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5 April 2021

Dear Mrs Oddy,

ROW/3201659: PROOF OF EVIDENCE

I understand those intending to speak at the Public inquiry into Network Rail's request to close the Pilgrims Way (SR49) level crossing at Oxford and divert the footpath over a new footbridge should enter a "Proof of Evidence". I found the Planning Inspectorate Guidance on this difficult to interpret so I apologise in advance for any misunderstanding.

In any event, I intend to speak at the Inquiry and address four issues: weaknesses in the Network Rail Statement of Case; the level crossing's safety; the new risks that would be introduced were footpath SR49 to be diverted over a 62-step footbridge; and, risks posed by the routes Network Rail suggests should be adopted by those unable to use the proposed footbridge. I intend to draw on the evidence included in the document I wrote jointly with Mr Clucas and Mr Davies – our Statement of Case - the Supporting Documents we supplied alongside it and materials such as those attached to this letter. Mr Clucas and Mr Davies also intend to speak to these documents.

Any action yet on the four points in my letter to you of 25 March?

Yours sincerely,

Martin Williamson

Rail Safety and Standards Board

FINAL REPORT

Independent review of RIDDOR reporting by Network Rail and its contractors

25 January 2011

Excerpts from Executive Summary (pp4-7)

“10 The main conclusions of the review are:

1. There has been a significant level of under-reporting of RIDDOR lost time injuries by Network Rail staff and its contractor companies over the last five years. We estimate that 500 to 600 RIDDOR lost time injuries³ may not have been reported by Network Rail Infrastructure Projects and Maintenance over the five years 2005/06 to 2009/10. **This estimate represents a range of 37% to 42% under-reporting of RIDDOR lost time injuries for these two Network Rail functions.** The majority of the under-reporting has been within Infrastructure Projects with the under-reporting in Maintenance only being prevalent since the start of 2008/09. **For all Network Rail functions combined the level of under-reporting over the five years is estimated, on the same basis, to have been 27% to 34%.**

2. The under-reporting of RIDDOR lost time injuries has occurred because of the change in both the culture of Network Rail and its relationship with its contractors since 2005. **These changes are a result of the real and perceived pressure and, in some cases, fear felt by Network Rail staff and contractors if they report accidents or incidents.** From the evidence gathered in the review, we consider this real and perceived pressure and fear have arisen as unintended consequences of the Network Rail implementation of:

a. The overall strategy for safety (which was consciously designed to improve safety), based on the use of quantitative safety targets, safety performance measures, league tables and contractual requirements linked to the number of reported RIDDOR lost time injuries.

b. Other management actions, such as the frequent company re-organisations and the application of a “managing for attendance” policy.

c. The procurement strategy used to drive down costs and improve efficiency leading, for example, to the primary contractor companies making much greater use of temporary (“zero-hours”) type contract staff.

3. The use of different accident databases within each of the Network Rail functions and a lack of cross-checking/formal data auditing between them has led to significant inconsistencies in the data such that statistics relating to both major injuries and RIDDOR lost time injuries reported in the Network

Rail Safety and Environment Assurance Report (SEAR) have been different from the records in SMIS that are used to report RIDDOR accidents to the ORR.

4. Network Rail analysis has shown that there has also been some under-reporting of major injuries to the ORR. Network Rail have indicated that this is mostly due to incorrect classification of accidents generally around the less obvious RIDDOR major injury criteria such as “arc eye”, dislocated joints and being detained in hospital for more than 24 hours.

11 The review has identified that, while the safety and procurement strategies outlined above were intended to improve safety and reduce costs, unintended changes in attitudes to reporting occurred. It is apparent that insufficient consideration was given to the potential for unintended consequences when these safety and procurement strategies were implemented and, as such, no safeguards against the consequences were put in place.

12 From the review of lost time injuries, **we have identified some evidence of mistakes by Directors and managers at all levels**, which are related to, for example, misunderstanding RIDDOR requirements and the differences in geographical scope between Network Rail company standards and the Railway Group standards. However, from the evidence presented to the review we found that **the majority of the under-reporting has resulted from violations (deliberately not reporting RIDDOR lost time injuries)**. Examples of violations identified in the review are: **Frontline staff deciding not to report events which they know should be reported; Managers using incentives to discourage reporting by front line staff**; and Contractor companies having unwritten policies which discourage reporting.

13 Network Rail Directors and senior managers believed that the falling Accident Frequency Rate (AFR) in the period since maintenance was brought in house was explained by the actions they had been taking in the areas of new and improved protective equipment, work practices and the motivational aspects of the safety league tables and so on.

14 In the context of the review, we were asked to consider whether the presence of monetary bonuses was a driver to the under-reporting of injuries. From the review of the Network Rail bonus arrangements, we found that safety performance targets such as AFR and the Fatality and Weighted Injury (FWI) rate are not direct mechanistic measures in the assessment of the amount of bonus individuals across Network Rail are awarded. There is, however, an indirect linkage through the deliberations of the Remuneration Committee and the individual performance assessments for some managers. We do not believe that this indirect linkage has been a significant driver in the under-reporting or misclassification of RIDDOR reportable lost time injuries.

15 We found no evidence of instructions or directives being given by Directors or senior managers to staff regarding the non-reporting of RIDDOR lost time accidents or specific incorrect interpretations of the RIDDOR requirements with respect to the definitions normal/light duties or pre-existing conditions for the purposes of reducing the number of RIDDOR lost time accidents reported.

16 Throughout the interviews and discussions held as part of the review, Network Rail Directors, senior managers, local managers and frontline staff, and similarly staff from contractor companies, have

demonstrated a real desire and intent to improve safety. In many cases, a real passion for safety was evident. There was, however, some evidence that local managers are under such pressure to “get the job done” that it may, in some cases, lead to safety and safety reporting being compromised.

17 The main conclusions of the review have been derived from an assessment of a range of individual factors that have emanated from the overall management action, behaviour and attitudes to staff and contractors taken by Network Rail. These are reported in more detail within the report.

18 Any quantitative target or key performance indicator can be effective if the culture in which it is used is mature enough to: use the target to motivate good behaviours; take failures to meet targets as opportunities for learning; and manage perverse incentives which may be associated with measures. **It is therefore the combination of Network Rail’s culture with quantitative targets, rather than quantitative targets in themselves which have created the under-reporting issue.**

N.B. Network Rail (25/1/2011 Press release) describes the relevant RIDDOR as: death, major injury, dangerous occurrence (e.g. signals passed without authority), over 3-day injury and reportable disease.

NETWORK RAIL PRESS RELEASE

NETWORK RAIL WELCOMES PUBLICATION OF INDEPENDENT SAFETY REPORT

25 January 2011

Network Rail today welcomed the publication of the report by the independent Rail Safety and Standards Board (RSSB) and announced that it would act to enhance its safety culture.

The 99 page report, commissioned by Network Rail's board, concluded that there has been significant - around 34% - under-reporting of 'over-3-day injuries' amongst staff and contractors since 2005. There were several causes of under-reporting including misinterpretation of reporting requirements and fear felt by Network Rail staff and contractors if they reported accidents. The report concludes that there was no link between this under-reporting and executive bonuses.

Rick Haythornthwaite, Network Rail's chairman, said: "I'm grateful to the RSSB for its work and to the Office of Rail Regulation and Unite for bringing this issue to our attention. While we can take some comfort from the report's clear conclusion that there was no link between under-reporting and executive bonuses, Network Rail needs to heed the lessons in this report if it is to achieve its ambition of a world class safety culture.

"Enhancing safety, both at Network Rail and its contractors, will be at the top of David Higgins' in-tray when he starts as chief executive. Under David's leadership I am expecting the company to deliver a step change in safety."

Since it commissioned the review Network Rail has re-enforced its safety reporting with additional guidance and training on the requirements of RIDDOR and is enhancing its safety training strategy. The company will be reviewing existing safety data assurance and reporting, and consulting unions on enhancing safety culture.

Peter Henderson, Network Rail's acting chief executive, said: "Enhancing the safety of the railway and establishing a more open culture is a complex issue. To achieve our safety ambitions, we will work together with our contractors, unions and other stakeholders and use these findings to help develop a wide-ranging safety plan."