footpath, Bridleway, User-worked Level Crossings*
3. *T983 Signs at private road level crossings*
4. *T756 Research into signs and signals at public road level crossings Phases 1 and 2*
5. *The Private Crossings (Signs and Barriers) Regulations 1996*

Following the desktop research, improved guidance shall be produced for footpath, bridleways, user-worked crossings and user-worked crossings with telephones. The updated guidance will take account of circumstances where another type of crossing is located at, or close to, the bridleway or footpath crossing and will also take account of prohibitions and circumstances when it is appropriate for pedestrians to use a telephone.

This phase shall conclude when;

- a) *desktop review is complete, (by 31st October 2015)*
- b) *updated DRAFT guidance is complete in the form of a 'strawman' Level Crossing Guidance (LCG) document, (by 30th November 2015)*
- c) *the ORR and Network Rail Routes have been consulted and allowed to offer comments, (by 31st December 2015)*
- d) *final LCG document and supporting briefing slides have been produced, (by 31st January 2016)*
- c) *the LCG document and briefing slides have been issued to Route teams and published on the Level Crossing Hub (by 31st January 2016).*

Phase 2

Network Rail will participate with the ORR and RSSB in the wider cross industry review of the 12 recommendations from T983 (including; new high level advanced warning sign, high level instruction signs, new detailed instructions signs for UWCs, red and white markings and red roundel for gates and yellow 'danger area' decking marking 'danger zones'. Feedback to be provided by 31st July 2016.

This phase will commence immediately – an initial meeting is currently being organised by the RSSB.

5. On 26 January 2016, in response to ORR's request for an update on the 'strawman' Level Crossing Guidance document consultation and confirmation of to whom the Phase 2 feedback was to be provided, Network Rail submitted the following response:

The guidance document referenced in the action plan for Frampton Mansell, recommendation 2, is jointly shared with Network Rail's formal response to recommendation 3, Jetty Avenue. The document is well advanced, although final delivery is slightly behind the timescales shown within the action plan. An early iteration of the guidance document was shared with ORR during formal discussion with Network Rail in November 2015. Network Rail has a programme plan in place in which to finalise the guidance in the next 4 weeks. The final draft will then be shared with ORR as part of a formal consultation process. An extension to the 31/03/2016 is pending.

Network Rail recognises that both the ORR and RSSB will be a central part of the stakeholder review process regarding the recommendations of research paper T983. The terminology used in the action plan refers to the provision of a formal positional update to the recommendation (to the ORR) in connection with decision making and possible implementation strategies. This will also include decisions about any extensions and revised plans as applicable.

Recommendation 6

The intent of this recommendation is to provide clear information about locations where public vehicular restrictions exist at level crossings that cross highways.

Network Rail should identify level crossings where safety management depends on the general public being aware that they are not allowed to use the level crossing with vehicles, including cars, motorcycles and trail bikes. For these crossings, Network Rail should:

- liaise with the relevant highway authorities to ensure their highway records, and any related documents and publications, clearly show the absence of a public vehicle route at the level crossing;
- share information about prohibitions with local and national organisations representing groups such as 4x4 vehicle drivers and trail bike riders; and
- arrange for signs to be provided on the highway approaches to the level crossing, and at or near the crossing itself, to show the prohibition that applies.

ORR decision

6. Whilst ORR considers it is not reasonably practicable for Network Rail to nationally install and maintain vehicular prohibition signage on land which is not its own on the approach to private crossings, it considers that it is reasonable for Network Rail to do more to liaise with highways authorities to attempt to ensure that public documents (including maps) are clear on right of way status at such crossings.

7. ORR also considers that, whilst it may not be reasonable to expect Network Rail to cultivate and maintain relationships with every interest group that *may* use a level crossing, Network Rail should liaise with relevant organisations where an issue is identified (as was the case at Frampton Mansell), or when liaison with highways authorities reveals that vehicular prohibitions are not adequately indicated in public documents, including on maps used by the public and members of those organisations. Network Rail has indicated that it will consider these issues further.

8. 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 considering how this recommendation can be implemented.

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

Information in support of ORR decision

9. In its response of 7 December 2015 Network Rail provided the following information:

This recommendation is not practical and contradicts published research, such as 'On Premise Signs and Traffic Safety' by Douglas Mace, which suggests that less signage is desirable in order to maximise the impact of the most safety critical signs. This research discusses how too many competing signs mask the visibility of needed information.

Network Rail would need to erect detailed and additional signage at the level crossing. If implemented, this could apply to the entire passive estate of level crossings, circa 4,800 assets.

Each asset has specific signage advising the user how to cross the railway safely and, in accordance with alternate RAIB recommendations, Network Rail is looking to de-clutter and reduce the number of signs exhibited at a level crossing. This recommendation would appear to be in conflict with previous recommendation by introducing further signage which Network Rail also considers would be ignored and possibly even forcibly removed. It is also noted that this does not seem to be a requirement on any other part of a highway network where safety issues may also be of concern.

In relation to the bullet point recommendations:

- *In determining the rights that exist over a level crossing, Network Rail uses the relevant Highway Authority as one of the external sources for establishing rights. Network Rail therefore has no control over a Highway Authority to ensure their highway records and any related documents and publications clearly show the absence of a public vehicular route over the level crossing. At best Network Rail only has the capacity to advise a highway authority on the rights it perceives are correct.*
- *To identify all external organisations (local and national) throughout the Country is an exhaustive task, if not impractical. Identified contacts would need to be established and maintained, and there would be no assurance that all organisations would suitably share the information with their members.*
- *Network Rail has no power or authority to place signs in a highway, or adjacent on private land) on approaches to level crossings. Network Rail also has no inspection or maintenance regime in place to manage such signs if indeed they were provided. It is also envisaged that many such signs would be forcibly removed by members of the public objecting to the public status. Where an incident was to happen where signs had been removed (and not replaced) then there would be liability implications.*

Based on the above, Network Rail proposes that the recommendation is not reasonably practicable.

10. On 26 January 2016 Network Rail provided the following additional information in response to the issues raised by ORR in respect of additional liaison with highways authorities and other relevant organisations:

An opportunity might exist for the Network Rail and ADEPT collaborate working group to explore a better aligned approach at a local level; utilising Road, Rail Partnership Groups as an avenue for focus in this area, for example.

The importance of stakeholder engagement is already encouraged within the level crossing risk assessment process. It is extensively adopted by the Level Crossing Manager community. The opportunity to expand on this further, taking account of the above good practice points is accepted. This will be incorporated within the guidance material to address recommendation 5.