



Department for Transport

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From the Minister of State
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Dear Nicholas Paines QC,

I am writing to update you on our thinking in relation to level crossing reform.

Firstly, I would like to take the opportunity to thank you for the important work that the England, Wales and Scotland Law Commissions undertook for my Department leading to your report which was published in September 2013. I am conscious that this was a particularly large and thorough piece of work. I believe that the report has already made a significant and valuable contribution to thinking in this area, by providing much needed clarity about the current statutory framework and the issues to be addressed, and by prompting us to give careful thought on how reform can best be implemented.

As is widely recognised, the UK has one of the best level crossing safety records in Europe and Network Rail has made great progress in recent years in tackling the highest risk crossings on the mainline rail network. While the Law Commissions' review was never directly about improving safety standards, its recommendations would create a new safety regime by simplifying and modernising the legal processes involved in carrying out closures and improvements. These were often seen as bureaucratic and outdated and created additional work for Network Rail and the ORR. We were pleased to welcome your report, and consider that its findings remain valid. The delivery of your report in 2013 focussed the industry's attention on level crossings, increasing understanding and encouraging better practice. This, along with a number of subsequent developments, have prompted us to give further thought to our approach to level crossing reform.

Firstly, it has become increasingly clear to us that any legislative reform would raise a number of issues in relation to the balance to be struck between administrative efficiency and the rights of local communities and businesses to have their voices heard. There has been disagreement between stakeholders

over this and we are clear that we would not want these rights to be diminished. This would therefore limit our scope to provide the additional freedoms for a revised closure regime, for instance.

Secondly, the asset manager for the mainline railways, Network Rail, has come a long way in recent years in its thinking and approach in relation to level crossings. Since 2010, it has closed over 1,000 of the higher risk level crossings, aided by a £109m ring-fenced fund from my Department. It has improved its own organisational capability by appointing 100 new level crossing managers at company and route level, which has enabled it to clarify roles and responsibilities and improve its own risk management controls. Network Rail expects to focus less on closures in the future and is looking instead at making increasing use of technologies such as roadside enforcement cameras and overlay warning systems where these are appropriate. These technological developments offer scope for a step-change improvement in safety at level crossings as they become simpler and cheaper to install, enabling Network Rail to cover a higher proportion of level crossings on the UK mainline rail network than has been possible in the past. They should also help to reduce the operational impacts of the crossings on rail services. This is, in turn, expected to reduce the need for closures and major improvement works, which can often be disruptive to local communities as well as being bureaucratic and costly to administer.

Finally, the ORR is looking in parallel at the extent to which the Level Crossing Order process could be operated more efficiently and more in line with a risk-based approach to health and safety regulation. This has the potential to create a simpler and less bureaucratic process within the current legal framework. DfT officials will also be exploring with the ORR the scope for changes to the Private Crossings (Signs and Barriers) Regulations 1996, to simplify and update signage at level crossings. Subject to this we would look to amend this Statutory Instrument when Parliamentary time allows.

In the light of these developments, I have concluded that best way of achieving reform is through the administrative changes outlined above rather than through legislative reform. These are likely to achieve the quickest results and are very much in the spirit of the of the Law Commission's recommendations. My Department intends to work with the ORR and Network Rail over the coming months to take forward these initiatives. We will look to review the success of this approach after a suitable period, once these measures have bedded down, to consider whether further change is required.

I am copying this letter to Lilian Greenwood MP, Chair of the Transport Select Committee, as well as Mark Carne and Allan Spence at Network Rail and Ian Prosser, HM Chief Inspector of Railways.

A handwritten signature in black ink, appearing to read 'Jo Johnson', written in a cursive style.

JO JOHNSON