

## **How ORR handles reports and recommendations from RAIB (other than recommendations where ORR is the “implementer”)**

### **Objective**

ORR’s objective in dealing with RAIB recommendations is to fulfil ORR’s role as National Safety Authority by, in particular, ensuring that:

- RAIB recommendations are assessed against clear criteria, using both technical and other experts, in order to decide ORR’s view on RAIB recommendations and our response to them;
- ORR provides feedback to RAIB in accordance with the legislative requirements and the Memorandum of Understanding (MoU) between ORR and RAIB; and
- where appropriate, industry bodies consider RAIB recommendations and take action to implement them, so as to improve the safety of the railways and prevent railway accidents.

### **Stage 1 - Consultation**

Where there are parallel RAIB and ORR investigations into an incident, there is often discussion between RAIB and ORR inspectors on issues around causation and possible remedial action.

As RAIB moves towards publishing its reports, its inspectors usually talk to interested parties (including ORR) about emerging findings and possible recommendations. ORR uses this opportunity, when RAIB provides it, to give our views on, particularly, the validity<sup>1</sup> and technical feasibility of any emerging recommendations.

In addition RAIB has agreed to let ORR see their draft recommendations, plus sufficient information to put them in context, before the formal consultation period. ORR has five working days to respond. ORR aims to give RAIB an informal view on the bullet points in the following paragraph.

During the period RAIB allows for making representations<sup>2</sup> after it circulates its draft reports to interested parties<sup>3</sup>, we consult widely within ORR. We usually provide RAIB with detailed feedback on both the body of the report and the draft recommendations. Our priority is to give ORR’s view on RAIB’s draft recommendations, aiming to ensure that they are:

- clear and unambiguous
- aimed at eliminating or mitigating an identified causal or contributory factor, or at addressing other safety concerns arising from RAIB’s investigation

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<sup>1</sup> i.e. do the recommendations address the causes of the incident investigated, are they logical and clear, and will it be reasonably easy to assess whether they have been implemented.

<sup>2</sup> A minimum of 14 days

<sup>3</sup> Regulation 13 of the Railways (Accident Investigation and Reporting) Regulations 2005

- properly targeted, achievable and capable of having their implementation measured
- will deliver safety benefits
- “reasonably practicable”, so far as we can tell without the benefit of input from the industry.

## **Stage 2 – Published Report and Recommendations**

When ORR receives RAIB’s final report we check the extent to which our input at Stage 1 has been taken into account<sup>4</sup>. We also check that the recommendations (where made) identify all relevant people, including those who might be indirectly affected. We decide who we should pass the recommendations on to, and seek responses. Our letter includes contact details for ORR’s Recommendation Handling Team. We explicitly use the powers given us by the Railways (Accident Investigation and Reporting) Regulations 2005 (Regulation 12(4)) to require a response within 4 weeks. However, our letter makes clear that, if recipients need more than 4 weeks, they should tell us when they will be able to provide the information.

As well as sending the report and recommendations to all relevant people, we consider how widely we should consult colleagues within other parts of ORR as we begin developing ORR’s response.

## **Stage 3 – ORR’s Response**

When we’ve had the benefit of the industry’s views, we consider again the RAIB report and its recommendations. We write to respondents thanking them for their response and providing contact details for the ORR manager who will consider the information provided. Our consideration enables ORR to decide our position on a range of questions:

- what action, if any, should ORR take to assure ourselves that the measures a recommendation holder says they have taken, or will take, in response to a recommendation will properly implement it?
- where a recommendation holder has stated that they will not be taking measures to implement the recommendation, or indicates that they will take alternative action to achieve the same end, should ORR take any further action?
- what action, if any, is needed by ORR to carry a recommendation into effect?
- is a recommendation legally enforceable? If so, what form of enforcement action, if any, would be appropriate, given ORR’s Enforcement Policy Statement, if the industry says “no”, or propose too tardy a response?
- what, if any, are the implications of a recommendation for other organisations and the wider railway, and what action should ORR take to address them?

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<sup>4</sup> When sending the final report to ORR, RAIB’s internal guidance asks their inspectors to include information on how comments provided on the draft report have been considered and addressed.

#### **Stage 4**

ORR has agreed to give RAIB a quarterly progress reports. Our initial report to RAIB in respect of any report must<sup>5</sup> give

- full details of any measure taken to implement a recommendation
- full details of any proposed measure to implement a recommendation and the proposed timetable for securing implementation
- a full explanation as to why a recommendation is not to be the subject of measures to implement it.

The information gathered at Stage 2 provides the details we need.

In addition we are obliged to let RAIB know as and when we find that the information we have previously given to them has become inaccurate. To do this we rely on information obtained from

- our routine contacts with duty-holders;
- duty-holders' compliance with their duty to notify us of changes to their planned implementation programme; and
- our own follow-up work (if any) in respect of recommendations.

#### **Stage 5**

When we have confirmed, to our own satisfaction, that a recommendation has been:

- implemented;
- not implemented because appropriate alternative action has been taken to address the risk identified by RAIB; or
- not implemented but the recommendation is not capable of being subject to proportionate enforcement action by ORR

we inform RAIB that we regard the recommendation as closed.

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<sup>5</sup> Regulation 12(2)(b) of the Railways (Accident Investigation and Reporting) Regulations 2005