



Public Rights of Way

Level Crossings on the Rail Network

Memorandum of Understanding between Network Rail, ADEPT and IPRoW

Introduction

This Memorandum of Understanding has been developed by representatives of Network Rail (NR), the Association of Directors of Environment, Economy, Planning & Transport – Rights of Way Managers' Group (ADEPT) and the Institute of Public Rights of Way and Access Management (IPRoW). The aim is to improve working practices between NR and Local Highway Authorities (LHAs) where PRoW use level crossings on the rail network in England and Wales.

It is not intended for this Memorandum of Understanding to be legally binding. This document contains high level principles aimed at encouraging clearer communication and building collaborative relationships between NR and LHAs. This will encourage the most effective dialogue when changes are proposed to a level crossing which affects a PRoW.

This is an important step towards working together to ensure that users remain safe when using the PRoW network in England and Wales.

This Memorandum of Understanding may evolve over time as the working relationship between NR, ADEPT and IPRoW develops. It does not detail any agreed processes; these will be set out in future documentation.

Scope of the Working Group

The working group membership comprises members of ADEPT and IPRoW as well as appropriate NR representatives who deal with Level Crossings.

1. Discussions between NR, ADEPT and IPRoW will continue for the foreseeable future to identify examples of best practice and where there are areas for improvement.
2. Both parties shall keep all information acquired from or disclosed by the other as a result of this Memorandum of Understanding or its procedures (e.g. Working Group meetings etc.) confidential unless:
 - Any of the parties are obliged by law, by any governmental or other regulatory authority, or by a court or other third party authority of competent jurisdiction to disclose that information; or
 - That information is or generally becomes available to the public other than as a result of its disclosure by a recipient of that information in breach of this clause; or
 - That information was available to the recipient of that information on a non-confidential basis prior to such disclosure,

in which case, the obligation to keep such information confidential shall not apply. All of the parties shall take reasonable steps to comply with the provisions of this paragraph and shall also take such reasonable steps to see that its employees, agents, contractors and subcontractors similarly comply.

Scope of the document

This document covers all of the interactions that NR has when dealing with Public Rights of Way and Level Crossings and includes temporary works (including emergency closures) as well as longer term proposals such as bridge works, permanent closures, diversions and downgrades.

This document will evolve to reflect the work that is currently proposed. A continued dialogue and work program will take place between ADEPT / IPRoW / NR which will be reflected in the following outputs: -

1. Where PRoW level crossings are affected, NR will integrate PRoW legislation and processes alongside its project management tool (GRIP). This includes an ongoing dialogue about the processes used for the closure or diversion of PRoW and how the GRIP tool can be best adapted to take into account of the various factors, including timescales.
2. The production of further documents may be appropriate to encourage best practice when dealing with emergency or temporary closures.
3. IPRoW and ADEPT will use best endeavours to promote best practice and consistency amongst LHAs.

Memorandum of Understanding

1. Objectives

- 1.1 To promote safety at level crossings
- 1.2 To ensure effective communications and working partnerships between NR and LHAs
- 1.3 To encourage a consistent approach to managing PRoW level crossings.
- 1.4 NR is a safety critical organisation and keeping people safe on the railway is at the heart of everything it does.
- 1.5 LHAs have a responsibility to secure the convenient, safe and unrestricted movement of pedestrians on the PRoW network.

2. Communication between NR and LHAs

- 2.1 NR and LHAs will examine the best course of action given the constraints available when examining options for the future of any level crossing and will discuss as appropriate. NR and LHAs will work together, acknowledging that each has different areas of expertise. NR has the experience and understanding of the interface between railway operations and level crossing safety. LHAs are better placed to understand the impact of the crossing on the wider PRoW network.
- 2.2 NR recognises the knowledge and expertise of LHAs regarding the PRoW network and will consult with the LHA at the earliest appropriate opportunity. NR retains the discretion to decide how it ultimately approaches level crossings.
- 2.3 A range of meetings are available to discuss PRoW issues, such as Road-Rail Partnership Group meetings, ADEPT regional meetings and local level public consultations, and involvement with these is encouraged.
- 2.4 NR and LHAs will continue to work together to identify the best methods of communication to promote continuous improvement.

- 2.5 LHAs will inform NR of any issues that arise in addressing an application submitted by NR, including any further information required, as soon as is reasonably practicable.
- 2.6 NR will investigate any perceived concerns brought to its attention and attempt to address them to the best of its ability.
- 2.7 ADEPT and IPRoW will expect PRoW staff and managers to better understand level crossing processes and to form working relationships with local Level Crossing Managers / Liability Negotiation Advisers within NR.
- 2.8 NR will seek to broaden the understanding of those in the Rights of Way profession, in relation to the current means of risk assessing Level Crossings.
- 2.9 ADEPT / IPRoW will seek to broaden the understanding of PRoW legislation of relevant NR staff where this is required.
- 2.10 LHAs will expect NR employees involved in schemes which affect the closure of level crossings to engage with its Liability Negotiations Team.
- 2.11 In line with NR's responsibility for the safe operation of the railway, where it identifies that a level crossing poses an urgent safety risk to the public and requests a temporary emergency closure, the LHA will give a high priority to engaging with and responding to NR.
- 2.12 For all other level crossing applications the LHA will prioritise accordingly based on the evidence supplied and will explain the reasons behind any decisions taken.

3. Level Crossings and Public Rights of Way Changes

- 3.1 Where there is a need to make changes to the PRoW network, both LHAs and NR agree that:-
 - a) The correct application forms will be used for any application. Information will be provided in a clear and concise format which meets the legal requirements for such an application.
 - b) NR will develop its own internal checklist for improving evidence it provides in support of applications.
 - c) Where LHAs identify areas where further information is required, the nature and reason for the information will be communicated as early as possible. NR will provide additional information, where possible, and engage with the LHA to resolve any issues that are raised.
 - d) Although this Memorandum of Understanding does not apply to private rights, when dealing with private crossings or bridges, NR will engage with LHAs to establish if there are pre-existing PRoW over crossings under consideration.
 - e) Meetings between NR and the LHA Rights of Way Officer will be scheduled as appropriate and continue throughout the process as necessary, with the aim of resolving highlighted issues and monitoring progress.
- 3.2 It is recognised that each level crossing will have a number of factors that need to be considered, of which PRoW will be one aspect. There may be a number of options available and, although NR will consider the views of the LHA, it is recognised that NR may consider a different option as the most appropriate course of action.
- 3.3 NR carries holds the safety case for railway operations and applications under sections 118A and 119A of the Highways Act 1980 are promoted by NR on public safety grounds. All safety related applications should be progressed promptly by a LHA. Non-safety related

secondary issues or outstanding issues at other sites should not be used as a means to delay progressing safety related order applications

- 3.4 It is recognised that the statutory test applied by the LHA to make an extinguishment or diversion Order under the Highways Act 1980 is, primarily, expediency and the making of an Order is at its discretion.
- 3.5 If the decision of the LHA is that it will not progress an application it will inform NR at the earliest opportunity, providing reasons for its decision. If the LHA does not progress the application NR reserves the right to apply to the Secretary of State in accordance with s120 of the Highways Act 1980.
- 3.6 NR will maintain dialogue with DEFRA with a view to establishing responsibility for the maintenance of highway surfaces on structures that replace level crossings. In the interim, NR will engage with LHAs to reach a decision on a case by case basis (as appropriate to the legislation).
- 3.7 Where NR is considering the use of Transport and Works Act powers it will inform the LHA(s) of this as soon as possible along with the reasons for this decision.

4. Pre-Application Consultation

- 4.1 NR is conscious of ensuring that the public has the opportunity to input into the proposals it makes for changes to level crossings and PRoW, and will carry out pre-feasibility consultation work wherever possible. This can include mailings to stakeholders, discussions with the LHA, obtaining permission and public meetings, etc.

5. Confidentiality

- 5.1 NR may ask any LHA in an individual case to keep some information regarding changes to crossings confidential. If this is the case then NR staff need to make this clear from the outset.

6. Freedom of information

- 6.1 With regard to the ongoing discussions and meetings of the Working Group all parties acknowledge that:
 - (a) There may be requests through the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 (collectively, the **Information Acts**), to disclose information relating to the subject matter of this Memorandum of understanding; and
 - (b) Notwithstanding any other provision in this Memorandum of Understanding, Network Rail shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.
- 6.2 ADEPT and IPRoW shall provide all necessary assistance and cooperation as reasonably requested by Network Rail to enable it to comply with its obligations under the Information Acts.

For:

Network Rail Infrastructure Limited

ADEPT

IPRoW

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Name:
Title:

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Name:
Title: Chairman

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Name:
Title: President