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

Track Worker Struck by a Train at Cheshunt Junction, on 30 March 2010

I write to report¹ on the consideration given and action taken in respect of the recommendations addressed to ORR in the above report, published on 23 March 2011.

The annex to this letter provides details of the consideration given/action taken in respect of each recommendation where recommendations 1 is being implemented², and recommendation 2 is in progress.

We do not propose to take any further action in respect of recommendation 1 unless we become aware that any of the information provided becomes inaccurate, in which case I will write to you again³. We expect to update you on progress with recommendation 2 in October 2012.

We expect to publish this response on the ORR website on 7 June 2012.

Yours Sincerely

Chris O'Doherty

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

² In accordance with Regulation 12(2)(b)(ii)

³ In accordance with Regulation 12(2)(c)

Initial Consideration by ORR

1. Both recommendations contained in the report were addressed to ORR when RAIB published its report on 23 March 2011. After considering the report / recommendations, on 18 April 2011, ORR passed the recommendations to Network Rail asking it to consider and where appropriate act upon them.
2. ORR believes the report should have placed greater emphasis on:
 - that four members of the gang were at risk (not just the injured person) as they remained in the Down Southbury line and the positioning of the lookouts (Up main cess and Up Southbury cess) meant they could not see and give a warning if a train approached the site on the Down Southbury line while another train was passing on the Up Southbury line, as the Up train would block their view of the approaching Down train;
 - The level-2 track geometry fault being repaired had a 14 day response time, which was sufficient to plan Green Zone access, but late planning led to Red Zone access being the only available option;
 - Green Zone access was available at night and should have been used, particularly so given the high frequency of train service and type of work (lifting and packing of the track) being undertaken; and
 - The clear division of responsibility between the COSS and the track chargeman: The track chargeman is responsible for work quality and quantity while the COSS is responsible for the protection of the gang from train movements.
3. The Route Infrastructure Maintenance Director (RIMD), Anglia issued a local instruction requiring all work at junctions to be undertaken Green Zone unless specifically authorised for Red Zone by the Infrastructure Maintenance Depot Manager. The relative proportions of Red Zone and Green Zone access at junctions is being reviewed by the RIMD and shows an improving trend.
4. Details of consideration given and any action taken, in respect of these recommendations are provided below

Recommendation 1

The intention of this recommendation is to achieve consistently safe systems of work at junctions.

Network Rail should assess the hazards and risk at each of its junctions where working with lookout protection is currently permitted with the objective of producing for each a set of predefined Safe Systems of Work taking into account local factors.

These should identify the acceptability of this method of working, the protection arrangements for each part of the junction or work activity, and the specific position of safety (paragraph 155).

Details of steps taken or being taken to implement the recommendation

5. Network Rail in its response, on 17 May 2011, advised:

This recommendation is rejected on the basis that having pre-defined Safe System of Work Packs (SSOWPs) could import risk by diminishing the responsibility of the COSS to plan and implement safe methods of working taking into account local factors. These local factors could include the nature of the task, weather conditions (e.g. visibility) and the experience of staff on site.

Pre-defined SSOWPs could quickly become out of date, unless regular, rigorous reviews of their content were carried out. They would also need to be subject to stringent document control processes to guarantee that the latest issue of the SSOWP is the one that is used.

There would also be a possibility that complacency could set in as a result of having standardised documents which are available “off the shelf”.

6. ORR concluded that Network Rail's initial response did not adequately address the recommendation and therefore wrote to Network Rail on 7 June 2011 asking that it gives further consideration to how it plans safe systems of work at junctions and any actions it has or will be taking to identify junctions where look-out protection is an acceptable SSOW. Network Rail in its response, on 18 July 2011, advised:

The basis for rejecting this recommendation was that pre-defined SSOWPs could promote a “false sense of security” for COSSs and take away their responsibility to plan the Safe System of Work based upon local factors not contained in the pre-defined SSOWP.

Further consideration has been given to our response however the view is that the recommendation remains rejected. It is not considered that there are any further grounds for now accepting it.

The acceptability of look-out method of working is based upon our safe system of work planning hierarchy and is only used when other methods of Green Zone Working cannot be utilised.

The focus should be on increased competence and accountability as a means to improve safety, not more paperwork or prescription.

7. ORR consulted RAIB on non-implementation on 22 August 2011 asking for any comments by 9 September 2011.

8. On 1 September 2011 RAIB provided a joint response to this recommendation along with a response to Grosvenor Bridge recommendation 6. The majority of the response concerned Grosvenor Bridge recommendation 6 and concluded in saying:

Given that the Network Rail is proposing to reject a similar recommendation in respect of Cheshunt Junction recommendation 1, RAIB think it essential that we speak and explain our concerns in more detail before a decision is made.

9. On 7 September 2011 ORR agreed to meet with RAIB to discuss RAIB's concerns with Network Rail's responses. ORR met with RAIB on 25 April 2012 the outcome of the meeting being:

10. RAIB were concerned at Network Rail's rejection of the recommendation and ORR accepting Network Rail's argument for non-implementation of the recommendation.

11. ORR's position is that preparation of pre-defined safe system of work (SSOW) for each junction on the Network would be too onerous a task to maintain, as it would be subject to constant change and would never meet the dynamic factors that need to be taken into account such as: variable tasks; materials, tools and equipment need on site; staff involved; and weather conditions etc.

12. However, ORR fully supported the intention of the recommendation to achieve consistently safe systems of work at junctions. ORR also believes that provision of suitable guidance/instructions for Planners / COSS' as to the issues to consider, with what is acceptable or not, would be useful & help achieve the intention of the recommendation.

13. It was agreed that suitable up-to-date information should be available to the COSS to make a suitable risk assessment and for the hierarchy of protection to be applied under Standard NR/L2/OHS/019 Safety of People Working on or Near the Line. The Planner should provide the COSS with suitable up-to-date information to allow the COSS to check that the planned SSOW is appropriate for the conditions and can be implemented.

14. ORR advised RAIB that Network Rail is currently developing Safe System of Work Planning System 2 (SSOWPS 2) which should address most of RAIB's concerns. ORR also reminded RAIB of Network Rail's 'Go 4 Green' initiative in Anglia and its drive for more 'Green Zone' work, especially at junctions, and explained some new technology under development to support 'Green Zone' work.

15. RAIB acknowledged that creating and maintaining pre-defined SSOW at every junction was difficult and was satisfied that appropriate actions were being taken.

ORR Decision

After reviewing all the information received from Network Rail, ORR 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.

ORR will write to RAIB again if it becomes aware that the information above is inaccurate

Status: *Network Rail is taking action to address the recommendation by alternative means*

Recommendation 2

The intention of this recommendation is to address the concern that extended sighting times, and consequent early warnings from lookouts, can cause staff to react with less urgency to initial warnings or to adopt unauthorised systems of work.

Network Rail should evaluate the behaviour of staff working on the track at locations with extended sighting times. The objective of this evaluation shall be:

- a) to understand the methods adopted by track workers at such locations;
- b) to assess the risk introduced by extended warning times;
- c) to assess the risk introduced by any alternative working practices that may be identified by staff; and
- d) to consider the need for additional guidance to the COSS and other safety critical staff.

Based on its understanding of current behaviour gained from this evaluation, Network Rail should establish a safe system of work to cover activities at locations with extended sighting times (paragraph 136).

Details of steps taken or being taken to implement the recommendation

16. Network Rail in its response, on 17 May 2011, advised:

It is felt that there is already evidence within the literature that suggests that extended sighting times will lead to unsafe behaviours such as delays in moving to a position of safety and therefore the focus of this work should be on understanding the extent to which it is a risk within the rail context.

Work will be undertaken which will involve 4 phases:

- *a review of the safety behaviours literature to explore in more detail the factors that influence real time compliance with agreed safe systems of work where the hazard is not immediate or continuously present;*
- *an observational based study which will involve interviewing and observing track workers to identify:*
 - *what is considered to be extended warning time by track workers;*
 - *the factors that influence when and where you are likely to have extended working times; and*
 - *custom and practice surrounding calculating warning time and working practices where extended working times exist.*
- *a risk assessment using the data gathered in phase 1 and involving key stakeholders to identify the risks of extended warning times and assess the impact on safety; and*
- *consultation with track workers and workforce safety advisors about the mitigation measures that could be implemented.*

Timescale: 31 January 2012

17. ORR concluded that Network Rail's initial response did not adequately address the recommendation and therefore wrote to Network Rail on 7 June 2011 seeking further information on the outcomes of its review and risk assessments, and any measures it has or will be taking to establish a SSOW to cover activities at locations with extended sighting times.

18. Network Rail in its response, on 18 July 2011, advised:

Phase 4 of the proposed Network Rail action plan is designed to address part (d) of recommendation 2. As part of the process of consulting with track workers and workforce safety advisors about potential mitigation measures to the risks of extended warning times.

It is anticipated that additional guidance for COSSs may be one of those measures. However there may also be other mitigations that are identified as a result of the work to be carried out as part of Phases 1 – 3.

It was considered unwise to commit to providing additional guidance to COSSs until the risks of extended warning times and the potential mitigations were properly understood

It is envisaged that the output of Phase 4 of the Network Rail action plan may be further actions. So, for example, if one of our mitigations is that the rules need to be amended to reflect that a Lookout does not necessarily have to provide a warning immediately at locations with extended warning times, then this will take us beyond the Jan 2012 timescale indicated currently but a timed action plan will be provided at this point.

Timescale: To be further advised in January 2012.

19. Network Rail in a further response, on 15 March 2012, advised:

A timescale extension form for this recommendation has recently been agreed [within Network Rail] and it is supported by an action plan with defined deliverables.

20. Network Rail provided ORR with a copy of its 'Recommendations Management Extension to Timescale – Request / Justification' and its action plan.

Extract:

The request for a time line extension has been made for the following reasons:

The initial work on the literature review has highlighted that there is a vast literature base and a more specific research question was needed to ensure any review was meaningful and useful. It was decided that the interviews with front line may help to focus the remit for the literature review.

The original plan was to utilise the work being done as part of the Whitehall recommendations to access Lookouts / COSS and interview them about safe systems of work with extended warning times. This would have been a useful approach as it optimises the time spent with front line staff that have already been released from duty. However, following the first trial of the Whitehall work (which was delayed until December 2011) it became apparent that this approach was not practicable.

It has been a challenge to identify locations on the network where Network Rail has extended sighting times, making it difficult to know which areas to target.

Further delays have been incurred in progressing the work as originally intended due to lack of resource and recruitment issues, delaying the appointment of suitably competent people to undertake this work.

The revised target completion date of September 2012 is supported by an action plan which has defined deliverables within the duration of the plan. Therefore, there

will be an incremental improvement to the training and competence suite available to the business.

ORR Decision

After reviewing all the information received from Network Rail, ORR 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.

ORR will write to RAIB again if it becomes aware that the information above is inaccurate.

Status: *In-progress ORR will provide an update to RAIB in October 2012*