

Chris O'Doherty
RAIB relationship and recommendation handling manager
Telephone: 020 7282 3752
Email: chris.o'doherty@orr.gsi.gov.uk



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Ms Carolyn Griffiths
Chief Inspector of Rail Accidents
Rail Accident Investigation Branch
Cullen House
Berkshire Copse Road
Aldershot GU11 2HP

Dear Carolyn

RAIB report: Signal passed at danger at Stafford

I write to report on the consideration given and actions taken in respect of recommendations 1, 2 and 5 of the above report which were addressed to ORR when the report was published on 16 September 2013.

The annex to this letter provides details of the consideration given and actions taken in respect of the recommendations where recommendations 1 and 2 have been implemented and recommendation 5 is classed as implementation on-going.

We do not intend to take any further action in relation to recommendations 1 and 2; we will update you on recommendation 5 by 31 January 2015.

Yours sincerely

Chris O'Doherty

Proposed response to RAIB

1. When the report was published on 16 November 2013 recommendations 1 and 2 were addressed to Devon and Cornwall Railways, recommendations 3 and 4 were directed to ORR and recommendation 5 was addressed to RSSB.
2. We passed recommendations 1 and 2 to Devon and Cornwall railways and recommendation 5 to RSSB asking them to consider, and where appropriate, act upon them and advise ORR of their conclusions. We reported recommendations 3 and 4 as implemented on 7 April 2014. The consideration given to recommendations 1, 2 and 5 is included below.

Recommendation 1

The intent of this recommendation is to ensure the competence of Devon and Cornwall Railway's staff undertaking safety-critical work.

Devon and Cornwall Railways should implement formal competence management processes for all safety-critical staff, taking account of best practice in the industry. This should include operational, maintenance and managerial staff, whether permanent or contracted-in. Particular attention should be given to the management of train drivers on 'zero hours' contracts and those who drive for more than one company. Devon and Cornwall Railways should subsequently commission an independent review of the arrangements, and audit, to confirm effective implementation.

Actions taken, or being taken, to address the recommendation

3. On 8 November 2013 Devon and Cornwall Railways provided the information below:

DCR withdrew the Competence Management System (CMS) which was in force at the time of the SPAD and introduced a completely new CMS which was built around the specific requirements of a mixed traffic operator such as DCR. Managerial staff with Operational safety critical competence were included in the new CMS on its introduction

DCR have been reducing the number of zero hours contract drivers and particularly those who work for more than one operator. From January 2014, DCR will only have three zero hours contract drivers of which two of these only work as employees of DCR. The other driver is an established train crew manager who is also a test train driver for a significant rail franchise operation. DCR believes that with the combination of the changes made to its CMS and the additional requirements of the company's revised Qualification of Safety Critical Suppliers (SM001) procedure now adequately control the risk of zero hours staff identified as part of the RAIB investigation

DCR has enhanced the reference to the driving of light locos contained in its General Operating Appendix (B3) to reflect the risk associated with the braking capability of light locos. The associated reference in the CMS was also enhanced

4. Having considered the information provided by DCR, we found no evidence that DCR had commissioned an independent review of the arrangements and audit, to confirm

effective implementation. We wrote to DCR on 4 December requesting further information. DCR responded on 20 December with the information below

Subsequent to the SPAD on 26 April 2012 DCR carried out a semi-independent deep dive audit of its compliance and suitability of its SMS, in particular with regards to ROGS, this work was presented, including an action plan and interim controls, to the ORR. The final part of that action plan process will be a complete revision of its SMS scheduled to take place in 2014. In the interim the operational CMS has been completely revised and audited as part of a supplier audit (provision of train crew, Track and Rolling Stock and other services) by both DB Schenker and Direct Rail Services who in themselves are independent of DCR. The audit reports are openly shared with DCR's local ORR Inspector. Additionally regular intervention and meetings with the ORR have established that progress is adequate and demonstrable improvements have been achieved. DCR has also committed to the RM3 audit process and recent new position to the business, a Safety Manager reporting to the head of Track and Rolling Stock and Safety, has already been appointed and has recently started the first wave of ORR sponsored RM3 training.

It is to these ends that DCR felt that the cost and time of a fully independent review and audit could only surface issues that DCR and the ORR were already aware of and therefore would not present real benefit in the short term. DCR instead has invested in committing to the RM3 process and additional safety system resources which will provide continuous opportunities to improve safety and culture within DCR on an on-going basis.

We met with DCR ON 14 March 2014 at which time we were informed that DCR had had implemented a formal competence management process for all safety critical staff including engineering staff. Consequently we met with DCR's management team on 16 April 2014 to consider how its competence management system worked. We then completed an inspection of DCR's competence system at its Washwood Heath depot on 17 April 2014.

ORR decision

5. ORR, in reviewing the response provided by DCR and having confirmed its actions by inspection has concluded that in accordance with the Railway (Accident Investigation and Reporting) Regulations 2005, it has:

- taken the recommendation into consideration; and
- has taken action to implement it.

Status: Implemented

Recommendation 2

The intent of this recommendation is to clarify the procedures for making sure that vehicles have been examined by competent persons in accordance with vehicle maintenance instructions.

Devon & Cornwall Railways should implement processes to confirm that locomotives, whether owned or hired-in, have been examined by competent persons and assessed as fit to run before they are released for operational use.

Actions taken, or being taken, to address the recommendation

6. On 8 November 2013 Devon and Cornwall Railways provided the information below:

DCR has introduced a heavily revised Qualification of Safety Critical Suppliers procedure (SM001) which now applies to the procurement of Track and Rolling Stock from third parties. DCR has employed a third party to introduce a new CMS system for its core maintainer due for completion in February 2014. A maintenance control function has been established alongside the existing route control function at the East Midlands Control Centre Derby. A Fleet Manager has been employed and tasked with the development of the maintenance policy and the day to day relationship of DCR's maintainers. A defect and concession process has been setup to control fleet degraded situations. Each significant concession is currently signed off by the Engineering and Safety Director.

7. Having considered the information from DCR, ORR wished to check the Qualification of Safety Critical Suppliers procedure (SM0001). We have received a copy of this document and intend to meet with DCR so that they can demonstrate how the procurement works in practice.

8. ORR, in reviewing the response provided by DCR and having confirmed the validity of SM0001 (Qualification of Safety Critical Suppliers procedure, has concluded that in accordance with the Railway (Accident Investigation and Reporting) Regulations 2005, it has:

- taken the recommendation into consideration; and
- has taken action to implement it.

Status: Implemented

Recommendation 5

The intent of this recommendation is to minimise the risk that an individual's route knowledge will be inadequately assessed.

RSSB should amend rail industry standard 'Management of route knowledge for drivers, train managers, guards and driver managers', Ref. RIS-3702-TOM, to require an assessment of the training needs of new staff. This should clarify how 'transferred-in' route and traction knowledge should be assessed by the new employer. Particular attention should be given to the management of train drivers on 'zero hours' contracts and those who drive for more than one company.

Actions taken, or being taken, to address the recommendation

9. On 8 November 2013 RSSB provided the information below:

RSSB has accordingly considered issues regarding the transfer in of new employees and the requirement for RUs to exchange competency records for which there is guidance already published in RIS-3751. We believe this to be sufficient and complete and therefore propose not to recreate/repeat this as additional guidance in RIS-3702-TOM.

Therefore, in response to the recommendation, RSSB proposes to amend RIS-3702-TOM to include a definition to clarify both the meaning and the situation pertaining to 'zero hours'

issues and amend Section 2, possibly as clause 2.8 and renumbering the remainder, to include a new heading, a new requirement and two new areas of guidance as follows:

Definition:

*A **zero-hours contract** is a contract of employment used in the United Kingdom which, while meeting the terms of the Employment Rights Act 1996 by providing a written statement of the terms and conditions of employment, contains provisions which create an 'on call' arrangement between employer and employee.*

Section 2 Amendment;

Heading;

'Managing the competency of personnel that have previous driving experience and are newly appointed or employed on 'zero hours' contracts'

Requirement;

'Railway undertakings shall establish the level of route knowledge competency of all experienced personnel that transfer-in, or are employed on 'zero hours' contracts to determine whether additional training is required.'

Guidance;

'GNxx Railway undertakings should assess the current level of route knowledge competence currently held by newly transferred-in personnel to determine if further training is required to meet their current business requirements.'

This should be achieved by:

- a) Conducting a detailed training needs analysis, taking into consideration the different characteristics of the traction types and different train types that the employee has experience of operating over the route/s.*
- b) Determining any potential knowledge gaps.*
- c) Creating and documenting a detailed bespoke individual training plan in accordance with the identified needs.*
- d) Assessing and documenting the newly acquired knowledge using current company process.*

'GNxx Railway undertakings should implement a documented process to assess the level of route knowledge competence held by personnel that are employed on 'zero hours' contracts or drive for more than one RU to determine whether supplementary training is necessary before being permitted to operate trains/traction types over its routes.'

Consideration should be given to the individual's experience of:

- a) The amount of time previously spent driving over the route/s.*
- b) The last time the route/s had been physically driven over and whether this is aligned with company policy.*
- c) Operating the type of traction that will be worked over the route whilst working for the railway undertaking.*
- d) The different operating characteristics from other traction and train types to those operated in the past, such as stopping/fast services, suburban/intercity services, freight/passenger or fast/slow operation and their possible effect on competency retention.'*

*(Note: the numbered guidance items have not yet been allocated, hence the use of 'xx')
Following due industry process, we will consult with the TOM Standards Committee before proceeding*

10. RSSB have provided the following timescales:

Proposal approval	<i>TOM SC: 04 February 2014</i>
Start-up and content review meetings, drafting, impact assessment, etc	<i>05 February to 02 May 2014</i>
Pre-consultation review	<i>TOM SC: 20 May 2014</i>
Consultation period	<i>21 May to 19 June 2014</i>
Post-consultation	<i>TOM SC: 16 September 2014</i>
Final review	<i>TOM SC: 14 October 2014</i>
Catalogue deadline	<i>31 October 2014</i>
Publication	<i>06 December 2014</i>

ORR decision

11. ORR, in

reviewing the response provided by RSSB, has concluded that in accordance with the Railway (Accident Investigation and Reporting) Regulations 2005, it has:

- taken the recommendation into consideration; and
- is taking action to implement it.

Status: *Implementation on-going. ORR will confirm to RAIB that all actions are complete by 31 January 2015.*