

**Chris O'Doherty**  
**RAIB Relationship and Recommendation Handling**  
**Manager**

Telephone: 020 7282 3752

e-mail: [chris.o'doherty@orr.gsi.gov.uk](mailto:chris.o'doherty@orr.gsi.gov.uk)



4 April 2014

Ms Carolyn Griffiths  
Chief Inspector of Rail Accidents  
Cullen House  
Berkshire Copse Rd  
Aldershot  
Hampshire GU11 2HP

Dear Carolyn,

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

I write to provide an update<sup>1</sup> on the consideration given and action taken in respect of recommendations 2 and 5 which were addressed to ORR in the above report, published on 21 November 2012.

The annex to this letter provides details of the action being taken.

- **Recommendation 2:** The status of this recommendation is now 'Implemented'.
- **Recommendation 5:** The status of this recommendation is continues to be 'In-progress'; ORR will update RAIB on progress being made by 3 October 2014.

We will publish this response on the ORR website on 25 April 2014.

Yours Sincerely,

Chris O'Doherty

---

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

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

### **Brief Summary on what was previously reported to RAIB on 4 November 2013**

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

*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; and*
- *Compliance dates which form the implementation plan.*

### **Update**

2. On 6 January 2014, IHS<sup>2</sup> confirmed that NR/BS/LI/306 was available on its web site attached to its associated standard NR/L1/CIV/032 Issue 2: Management of Structures.

### **ORR Decision**

3. After reviewing all the 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 has taken action to implement it.

---

<sup>2</sup> IHS is a global information company that holds, amongst other things, Network Rail standards

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

**Status: *Implemented***

### **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.

### **Brief Summary on what was previously reported to RAIB on 4 November 2013**

5. We previously reported that ORR needed to work with DfT to decide how best to implement the Law Commission work in general and it was difficult to estimate which of the specific recommendations would be taken forward, how this would 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 would not change until 2015/16. In the meantime ORR was continuing to explore with HSE, other potential ways of securing the clarity the RAIB recommendation is intended to promote.

### **Update**

6. ORR and DfT have met to discuss possible legislative change to introduce an enforcement flexibility provision whereby ORR and HSE could agree who would enforce in a given situation where there was uncertainty. ORR wrote to DfT on 16 January 2014 seeking the DfT's agreement that we should develop a regulatory proposal. We await its response.

7. ORR has also engaged with HSE on amending the MoU with them, but does not envisage, for the reasons stated on 4 November 2013, that the intent of this recommendation can be addressed through a revision to the MoU. Consequently

the ability to implement this recommendation, by alternative means, is dependent on DfT's support in ORR developing a regulatory proposal.

**Status: *In-progress***; ORR will update RAIB by 3 October 2014.