



FAO: HM Senior Coroner  
Poplar Coroner's Court  
127 Poplar High Street  
London  
E14 0AE

The Quadrant MK  
Elder Gate  
Milton Keynes  
MK9 1EN

25<sup>th</sup> November 2019

Dear Madam

**Ref: Inquest touching the deaths of Mr Benjamin Michael Haddon-Cave and Mr Patrick Thomas Bolster (formerly Broughan)**

**Regulation 28: Prevention of Future Deaths Report 25 September 2019**

Thank you for your Regulation 28 report sent to Mr Andrew Haines following the above inquest. We have reviewed the points raised in your report and respond in detail below.

For ease of reference, we have included your questions in the body of our response and against each of your questions, have set out: 1) the steps we are taking to address your concerns on a national, and where appropriate, local level, and 2) how we will be ensuring compliance with each step, via the Network Rail national recommendations and actions tracking system ("Network Rail CMO-Compliance Tracked Action").

1. **Coroner's Q1: "The fence was marked down for annual inspections because there was no history of problems in that area however the inspectors conducting the inspection on 27 October 2017 and 27 October 2018 (a different inspector on each occasion) did not consider the relevant part of the fence because dense vegetation blocked their view from trackside.**

Neither inspector attempted to view the fence from the other (public) side, which they could easily have done.

This represents a failure of the two individuals and/or a failure of their training and/or both. There are only 4 inspectors at Tottenham, so this represents half the inspections workforce."

**1.1 Network Rail Response- Q1:**

**1.1.1 National Safety Bulletin**

A communication in the form of a National Safety Bulletin will be issued to all Off Track teams, which is the Network Rail maintenance teams that carry out boundary inspections. A National Safety Bulletin is the fastest means by which Network Rail issues national learning of important or critical safety issues pending a safety 'Standard' or process change.

In this instance, the proposed National Safety Bulletin will reference the key points from this tragic event. Specifically, the Bulletin will state that where a tactile inspection is not possible, the inspector is to use alternative means to view/inspect the fence, such as using:

- The other (Public/3rd Party) side
- Alternative vantage points
- Removal of vegetation (where appropriate)\*
- Use of technology (e.g. drones)

\* where the vegetation acts as part of the deterrent boundary measure, this is not removed to facilitate an inspection. A non-tactile form is acceptable.

**Network Rail CMO-Compliance Tracked Action 1: National Safety Bulletin to be issued to all off track section teams that carry out boundary inspections – Due by 30th November 2019**

**1.1.2 Competency Training Module**

Network Rail was previously aware of the need to improve the competency of rail boundary inspections and had provided an improved safety Standard and competency training module. This is a 2-day specific mandatory training course for all new and existing inspectors. In light of the tragic fatalities at Hackney Wick, we have identified that the new competency module should be further enhanced by explicitly stipulating what to do where non-tactile inspections cannot be carried out from the Network Rail trackside.

This enhancement will be included in the training course from April 2020 following the issue of the revised Standard.

**Network Rail CMO-Compliance Tracked Action 2: Principal Lineside Engineer to update competency module to explicitly stipulate what to do where non-tactile inspections occur – Due by 31st March 2020**

**1.1.3 New Boundary Fencing Inspection Standard**

It should be noted that since the tragic fatalities, the revised Standard for Boundary Fencing Inspection (NR/L2/OTK/5100 Module 01) has now come into force (1st April 2019). Importantly, this Standard dictates the Network Rail system to be followed, which includes a new electronic form F3212 to replace the previous paper TEF 3212 form.

The revised Standard requires all inspectors to input the inspection data via the electronic MyWork App which includes the F3212 form. In the event that a tactile inspection cannot be undertaken, the Standard requires the inspector to use the F3212 form to record that fact. The F3212 form includes a new section that the inspector must complete that records how the incomplete inspection can be undertaken as a tactile inspection.

Once an incomplete inspection has been uploaded to the data recording system ("Field Data Manager"), this will flag to the Track Maintenance Engineer that a non-tactile inspection has occurred. The Track Maintenance Engineer is then required to review the system and review the details of the F3212 form. Depending on the contents and photographs supplied, the Track Maintenance Engineer can either challenge the inspection approach or accept that a non-tactile is appropriate and pass the report on to the Route Asset Manager for approval.

The Route Asset Manager follows the same process as the Track Maintenance Engineer by either challenging or approving the non-tactile inspection. The Track Maintenance Engineer and Route Asset Manager are required to only approve a non-tactile inspection if there is no reasonable way to undertake the inspection or the reason preventing the inspection acts as the deterrent to access.

#### 1.1.4 Future enhancement to the Boundary Fencing Inspection Standard

We have identified an opportunity to be more detailed in the Standard for non-tactile inspections. The Standard 'NR/L2/OTK/5100' will be amended in the next review cycle (March 2020) to make it clear that in the event a tactile inspection is not possible, further work may be required to complete the tactile inspection.

**Network Rail CMO-Compliance Tracked Action 3: The Standard NR/L2/OTK/5100 Module 1 will be amended to be more explicit regarding work arising to enable future tactile inspections – Due by 31st March 2020**

#### 1.1.5 Tottenham Delivery Unit improvements

In terms of the Tottenham Delivery Unit, Inspectors that were involved in the inspections in 2017 and 2018 were both deemed competent, however it is worth noting that both inspectors along with the remaining team have been through a new competency module 'TR51- Boundary Measures Inspection' during 2019.

In addition, all Inspectors in Tottenham Delivery Unit have been re-briefed by the Section Manager on how they are to approach non-tactile inspections which include arranging for vegetation, where necessary and appropriate, to be cleared and/or the boundary to be accessed by alternative means (e.g. via the non-Network Rail (public) side) to undertake the inspection.

As a further measure, the Route Lineside Senior Asset Engineer within the Route where Tottenham Delivery Unit are located is undertaking a set of onsite reviews with all Route inspectors using recently created non-tactile inspection reports. This is to review the reports and the process followed prior to submission of the reports. All inspectors in the Route will have been reviewed by 31st December 2019. We can confirm the inspectors involved with the fencing inspections linked to the tragic deaths have already been reviewed by the Route Lineside Senior Asset Engineer.

**Network Rail CMO-Compliance Tracked Action 4: Anglia Route Lineside Senior Asset Engineer to undertake a set of onsite reviews with all inspectors where non-tactile reports have been submitted – Due by 31st December 2019**

2. Coroner's Q2: "Both Inspectors inputted their inspections onto a computer system but neither submitted a paper form as they were meant so to do.

This represents a failure of the two individuals, and/or a failure of their training and/or both. In any event, such a system of dual submissions was inherently flawed".

#### 2.1 Network Rail Response-Q2:

2.1.1 The 'Boundary Measures Network Rail Standard' (NR/L2/TRK/5100) in force at the time of the 2017 and 2018 inspections and in force at the time of Benjamin Michael Haddon-Cave and Patrick Thomas Bolster's tragic deaths, made it permissible to use either paper or electronic forms. Network Rail was aware of the flaws in this Standard prior to the inquest and had revised the national Standard to (NR/L2/OTK/5100) which came into force in April 2019. This Standard specifies that only electronic records are to be used from the 31st August 2019. In terms of the system we now require a single electronic system to be used.

### 2.1.2 Additional Support Training

In addition to the 2-day Boundary Inspection Competency module, additional support training has been rolled out on a section manager requested basis between April and October 2019. This support training covers the use of the Electronic system and how to record the various inspection data via the 'MyWork App' and the related electronic forms. Nationally we have trained the 250 plus delivery unit personnel that requested the support training. This will be rolled out as requested by the business areas.

### 2.1.3 National Special Inspection Notice

Due to the risk of other inspectors using mixed systems for recording inspections, a National Special Inspection Notice (SIN) will be issued by the Standard Owner for Boundary Inspections within the National Safety, Technical and Engineering (STE) Department. A SIN is the methodology used by Network Rail to instruct a specific activity to be carried out and which requires confirmation that it has been completed. Every SIN is given a specific timeframe for compliance and is tracked and reported nationally. This is often used for safety related actions required to the infrastructure.

This SIN will require all areas of the business to confirm they are following the Standard regarding the use of electronic forms, that all forms have been reviewed and correctly signed off and that repeat non tactile locations have been appropriately risk assessed.

**Network Rail CMO-Compliance Tracked Action 5: National Special Inspection Notice (SIN) to be issued by the Principal Engineer [Lineside] re population of electronic form F3212 and risk assessments. – Due by 31st March 2020.**

### 2.1.4 Local Route changes

The Anglia Route are using the electronic system for all inspections following the revised Standard coming into force. This includes recording the non-tactile inspections via the electronic system. The Route will be carrying out a compliance check in November 2019 as part of our assurance activity following the inquest and new Standard changes, to confirm that all inspectors are using the electronic system and the forms are recorded electronically only.

3. Coroner's Q3: "As a consequence of no paper forms being submitted, the track engineer did not see the evidence of the failure to inspect the fence, and was so not in a position to challenge this.

This represents a system failure".

### 3.1 Network Rail Response-Q3:

3.1.1 We are currently investigating to what extent a similar dual paper and electronic approach similar to Tottenham DU is used nationally. In the event that it is a national issue, the SIN to be issued will address this dual system and will require any backlog of forms that have not been reviewed to be addressed by the compliance date to be set within the SIN.

**Network Rail CMO-Compliance Tracked Action 5**

3.1.2 On a local level, the failure has been addressed by taking the following steps:

- All Anglia Track Maintenance Engineers have been briefed to utilise and maintain the Electronic system and not maintain paper records. This action was taken following the inquest and Network Rail's investigation into these tragic deaths.
- The Engineers will be receiving a new report showing what is in the system for processing and the report will flag two consecutive non-tactile inspections, plus any forms not processed to completion within 180 days. This will allow the Engineers to check that suitable challenge has occurred for those locations or actions to close are in progress.

4. Coroner's Q4: "As a consequence of no paper forms being submitted, the internal auditor did not see the evidence of the failure to inspect the fence or the evidence of the failure to challenge, and so were not in a position to highlight this.

This represents a system failure".

4.1 NR Response Q4:

4.1.1 Internal auditing

The previous Standard in force allowed the use of either paper or electronic systems. The lesson from these tragic deaths will be shared with our national audit teams so they can share the lesson. The audit protocol has been changed, since the audit referenced above, to reflect the new Standard and all auditors will be checking to the new Standard including checking of the electronic records.

Following the inquest and this report, we are planning to amend the Audit protocol with a guidance note added to review example F3212 from the range of inspectors. This will be implemented from June 2020 in time to the next round of National team audits on the Maintenance sections of the business.

**Network Rail CMO-Compliance Tracked Action 6: Principal Lineside Engineer to change Audit protocol and a guidance note to be added to review examples from all inspectors – Due by 30th May 2020.**

5. Coroner's Q5: "Network Rail identified the gap in the fence within weeks of the deaths but despite what was described as a full internal investigation, the system failures I have described were only discovered after the inquest had resumed on 30 August 2019. Their original investigation was inadequate.

Network Rail had been operating for the previous five and a half months on the basis that this was a localized problem. Even after an adjournment to facilitate further investigations, a senior Network Rail representative gave evidence to that effect on 13th September 2019.

Yet the reality is that Network Rail does not know if it has a national system failure of fencing inspections".

5.1 Network Rail Response Q5:

Network Rail is committed to this action and has reviewed the national data, to date we have sampled 20% of the Off Track Sections nationally and the process is ongoing. A special topic audit on compliance with the



new boundary inspection Standard re non-tactile forms will be undertaken by the Network Rail National Audit Team within the next 3 months to identify whether we have a national failure and to what extent.

**Network Rail CMO-Compliance Tracked Action 7: Principal Lineside Engineer to commission a National Special Topic Audit by Network Rail National Audit team on compliance with the new boundary inspection Standard re non tactile forms – Due by 31st January 2020.**

This report has been submitted to the National Recommendations and Review Committee (NRRP) on 3rd November and the actions identified have been logged within our central recommendations tracking system (CMO-Compliance) and will be tracked via this system to conclusion. Reporting of outstanding actions are flagged to the National and Regional Executive teams for awareness and follow up.

**Network Rail is committed to learning from tragic events such as this case and we are always seeking to improve our safety record. We have been saddened by the circumstances in which Benjamin Michael Haddon-Cave and Patrick Thomas Bolster lost their lives and will be taking these actions forward as a priority.**

Yours faithfully,

M. J. Froebe

  
Group Safety, Technical & Engineering Director  
for and on behalf of Network Rail